A Comprehensive Analysis of Policy Diffusion: Regulatory Impact Analysis in EU and OECD Member States

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To Karl, Leonardo, Luca, and Zeynep

'The State of tomorrow need not be the Orwellian super-State with its omnipotent administration, unrestrained by any checks on its all-pervasive regulatory activities. But there is no reason to doubt that the future will see little diminution in the rate of increase of administrative authority.'

(Schwartz, 2006, 337)

Abstract

Among the tools available to enhance the rationality of policy formulation, Regulatory Impact Analysis (RIA) has captured the attention of many scholars for its potential to enhance the accountability and transparency of regulatory governance. Although almost all EU and OECD member states have adopted RIA, only a subset of small-n case comparative studies on institutional, political and administrative impact have been conducted. By filling this gap in the literature and proposing the rigorous operationalisation of concepts such as adoption, extent of implementation, and learning, this thesis ascertains the extent of interdependency among governments in their choices concerning an innovation of regulatory governance. Methodologically, the dissertation draws on a multi-method approach, consisting of qualitative analysis to track the process of institutionalisation, as well as event history analysis, based on a dataset covering thirty-eight countries from 1968 to 2006.

The empirical findings show that diffusion is a multi-faceted process. In the decision to adopt RIA, the role of the OECD in translating, packaging, and promoting such administrative innovation coexists with previous innovations and other administrative variables. Yet the impact of interdependency is marginal in the successive phases of implementation and evaluation. Earliness of adoption is the major predictor of the extent of implementation. There is little evidence of interaction and communication among adopters on the subject of their learning experience. On balance, this regulatory governance innovation is a domain of symbolic and rhetorical meanings that is not adequately supported by administrative capacity.

Acknowledgments

This project summaries extensive research activities conducted in England, the US, and Switzerland. I spent most of the time necessary to accomplish this daunting enterprise in England. Between January 2004 and December 2008, I participated in several research projects led by Prof. Claudio M. Radaelli. I will always be grateful to Claudio for the great opportunity of working with and learning from him, as well as for being an excellent supervisor and a good friend with a great taste for music and food. Claudio taught me how to be a professional researcher, an academic, and even a consultant. I hope I have been able to take advantage of this valuable experience. I am indebted to Dr. Claire Dunlop, who also supervised me, for providing excellent recommendations on how to improve this thesis and practical suggestions for my career.

DG Enterprise funded a research project on indicators of regulatory quality. The outcome of this research project was a technical report, later extended in a book written by Claudio and myself, 'Regulatory Quality in Europe' published in 2007 by the University of Manchester Press. The empirical evidence of Chapter 9 of this thesis are extracted from Chapter 5 of this book. During this ten month period at the Centre for European Studies, the University of Bradford, I met great friends, Fabio Garcia Lupato and Ulrike Kraemer, with whom I shared my first experiences of entering the, at that time, unknown academic world. Roberto Espindola greatly supported me during the long winter in Yorkshire.

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At Exeter, I had been involved in three project funded by the European Commission's 6th Framework Programme, INTUNE, ENBR, and EVIA, as well as the ESRC project on Regulatory Impact Assessment in comparative perspective. The latter provided an excellent opportunity for Claudio and me to write a literature review on RIA. A substantial part of this literature review paper, published as a chapter in the Cave, Baldwin, and Lodge's *The Oxford Handbook on Regulation*, has been used in Chapter 3. I travelled and presented papers at several conferences and appreciated the feedback on earlier versions of chapters from Alberto Alemanno, Lorenzo Allio, Peter Biegelbauer, Scott Jacobs, Andrea Lewshow, and Wim Woermans. Through the ESRC, I was awarded a dedicated grant for visiting the Library of Congress, Washington DC, an excellent study period in order which enabled me to shape my thesis. I wish to thank Mary Lou Recker and Kersi B. Shroff for their assistance and support and Alice Bellini and Gerard O'Donoghue for the Irish-Italian dinner parties in Washington DC.

Since the beautiful things do not last too long and I was lucky enough to get a Marie Curie Fellowship, in March 2009, I moved again. Destination: Continental Europe, Zurich, Department of Political Science, University of Zurich. I am grateful to Prof. Fabrizio Gilardi for his guidance and support during my scholarship. Thanks to Thomas Schaeubli, Fabio Servalli and Fabio Wasserfallen for the long discussions on public policy, policy diffusion, academic life, Latex, R, Stata and more importantly on football, Swiss life style, red tape, cheese, food, and wine!

Finally I wish to thank my family who never get tired of seeing me studying! This thesis is dedicated to Karl, Leonardo, Luca, and Zeynep, long-lasting friends in spite of the geographical distance!

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Acronyms

ACTAL the Dutch Advisory Board on Administrative Burdens

APA Administrative Procedure Act

APAA Average Proportions of Adjacent Adopters

ASA Agence pour la Simplification Administrative

BRE Better Regulation Executive

CBA Cost-Benefit Analysis

CEA Cost-Effectiveness Analysis

CCA Compliance Cost Assessment

CEECs Central and East European Countries

EHA Event History Analysis

EIA Environmental Impact Assessment

ENBR European Network for Better Regulation

E.O. Executive Order

EPA Environmental Protection Agency

EVIA Evaluating Integrated Impact Assessment

EU European Union

FOI Freedom of Information

GAO Government Accountability Office

IA Impact Assessment

MLE Maximum Likelihood Estimate

NAO National Audit Office

NEPA National Environmental Policy Act

NNR Board of Swedish Industry and Commerce for Better Regulation

NPM New Public Management

OBPR Office of Best Practice Regulation

OECD Organisation for Economic Cooperation and Development

OIRA Office for Information and Regulatory Affairs

OMB Office for Management and Budget

OSHA Occupational Safety and the Health Administration

P-A Principal-Agent

PART Program Assessment Rating Tool

RIA Regulatory Impact Analysis

RIAS Regulatory Impact Analysis Statement

RIS Regulatory Impact Statement

SCM Standard Cost Model

TBS Treasury Board of Canada Secretariat

UNDP United Nation Development Programme

Chapter 1

Introduction

1.1 Overview

This dissertation explores the diffusion of Regulatory Impact Analysis (RIA), an innovative tool of regulatory governance, in Organisation for Economic Cooperation and Development (OECD) and European Union (EU) member states. Large-n comparisons analyse governments' decisions to adopt, implement, and evaluate this administrative innovation. RIA[1] is a tool for analysing and communicating regulatory outcomes (Jacobs, 1997) through a standard and structured report that assesses the predicted advantages and disadvantages of a regulatory proposal. It relies on different methodological approaches: from a full Cost-Benefit Analysis (CBA) and a comprehensive of risk analysis, to a more limited compliance cost assessment; from an appraisal of administrative burdens to a simple checklist for regulators. Its common denominator is the feature of being an administrative requirement that facilitates decision-making. It can be also considered as a tool for the political control of regulators. This purpose explains its origin in the UK (Froud et al., 1998) and the US (Posner, 2001; Johnston, 2002).

Many EU member states have reported that RIA is either at the pilot stage or well embedded in their law-making process (European Commission, 2005b). In a recent study

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[1]The label regulatory impact analysis encompasses different terms coined by governments around the world: Regulatory Impact Assessment in the UK, Regulatory Impact Statement (RIS) in Australia, and Impact Assessment (IA) within the European Union institutions. The term 'analysis' has been preferred because it has been used by the OECD.

for DG Enterprise, all respondents to a question on the growing importance of regulatory tools and institutions answered that the role of RIA has increased over the last five years or so (Radaelli and De Francesco, 2007, Chapter 5). Not only has RIA been introduced everywhere in the old EU-15 and in most of the new member states, but also it has now become the cornerstone of better regulation initiatives. Since 2005, RIA and better regulation have been an integral part of the Lisbon Agenda for growth and jobs (Radaelli, 2007). Within the OECD, all thirty member countries have adopted an analysis to assess the future regulatory impacts on the economy (Conway, Janod and Nicoletti, 2005).

The spread of RIA goes well beyond OECD and EU member states. Several developing countries have also adopted administrative requirements to assess the future impact of regulation: Albania, Algeria, Bangladesh, Bosnia, Botswana, Kenya, Jamaica, Ghana, Moldova, the Philippines, Ukraine, Serbia, Sri Lanka, South Africa, Tanzania, Uganda, and Vietnam (Jacobs, 2006; Jacobs and Renda, 2007; Kirkpatrick and Parker, 2004; Kirkpatrick, Parker and Zhang, 2004; Ladegaard, 2005).[2] This leads a consultant to identify RIA as a 'global norm' (Jacobs, 2006).

Although extensive research has been conducted on RIA in the Anglo-Saxon world and in Europe, there is no literature on the diffusion of this policy innovation. Empirical findings on global administrative reform trends are also sparse. Because of the lack of data for developing countries, this thesis focuses on the diffusion of RIA among the twenty-seven European Union member states, as well as the other eleven OECD member countries (Australia, Canada, Iceland, Japan, Korea, Mexico, New Zealand, Norway, Turkey, Switzerland, and the US).

1.2 Definitions and logics of RIA

Bartlett (1989, 1) defines impact assessment as a 'strategy of influencing decision and action by prior analysis of predictable impacts'. This strategy is 'one of the major innovations in policy making and administration of the twentieth century'. This definition encompasses two very different perspectives which may be used to form a conception of RIA.

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[2]More recently the World Bank has launched 'Better Regulation for Growth', a set of projects for enhancing the regulatory process through the adoption of consultation, standard cost model, e-registry, access to regulation, doing business indicators, and RIA.

On the one hand, RIA is an information device which influences regulators' behaviour. The American literature has maintained that RIA emerged as an administrative procedure capable of unifying the three different themes of regulatory reform (McGarity, 1991; Pildes and Sunstein, 1995, 4). It is an instrument to enhance the economic empirical basis of decision-making as well as a control mechanism to centralise the Presidential oversight on his executive agencies. RIA also has the potential to increase external accountability and legitimacy of regulators. Comprehensive process rationality may be achieved when the two contrasting goals of governance (efficiency and democracy) are balanced through a transparent and rational process (Heydebrand, 2003), even if some scholars are sceptical about the possibility of achieving such ultimate rationality (West, 1983). These functions and purposes are also the theoretical mainstreams of administrative law that in '[a]ll representative democracies face a similar need to balance democratic accountability against the competent implementation of complex statutes.' (Rose-Ackerman, 2007a, xiii)[3]

On the other hand, RIA is an innovation which has spread according to a normally distributed pattern. This perspective situates this study within the traditional research on diffusion that is composed of four elements: innovation, communication channels, time, and a social system (Rogers, 2003). This research project is focussed on the adoption and information exchange of an (administrative) innovation, rather than the interdependency of marginal changes and the extent of convergence.[4] A coherent analysis on diffusion requires a clear understanding of the functions and purposes of the innovation, analysing the broader institutional context and the relationship between politics and bureaucracy. Further, the capacity of governments to reshape, adjust, and reinvent RIA needs to be considered. In other words, following Weyland (2006), governments might have followed a well-detailed blueprint, an innovation model, simply translating a 'recipe book' written in another language. Alternatively, they might have processed the available information, adjusting the recipes to the local ingredients and the capacity of the cook.

The diffusion of RIA is set forth within the broader phenomena of administrative reforms and New Public Management (NPM), a term that captures the emergence of an interna-

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[3]This is a typical discretion/legitimacy trade-off in the principal-agent relationship that attracts the attention of several scholars. Majone (1999), for instance, proposes an institutional design for a legitimated and effective regulatory state composed inter alia of rules that specify the procedural framework and ex post mechanisms for reviewing regulation.

[4]The more recent literature on diffusion of democracy and market reform tends to refer more broadly to the interdependency of countries, totally dropping the innovation element.

tional discourse on administrative change and reform (Lynn, 2001). But NPM does not represent a 'global paradigm' (James and Manning, 1996; Hood, 1995; Hood, 1996; Gow and Dufour, 2000). In this context, functionalist explanations may be strengthened or weakened by diffusion explanations (Knoke, 1982), or alternatively lose their explanatory power across time (Tolbert and Zucker, 1983). In other words, an analysis of the diffusion of a regulatory governance tool provides an opportunity to test a set of different determinants of policy change (Radaelli and Meuwese, 2009). Policy-makers' communication and interdependency are set against the traditional theories of administration, transforming how governments conceive rationality, accountability and legitimacy.

In a globalised environment in which governments are influenced by similar environmental pressures and uncertainties, the rationales for adopting an administrative reform are transformed and reconstructed. Policy-makers exchange and interpret information on prior decisions made by other governments. Indeed, policy diffusion is essentially about the modes and roles of information related to an innovation. As Mossberger (2000, 7) effectively put it, '[t]he policy information that diffuses includes models (such as legislation or program concepts), criticisms, evaluation research, and the experience of other adopters.' Political science studies rarely analyse the impact of communication and, more generally, interdependency on decision-making, through an overarching framework that embeds not only the adoption decision but also the implementation and evaluation phases in order to capture the extent of learning.

1.3 The main argument and aims of this study

Literature on diffusion of policy innovations is now abundant. Relying on concepts developed in communication, organisational, and sociological fields, the study of diffusion has covered the adoption of quite a wide array of public policies and institutions: from game lotteries (Berry and Berry, 1990) to telephone regulation reform (Kim and Gerber, 2005); from the creation of independent regulatory agencies (Gilardi, 2005; Jordana and Levi-Faur, 2005) to pension privatisation and health reform (Weyland, 2006). However, while adoption is an important aspect of the policy diffusion process, this narrow focus ignores the stages prior to and after the decisional point of adoption. Indeed, the classical diffu-

sion theory, applied in disciplines other than political science, developed the concept of the 'innovation process', in which adoption is a punctuated event, anticipated and preceded by several decisional stages.[5]

More than thirty years ago, Downs and Mohr (1976) challenged policy analysts to operationalise diffusion as a process, taking into account adoption on a non-exclusive basis. Granting that different but complimentary and contingent innovations affect adoptability, other scholars suggested analysis of the 'innovations relationship' (Mahajan and Peterson, 1985; Berry and Berry, 2007) within the overall prerequisites (Collier and Messick, 1975). Another limitation of diffusion studies is the neglect of the extent of change caused by a policy innovation.

The 'stage heuristic' has been criticised by a prominent scholar (Sabatier, 1999; Sabatier, 2007) who is sceptical about its theoretical application to the policy process.[6] His argument is that different stages, which are often descriptively inaccurate, interact and feed back to each other. And, more importantly, 'the policy cycle lacks conceptual elements of a theoretical model. In particular, the stages model does not offer causal mechanisms for the transitions between different stages' (Jann and Wegrich, 2007, 56). Empirically, it is hard to test (in a single coherent framework) hypotheses derived from a different set of theoretical concepts established for the analysis of each stage. Consequently, the public policy literature continues to focus on narrow and specific phases of the policy cycle, each developing its own unique literature, theory, and body of research.

Nevertheless, considering only a specific aspect of the policy process is a limitation. Policy-making is formed by a series of inter-connected decisions and actions that need to be carried out and confirmed over time. But large-n comparative analyses of public policy tend to revolve around expenditure levels or adoption events that 'do not shed much light on the policy *process* conceived either in terms of stages or in terms of policy change over time' (Blomquist, 2007, 270, emphasis in the original). An evident conceptual drawback of cross-sectional comparisons is the reliance on 'a definition of policy that ignores the prospect

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[5]'The innovation process in an organization consists of two broad activities: (1) initiation, consisting of all of the information gathering, conceptualization, and planning for the adoption of an innovation, leading up to the decision to adopt, and (2) implementation, consisting of all of the events, actions, and decisions involved in putting the innovation into use.' (Rogers, 2003, 421)

[6]Also a prominent diffusion theorist has argued that stages are social construction, a mental framework for simplifying complex realities, and that clear distinctions among stages do not exist, impeding empirical evidence of their discreteness (Rogers, 2003, 195).

that policymakers' intentions may be undermined or even undone in implementation' (Blomquist, 2007, 270). Given the embedding of political rhetoric (March and Olson, 1983), this flaw is even more substantial for administrative reform. Thus, rather than focusing exclusively on how diffusion takes place (Howlett and Rayner, 2006), an analysis of what has been communicated, diffused, and actually implemented is necessary (Sahlin-Andersson, 2001).

This fragmentation of the policy process is an evident methodological bias in favour of adoption, against other forms of change (Pollitt, 2001; Pollitt, 2002; Blomquist, 2007, 271). Furthermore, the relative importance of policy change determinants, i.e. social and economic conditions, political activities, policy ideas, and knowledge on an innovation, may vary across the decision-making process. As Downs and Mohr (1976, 710) warned us, 'the determinants of the time of adoption are not the same as the determinants of the depth of adoption'. Thus, the exclusive analysis of the adoption event causes an over-representation of socioeconomic and geographical conditions to be superimposed upon the variables of political actors and systems, distorting our understanding of the nature and extent of policy change (Blomquist, 2007, 271–2).

To overcome such bias, several political scientists have conceived policy diffusion as a process of information exchange within policy networks that may influence domestic policy from agenda-setting to evaluation. For instance, Mossberger's (2000, 4) concept of 'informed decision making' is dynamic and is composed of two steps: awareness of externally-generated information about a policy innovation and consideration of a government's own circumstances or needs. Analysing the convergence of public management reform, Pollitt (2001; 2002) has argued for distinguishing between discourses, decisions, and practices which are used by policy-makers in order to gain legitimacy and support from the environment (Brunsson, 1989, 27).[7] These instruments can be associated with the policy process. Rephrasing Sabatier (2007, 3), discourses refers to the manner in which problems get conceptualised and brought to government for solution; the decision to adopt is about the selection of policy solutions; and, practices are the modes in which solutions get implemented and evaluated.

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[7]In order to emphasise the divergence in utilisation, Brunnson (1989, 27) has argued that discourse, decisions, and practices are mutually independent instruments .

Framing a theory embedding discourses, decisions, and practices remains, however, a complex undertaking. With its own purposes and payoffs, each instrument refers to different actors and behaviour (Moynihan, 2005; Downs and Mohr, 1976) and, consequently, is analysed through a somewhat different research strategy (Pollitt, 2001; Pollitt, 2002; Brunsson, 1989). The literature on policy diffusion has used qualitative process tracing to explain the diffusion of discourse throughout the agenda setting (Mossberger, 2000; Weyland, 2006). Cross-sectional analyses of adoption have essentially used two main types of operationalisation: the innovation score attributed to each organisation/country based on the earliness of adoption of several innovations; and the rate of adoption, that is the relative speed with which an innovation is diffused or the probability of adoption for a country in a specific year. Finally, studies on diffusion of practices rely on indexes of the extent of adoption and/or implementation. Overall, there is a preference for research questions on patterns and probabilities of adoption. Even the most recent theoretical contributions and sophisticated analyses based on causal mechanisms of policy diffusion cannot apprehend comprehensively the dynamics of the policy process.

To summarise, although further empirical findings on discourses and practices can overcome the policy adoption bias, they stem from different research strategies and operationalisations, typical of each policy stage. Therefore, it is crucial 'to understand the complex interrelated nature of these [decisional] stages through an integrating concept' (Ripley, 1985, 129). Researchers can rely on a conceptual framework composed of the elements that any theory relevant to the same kind of phenomena would need to include, in order to formulate their research questions and organise their inquiries (Ostrom, 2007, 25). This research is based on the 'integrating concept' of administrative innovation and the related exchanges of information over time and across governments. Public policy has a technological component (Power, 1997; Sahlin-Andersson, 2001), i.e. strategies, techniques, and procedures through which policy actors render programmes operable and establish a multitude of interactions (Rose and Miller, 1992, 183). Innovation features in the last two decades of administrative reforms have been characterised by a constant reliance on economic theories as well as private managerial techniques and practices (Kelly, 1996; Power, 1997). The managerial techniques employed during this period have their roots in a management knowledge that has been formalised by business schools, consultancies, and international organisations (Sahlin-Andersson, 2001; Sahlin-Andersson and Engwall, 2002).

By presenting a comprehensive set of empirical analyses on the adoption and the implementation and evaluation of practices, this research examines the impact of diffused information and knowledge about RIA on domestic regulatory reform. Accordingly, it has three aims: i) to understand which factors determine the timing of the decision to adopt RIA; ii) to explain if and how information about RIA has been exchanged across the innovation-decision process; iii) to assess the patterns and the extent of policy change provoked by this diffused administrative innovation.

Consideration of the variety of operationalisation of innovation heightens our understanding of the innovation-decision process, which has similarities with the policy process (Mossberger, 2000). Such cumulative knowledge provides a stronger framework for disentangling the concept of diffusion, highlighting the theoretical similarities across different stages of the policy cycle. This also contributes to the re-consideration of policy stages such as implementation and evaluation that seek to discern whether the unit of analysis is a (diffused) policy innovation. Indeed, if policy adoption studies enable us—through the analytical lenses of diffusion—to take into account the interdependency of governments choices, this theoretical enhancement has still to be achieved in implementation and evaluation studies.

1.4 Conceptual framework

Complexity and heterogeneity undermine the explanatory power of internal determinants and diffusion variables which may vary across innovations (Downs and Mohr, 1976), space, and time (Tolbert and Zucker, 1983).[8] Although it is still not clear from the literature 'when and where diffusion becomes causally relevant in domestic policy change' (Brooks, 2007, 701), a middle-range theory can be tested, providing an effective explanation of the causal forces in play (Weyland, 2006, 30). The chosen framework posits that problem-solving is the primary rationale for policy change. Indeed, the absence of a global paradigm and a precise model of administrative reform and RIA evidences a conscious decision to adopt. Furthermore, in the communication process between the source(s) of change and potential adopters, ideas, experiences, and templates are presented, repre-

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[8]For instance, functional needs can explain the emergence of RIA among the first group of adopters, whilst geographical or cultural proximity matters more in the later stages of diffusion.

sented, and finally transformed in an editing process (Sahlin-Andersson, 2001). For instance, the concepts of external accountability and rationality may vary when transposed. In a trasnational context, international organisations are relevant information providers and it is plausible to expect that through different persuasion channels such actors would be able to marshal and steer national administrative reforms, engaging national governments through evidence shared and accountability mechanisms (such as benchmarking and peer-reviewed reports) among member states.

The following graph synthesises the main elements of the diffusion process according to a sequence of decisions and practices. The framework coherently embeds agency features and environmental pressures. It steers the formulation of alternative hypotheses of adoption as well as implementation and evaluation of practices according to (government-to-government and transnational policy networks) communication channels. As Sahlin-Andersson (2001, 44) effectively put it, if an administrative innovation spreads globally, '[o]ne may ask whether it makes a difference if national reforms are part of a global trend, how such a trend develops and how national reforms and global trends are related.' This framework accommodates the complexity of global spread of administrative reform through three alternative explanations: independent national initiatives, a process of international mimicry, and the OECD transnational construction and circulation of prototypes and templates (Sahlin-Andersson, 2001, 41). Furthermore, such a framework also takes into account the agency-level explanations, such as political control and the political rhetorical use of RIA. In other words, policy-makers' communication and interdependency are set against the three 'internal' logics of RIA, which are unfolded in the empirical tests of diffusion.

The literature on the diffusion of administrative innovations shows that it is crucial to take into account the process of implementation, the second step in the sequence. In Europe, the formal adoption of regulatory appraisal systems has not been followed by the same pattern of implementation (Radaelli, 2005). The process of putting an innovation into an organisational and institutional context is prolonged and has several phases (Radaelli, De Francesco and Troeger, 2008). If institutional changes are well-documented among several pioneer countries, the alternative scenario of no-impact, symbolic adoption can be plausible among early majority and laggard countries. Furthermore, in in-

Figure 1.1: Conceptual framework of policy diffusion
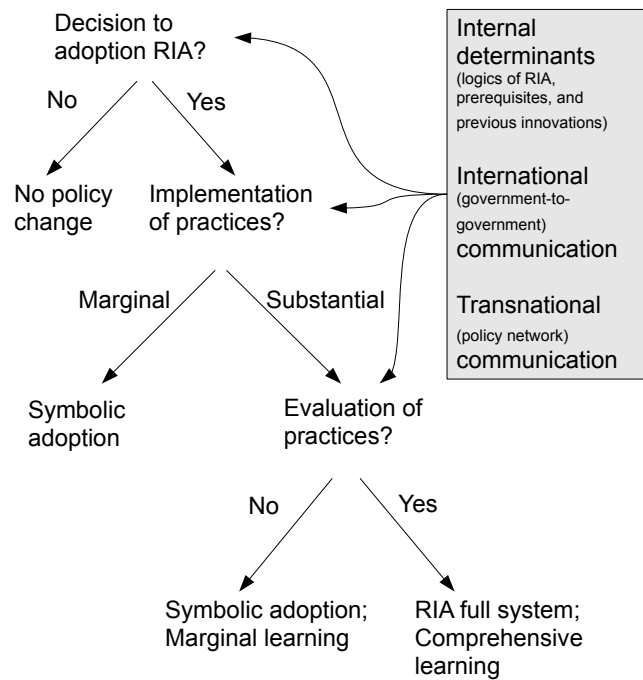
ternational and transnational contexts, an innovation is promoted for its beneficial features. What was created for controlling the regulators may be advertised as a tool for achieving economically sound regulatory outcomes and legitimised regulatory governance (OECD, 1997*b*; OECD, 1997*a*; OECD, 2002*a*). Accordingly, also in a diffusion framework, the political rhetorical use of concepts such as rationality and legitimacy is possibly even stronger at the international and transnational levels. Consequently, it is essential to allow for broader and longer-term consequences, analysing the extent and the variance of implementation and the modalities of evaluation.

Different implementation patterns can be linked to the expectations raised by diffusion scholars. Under the incrementalist framework one would expect that countries would diverge enormously in the extent of adoption. Indeed, the pioneers would generally be at the cutting edge due to their resource slack and their familiarity with the innovation, whereas laggards would show up as the weaker implementators. In contrast, structuralist explanations would expect more similar and converged patterns of innovation design and implementation.

The same expectations can be formulated in the evaluation or reconfirmation of the innovation, the final diffusion stage, reckoning up countries that are evaluating an RIA

programme. Through a qualitative analysis of the international experience, it will be possible to ascertain which countries have the resources and capacity to perform evaluation. The consequent question addresses the extent and modalities of learning and the typologies of model used to assess the purpose, scope, and goal of RIA. Qualitative analyses and a recognition of the evaluative practices are used in order to trace the extent of learning. Linking policy evaluation, policy diffusion, and policy learning in a coherent framework, the qualitative analyses search for evidence of transfer and interdependence of evaluation best practices across countries. The extent of learning is laid down through a continuum line. On one extreme, there is the minimal learning indicated by the non-existence of evaluation as a consequence of a symbolic adoption of RIA. Whereas, on the other extreme, there is instrumental learning in which RIA is constantly evaluated and reinvented not only on the basis of the direct experience of a given government but also through the multiple experiences of other governments.

Overall, compared with a cross-sectional analysis of policy adoption, the main added value of this dissertation is that the cumulate knowledge of the adoption, implementation, and evaluation phases provides a more accurate approach towards causal mechanisms of policy diffusion. Having a comprehensive overview of the innovation process provides an optimal way to assess the extent of policy change and the extent of rationality of an adopting unit. Furthermore, an analysis of implementation and evaluation can reinforce or contradict the empirical evidence on modes of governments' interaction and the role of international organisations associated with decision to adopt.

There are several reasons for arguing that the empirical analysis of the stage of adoption cannot reveal too much about the path(s) connecting a causal factor to policy diffusion. Firstly, mechanisms often consist of vague and abstract factors that are difficult to operationalise (Gerring, 2010). Turning to policy diffusion, the conceptual definitions of learning or emulation are contested. This aspect is also reflected in the not yet consolidated modes of operationalisation of such casual mechanisms in policy diffusion. Secondly, more often than not the plausible mechanisms are multiple, and difficult to tease apart from one another. Thirdly, these multiple causal pathways may operate in an additive fashion as substitutes, or in interaction with one another (Gerring, 2010). Finally, and more importantly, Sahlin-Andersson's theoretical framework used in this research does not refer

to the mechanisms of policy diffusion but is about the impact of different modulations of communication and interdependency of governments among themselves and with the international organisations.

Given such limitations, a mixed methodology would allow a better appreciation of causal pathways. Soft quantitative and qualitative analyses can retrofit the expectations of diffusion. For instance, if emulation is the most plausible causal mechanism, one would expect little variance in the implementation score of pioneers, followers, and laggards. Further, in the evaluation stage there would be interdependency and imitation of others' evaluation practices. On the other hand, bounded learning would allow more variation in implementation and evaluation. Governments would adjust the innovation according to their capacity and internal conditions and would scan other governments' experience in order to find what is more suitable. In an economically competitive environment, there would be an approximation toward the most economically advanced countries. Furthermore, a comprehensive analysis of the diffusion process can also support normative claims. In particular, one needs to ask whether resources for an evidence-based policy are optimised across the innovation process. A dollar invested in the adoption of RIA cannot be invested in ex post policy evaluation—hence fully strategic governments will dedicate financial resources to confirm and, in some cases, reinvent the adopted innovation.

To clarify, the contribution of this research is not to offer a meta-theory of the policy process or the diffusion of policy innovation in which coherent and overarching causal mechanisms are tested along different stages. The advancement here is on the design of research into the extent of governments' interdependency in the field of administrative reform. Large-n comparative analyses of the interrelated phases of adoption, implementation, and evaluation provides a stronger analytical lens for appreciating if, why, and how an administrative innovation diffuses.

1.5   Outline of the dissertation

According to Gerring (2007, 72), '[t]he only distinguishing feature of X_1/Y-centered analysis is that a specific causal factor(s), a specific outcome, and some patterns of association between the two are hypothesized.' In the attempt to disentangle the complexity, the

policy diffusion literature is characterised by two different theoretical patterns of association between adoption and its determinants. Spatial models focus on the intensity of communication. Overarching theories of diffusion, instead, encompass causal mechanisms, providing an array of alternative explanatory propositions. Highlighting the extensive literature on policy diffusion, Chapter 2 tackles the difficulties of conducting a comprehensive review through an analysis of the most relevant review articles. It also provides a systematisation of the different foundations of diffusion spatial models and causal mechanisms.

The review of the literature concludes with the Downs and Mohr's (1975, 701) insight of the impossibility of finding a unitary and valid theory of adoption for every innovation. The identification of an explanatory framework is instead founded on an analysis of the typology of innovation under analysis. This search is two-fold. At the macro-level, Chapter 3 is dedicated to an accurate analysis of theoretical and empirical literature on diffusion of administrative reform and NPM. This literature indicates that governments are interdependent and emulate each other. Administrative innovations and reforms are communicated, packed, promoted, transformed, and institutionalised. Furthermore, international organisations, global consultancy firms, epistemic communities and experts are present in the adoption environment, playing a relevant role in the diffusion of management styles and new modes of governance (Finnemore, 1993; Sahlin-Andersson and Engwall, 2002; Bearce and Bondanella, 2007). This consideration underlines the shortcoming of RIA literature, as this provides no consolidated knowledge on how international organisations' requirements or promotion to encourage introduction of RIA and administrative capacity affect adoption and implementation.

At the micro-level, it is necessary to identify the attributes of an innovation in relation to the adopting organisation (Downs and Mohr, 1976, 706). Although economics and law warn us that transplantation is a source of inefficiency of institutional choice (Wiener, 2006; Shleifer, 2005, 448),[9] in the literature on RIA there is much more emphasis on measurement than on theory and concept formation. Indeed, literature on RIA (see Section 3.3) evidences that a comprehensive analysis of what this innovation means and how it impacts on different administrative systems is still lacking. Based on comparative

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[9]The transfer of RIA in political systems that do not present functional equivalents to the US system may produce completely different outcomes.

administrative law treatises, Chapter 4 addresses the question of the extent of adoptability, drawing typologies of rulemaking. In particular, Principal-Agent (P-A) models and political control theory reveal the interaction between attributes of the innovation and attributes of adopting units. To capture such interaction, two dimensions of rulemaking are intersected in order to get a 'property space' which—following Elman (2005)—is 'expanded' to take account of other administrative contexts and traditions and the specific adoption environment. In other words, adoption depends also on the type of innovation mediated by a given adopting unit's incentive to innovate (Howlett and Rayner, 2006) and on the constraints on innovation (Downs and Mohr, 1976, 706).

Chapter 5 turns to the characteristics of the innovation under analysis. It shows that the cumulative adoption followed the peculiar pattern of an S-shaped curve. Furthermore, describing the relevant events occurring and actors involved during the diffusion of RIA, this chapter supports the three-levels theoretical framework which focuses on the different modalities in which administrative reform and, in particular, NPM global trends can be formed. A further qualitative analysis gauges the capacity of governments to reshape and reinvent the administrative innovation, specifying whether RIA diffused through a precise model or general principles of change (Weyland, 2006). To do so, a longitudinal analysis in a sample of pioneering countries traces the process of institutionalisation of RIA from the time of emergence up to the most recent changes. Such qualitative analysis is founded on the three logics of adoption and shows the shifts in the use of regulatory appraisal between the political principal and the bureaucratic agent.

The normality of the frequency distribution of adopters over time is assessed through Gray's (1973) interaction model. Chapter 6 further tests diffusion models in order to identify the most plausible. Whereas the interaction models assume a random contagion, spatial models instead posit that diffusion follows spatial patterns. The innovative aspect of these tests, however, is to stretch these models beyond the context of American politics discipline (in which they were created), applying them to international policy diffusion. As a result, the interaction model has been modified to consider the role of an international organisation such as the OECD, and the spatial model goes well beyond the geographical proximity, considering cultural and administrative traditions.

Chapter 6 looks also at the internal and functionalist determinants and the concept of

prerequisites of and necessary conditions for adoption. In other words, given common environmental pressures, internal determinants represent adoption decisions taken by each country independently from the others. In its account of regulatory reform and management, the OECD has inserted the adoption of RIA within a broader reform of the political economic system of a country, usually followed by phases of deregulation and re-regulation, overlooking the evolution of the administrative regime that is a useful perspective for explaining patterns of diffusion and the extent of implementation. In contrast, granting that RIA is not adopted in an administrative law void, one may expect clustered patterns of diffusion according to previous administrative reform, such as Freedom of Information (FOI) law and Administrative Procedure Act (APA), similar administrative requirements, such as Environmental Impact Assessment (EIA), and different administrative traditions.

Whereas Chapter 6 juxtaposes internal determinants to models of diffusion which assume the decision to adopt an innovation depends only on the intensity of information flows, Chapter 7 presents an integrated model, tested through a discrete Event History Analysis (EHA). Such an integrated model encompasses three alternative explanations of global spreading of RIA, i.e. nationally, internationally, and transnationally formed trends. Both methodological approaches are considered in this project. The intuition here is that a set of dependent variables can overcome the instability in cumulating empirical knowledge, associated to the analysis of the diffusion of an administrative innovation. Further, Chapter 6 gauges the most plausible variables associated to each model of diffusion.

Chapter 8 measures the extent of implementation through an aggregated indicator. Moreover, drawing from the typology of adopters, it is possible to test the hypothesis that leaders generally have greater resources to invest in policy formulation, and consequently, given the incrementalism effect, they tend to have the most extensive policy at any point in time (Clark, 1985, 64). On the other hand, under the theoretical framework of emulation as well as comprehensive learning the assumption to test is the existence of a marginal interstate variance.

Chapter 9 accounts for the governments' experiences in evaluating their RIA programmes. The aim of this chapter is to gauge whether there is interdependency and a learning process among governments in the evaluation phase. This qualitative review of the international experience has two purposes. Firstly, it identifies which type of adopters (pioneers, early

majority, or laggard; countries with a broader or smaller extent of implementation) have engaged in evaluation. Secondly, through an assessment of the different methodologies, this chapter shows whether and to what extent countries learn from each other on how to evaluate a diffused policy tool.

While references to the conceptual framework are made throughout, Chapter 10 draws together the empirical findings of a comprehensive analysis of adoption, implementation, and evaluation, summarising whether the different tests of diffusion hypotheses held up coherently as well as providing a more convincing explanation of policy diffusion. It revisits the aims of this research: to understand the patterns, the extent, and the impact of policy diffusion on domestic regulatory and administrative reform. In doing so, this chapter considers the implications for the wider debates on policy diffusion, proposing implications for further researches and recommendations for policy-makers and stakeholders.

1.6 Research methodology

In order to develop the research throughout the decisional sequence outlined in the conceptual framework, different datasets and a mix of methodology strategies are necessary. A years of adoption database, covering thirty-eight countries between 1968 and 2006, was constructed. It is a collection of primary and secondary data sources. When this dataset differs from that of the OECD, a brief description of the methodological choices in selecting the year of adoption is provided in Appendix A. Appendix B takes into account another problem concerning the coherence and comparability of data contained in the different datasets of the implementation stages.

Turning to methods, the first analysis on the readiness of adoption relies on Elman's concept of explanatory typologies, expressed in dichotomous fashion (present/not present). Enabling deductive combination of the descriptive and classificatory features within a preexisting theoretical framework (Elman, 2005, 297-8), explanatory typologies allow the prediction of a specific outcome of the dependent variable. In this case however, the exercise is humbler. Relying on the integration of RIA into the overall review of rulemaking, it sets out to assess the adoptability of RIA according to a country's administrative tradition.

The second analysis contrasts the simplest model of diffusion, that is the interaction model, to internal and regional models via soft quantitative analyses. Specifically, the internal determinant models are tested via ranking correlations and correlations between internal characteristics and measures of 'earliness of adoption'. The interaction model is tested by adjusting the Gray's (1973) model to the international level. The regional model is 'fixed' relying on the legal origin of a country and is tested via Mooney's (2001) method of average proportion of adjacent adopters.

The third analysis integrates internal and external determinants in the theoretical framework, testing different independent variables through a discrete EHA. This method assumes that the dependent variable is the probability of a given country to adopt RIA within a specific year t. This econometric analysis is developed upon the above mentioned theoretical model and the separate analyses of the diffusion models which are now merged.

Following Clark (1985), the scope of implementation is measured through soft quantitative analysis of an aggregated index. This index is correlated with the timing of adoptions, measured by assuming three categories of adopters, i.e. pioneers, followers, and laggards. Further correlations are performed in order to assess the relationship between index of implementation and years of adoption. Finally, the last chapter on the evaluation stage is qualitative, mapping the experience in evaluating RIA programmes, and identifying which countries are more rational.

Chapter 2

Diffusion of policy innovations

2.1 Introduction

This chapter reviews the literature and the main theoretical insights on policy diffusion. It focuses on definitions, models, and causal mechanisms, highlighting also epistemological issues. Due to the high number of articles published since the 1960s, there is an evident complexity in reviewing comprehensively this literature. Considering only the top fifty political science journals, in a recent review paper Graham, Shipan, and Volden (2008) have counted almost eight hundred articles. Another element of complexity is the interdisciplinarity of the topic (Rogers, 2003), reflected also in the several sub-fields of political science (American politics, international relations, and comparative politics) that from different theoretical perspectives have attempted to disentangle policy diffusion. The field is also crowded with review articles that, relying on bibliometric analysis (Graham, Shipan and Volden, 2008; Greenhalgh et al., 2004) or taking the policy diffusion traditions into the reckoning (Savage, 1985; Newmark, 2002; Wejnert, 2002; Berry and Berry, 2007), tend to derive an integrated theoretical framework.

A way to tackle such complexities is to analyse a selection of review articles. Underlining the strengths and weaknesses of each literature review allows synthesis of the extensive discussion on models and causal mechanisms of policy diffusion. The next section illustrates how definitions and features of diffusion have evolved in political science. Section

2.3 focuses on the most prominent reviews which present models or unveil causal mechanisms. Recognising what has been overlooked by scholars, Section 2.4 clarifies the common conceptual grounds between models and causal mechanisms. Section 2.5 highlights a set of epistemological distinct emphases in policy diffusion. It also reckons the necessity of identifying the attributes and typologies of innovation.

2.2 Concepts and features of diffusion

Diffusion is entangled by numerous elements that are difficult to encapsulate in a unitary framework. An overarching definition can be derived from the concept of technological innovation. Technology is defined as 'a design for instrumental action that reduces the uncertainty in the cause-effect relationships involved in achieving a desired outcome' (Rogers, 2003, 13).[1] '*Innovation* is the creation of something new. *Diffusion* is the transfer of that something new over time and space.' (Hugill, 2003, 91, emphasis in original). According to this perspective, technology is the core of diffusion and 'is embedded deep in the economic, political and social system operating at any particular place and time' (Hugill, 2003, 91).

The importance of a broader context has been recognised by many scholars of diffusion of innovations. The 'classical' theory defines it as 'the process in which an innovation is communicated through certain channels over time among the members of a social system.' (Rogers, 2003, 5) For sociologists diffusion denotes 'flow or movement from a source to an adopter, paradigmatically via communication and influence'. Strang and Soule have also argued that it is a general and abstract term, 'embracing contagion, mimicry, social learning, organized dissemination, and other family members.' (1998, 266)

In political science, the studies of diffusion have passed from a narrow analysis of its elements to a much broader and embedded definition. Richard M. Walker's primordial work analysed a series of legislative innovations in order to grade American states' innovative-

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[1]It is usually composed of two elements: hardware and software. Hardware is the tool and the material component; software is the information base for the functioning of the tool (Rogers, 2003, 13). Examples of software innovation are Taylor's scientific management, as well as other managerial innovations such as continuous quality control, lean production, and just-in-time (Hugill, 2003, 96-7)

ness. He concluded that due to their attributes, the usual suspects are the innovators (Walker, 1969). Later, Virginia Gray (1973) focused instead on the features of each innovation. Her single innovation framework revealed that countries' degrees of innovativeness vary according to the type of innovation. Collier and Messick (1975, 69) were the first political scientists to refer to 'Galton's problem' which is related to the fact that 'the findings based on the analysis of causal relations within nations (or other units of analysis) may be distorted by the effect of diffusion'. In order to discern such different modes of adoption, they contrasted the prerequisites and diffusion effects of social security. Taking advantage of a statistical method, Berry and Berry (1990) unified the internal characteristics of an adoption unit and the external determinants which appreciate whether the domestic political system is affected by prior decisions taken by other governments. Dependent variables vary from the earliness of adoption (Collier and Messick, 1975) to the probability of adoption in a specific year (Berry and Berry, 1990), from the rate or speed of diffusion (Gray, 1973) to the extent of innovativeness of a state (Walker, 1969), and to the the extent of implementation and reinvention (Glick and Hays, 1991).

These four alternative research strategies have formed the overall framework of diffusion studies in political science. However, it is only among the more recent studies of policy diffusion that the role and the impact of external structures are taken seriously. Relying on sociological institutionalism, the environment of an adopting country is considered not only as a facilitator or a channel of communication among countries but as an institutionalising component. Further, the vague definition of diffusion of policy innovation[2] which tended to be confused with any concept of policy adoption refers now unequivocally and exclusively to external influences. According to Weyland (2006, 16-7),

> diffusion takes place if the likelihood that a reasonably autonomous decision-making unit (A) will adopt an institutional or policy innovation is significantly increased by influences that emanate from outside this decision-making unit, especially by the adoption decision of another such unit (B); the influence of a promoting actor that contributed to B's adoption decision; or the proselytizing efforts of the unit (C) that first created and enacted the innovation.

Similarly, Graham, Shipan and Volden (2008, 3) stated that 'diffusion occurs when one

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[2]For instance, 'any pattern of successive adoption of policy innovation' (Eyestone, 1977).

government's decision about whether to adopt a policy innovation is influenced by previous choices by other governments'. In contrast, Dobbin, Simmons, and Garrett (2007, 7), define policy diffusion more broadly as 'a dynamic process of policy formulation and implementation whereby decisions in Country A have been systematically conditioned by prior choices in Country B and international institutions C'.[3] Beyond the emphasis on the systematic influence and the dynamics of the process that includes formulation and implementation,[4] this definition disregards innovation. As evidenced in their book (Simmons, Dobbin and Garrett, 2008), a collection of articles on diffusion of democracy and market reforms, *interdependency* has replaced technology transfer as the founding element.[5]

There is also an evident theoretical shift in the last generation of studies in which 'an analysis of the cultural (in some usage, institutional) bases of diffusion speaks more directly to what spreads, replacing a theory of connections with a theory of connecting.' (Strang and Soule, 1998, 276) In other words, the 'diffusion environment' has become the crucial element of the policy diffusion: 'Individual adopters are not acting within a vacuum or on an isotropic plain. Rather, their actions are conducted within an environmental context that assumes a multidimensional nature, each dimension exerting varying degrees of influence on the actions of different individuals.' (Meir, 1982, 239-40) Environmental influences and rational use of information about innovation are the two the crucial assumptions for appreciating the alternative theoretical standpoints of (policy) diffusion (See Section 2.4).

The variance in the definitional aspects has became interlocked with epistemological and methodological issues. In order to define what diffusion is, several scholars clarified what is *not* diffusion. Is diffusion any pattern of successive adoptions of a policy innovation (Eyestone, 1977), denoting simply an international spread (Bennett, 1991, 221)? Or alternatively, does this phenomenon refer to specific features (innovation, information, and interdependency) and patterns (spatial, structural, or socio-economic model) or causal

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[3]Contrast those definitions with the one provided by Busch et al. (2005, 149) in their analysis on the global diffusion of environmental regulatory instruments. They refer to the classical definition where 'an international spread of policy innovations driven by information flows rather than hierarchical or collective decision making within international institutions.'

[4]Other scholars defined diffusion according to different stages. Greenhalgh et al. (2004, 582) 'distinguished between diffusion (passive spread), dissemination (active and planned efforts to persuade target groups to adopt an innovation), implementation (active and planned efforts to mainstream an innovation within an organization), and sustainability (making an innovation routine until it reaches obsolescence)'. This is in line with Rogers's (2003) idea of diffusion phases, although he uses the term diffusion to embed the passive or spontaneous spread and dissemination.

[5]As a matter of fact, the index of this book has no entry for innovation.

mechanisms (coercion, emulation, learning, or competition) of successive adoptions? If so, when and where does diffusion become causally relevant (Brooks, 2007, 701)? Is the S-shaped cumulative curve of adoption an essential feature of diffusion?

Before turning to these questions, it is worth de-marking the perimeters of policy diffusion literature. Unlike those found in convergence literature, research questions on diffusion analyse 'the nature, not the outcome, of the process' (Gilardi, 2008, 77). Although it has the same focus on the process of policy adoption, the policy transfer literature is instead interested in both policy outcomes and the causes of policy transfer, making the transfer process an 'intermediary variable'. (Gilardi, 2008, 82).[6] In other words, '[t]he analytical focus of the diffusion literature is on policy change, the main hypothesis being that interdependence matters.' (Gilardi, 2008, 81).

There are two forces in action causing policy change, i.e. the prior choices of other actors and the reaction of independent actors to similar functional pressures (Gilardi, 2004, 115). The latter functional explanation has been defined as 'spurious diffusion' (Gilardi, 2004, 115), 'the null hypothesis of diffusion' (Simmons, Garrett and Dobbin, 2003, 5), 'in-state impetus to action' (Eyestone, 1977, 441), 'internal determinants of diffusion' (Berry and Berry, 2007), 'prerequisites' (Collier and Messick, 1975), and 'common contextual effects' (Van den Bulte and Lilien, 2001, 1411).

The concomitant causal effects of policy change explanations generate a methodological problem, the so-called Galton's problem, in as much as 'the findings based on the analysis of causal relations within nations (or other units of analysis) may be distorted by the effect of diffusion' (Collier and Messick, 1975, 69). Within a functionalist theoretical framework, there are two solutions (Jahn, 2006, 410). The first one, the so-called additional variable solution, includes variables that measure the interconnectedness of countries, such as trade openness and foreign direct investments. Another additional variable solution relies on the idea of 'pairing' societies according to their geographic or cultural proximity (Jahn, 2006, 410-1). This framework has been used also by Franzese and Hays (Franzese and Hays, 2007) to test empirically spatial interdependence on the convergence of several policy outcomes.

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[6]For other scholars and from a different perspective, '[p]olicy transfer is a more specific form of policy diffusion accounting for only those cases where conscious knowledge of policy is used in policy development elsewhere' (Newmark, 2002, 171).

Other solutions are situated within the policy diffusion research traditions. While several diffusion studies contrasted functional pressures and interdependency (Collier and Messick, 1975), others propose an integrated framework (Berry and Berry, 1990) although Eyestone (1977) argued that it is impossible and not useful to distinguish between functional and communication variables.[7] Others studies bound diffusion exclusively with models of communication and interaction (Gray, 1973; Menzel and Feller, 1977; Glick and Hays, 1991). As mentioned, more recent studies instead focus exclusively on the causal factors of interdependency (Simmons, Dobbin and Garrett, 2008; Weyland, 2006).

Taking for granted the two forces behind the spread of policy change, which elements compose them? What are the determinants and independent variables of diffusion? The ultimate challenge is to have a coherent theoretical approach that holds together prerequisites, necessary conditions, internal determinants, channels of communication, and the broader diffusion environment. But further questions can be raised: Which dimensions of the diffusion environment need to be taken into account? Are the different environmental dimensions mutually exclusive?

Before turning to a summary of literature reviews which have attempted to face these challenges, it is important to note that it is not clear whether the S-shaped cumulative curve of adoption is also an essential condition in political science.[8] Further, the formalisation of the different explanations through models is rare. Few studies tested the cumulative adoption curve or the speed of adoption using formal models discussing the factors that affect them (Graham, Shipan and Volden, 2008, 33), whereas many research graphically simply plotted it.

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[7]Yet, other scholars refer to the term of 'semi-diffusion' for indicating the diffusion of innovation among societies that are capable of sustaining it; whereas pure diffusion with no functional basis is referred to as 'hyper-diffusion' (Klingman, 1980, 127).

[8]As in Gray's (1973) random interaction model.

2.3 An analysis of the literature reviews on policy diffusion research

Literature reviews conducted by political and social scientists analysed elements, patterns, and causal mechanisms of diffusion in order to remark on the general findings and contributions as well as any weaknesses. Graham, Shipan and Volden (2008) provided the most recent literature review. Through network analysis, they measured the interconnectedness across three subfields: American politics, comparative politics, and international relations. In doing so, they have aimed to 'provide a more complete overview of the literature and to integrate the insights of multiple fields.' (Graham, Shipan and Volden, 2008, 1). Their main argument is that scholars of international relations have not fully exploited the insights of American diffusion research with the findings on interaction and communication of ideas. American politics scholars have instead overlooked the importance of diffusion of norms across governments and the aspect of socialisation. Comparativists have tended to overlook 'policy reinvention' (Hays, 1996a; Hays, 1996b; Hays, 1996c; Glick and Hays, 1991), assuming that innovation is stable and fixed across time and countries (Clark, 1985).

Thank to their extensive literature review, Graham et al. (2008, 16) have been able to answer the questions of *who*, *what*, *when*, *where*, *how*, and *why* of policy diffusion research, assessing the convergence 'upon a common language and set of understandings for central concepts'. The question of the 'who' is related to the internal and external actors and go-betweens involved in the formulation of policy change (Graham, Shipan and Volden, 2008, 16). They rightly stated that[9]

> [e]ven in works that combine diffusion and internal considerations, however, much of the literature on policy diffusion treats internal politics almost as a nuisance rather than as substantial in its own right. Put somewhat differently, these studies have appropriately acknowledged the need to control for these features of the polity without recognizing that they may function as part of a systematic explanation of diffusion in their own right. (Graham, Shipan and Volden, 2008, 21)

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[9]See also Braun and Gilardi (2006).

Accordingly, it seems that Galton's problem has been reversed, given that the literature focuses mainly on exogenous components of decision-making. In referring to internal actors, they mean the preferences, goals, capabilities of policy-makers and the environment in which they operate (Graham, Shipan and Volden, 2008, 17). External actors are essentially governments that have previously adopted a policy innovation and their role as information providers, educators, and coercive or influential actors. The go-between actors are the third residual category of change agents such as epistemic communities (Haas, 1992), mass media (Grigorescu, 2003), and international organisations (Bearce and Bondanella, 2007).

The question of the 'what' is about the types of innovation. The literature has expanded to include many political phenomena such as riots (Midlarsky, 1978), coloured revolutions (Way, 2008), governmental types, and institutional structures (Gilardi, 2008). Public policies are popular among diffusion scholars, with case studies covering health services (Satterthwaite, 2002), telephone regulation reform (Kim and Gerber, 2005), and pension privatisation and health reform (Weyland, 2006).

The questions of the 'why' and the 'how' concern causal mechanisms. According to Graham, Shipan, and Volden (2008, 24), there are four general typologies of causal mechanisms in policy diffusion, i.e. learning, competition, coercion, and socialisation. These mechanisms will be explored later in Section 2.4, in which a systematic approach to policy diffusion is provided.

The final question treated by Graham et. al. (2008, 30-4) is about 'when' and 'where' diffusion occurs. Lamenting the lack of systematic understanding and generalisation of empirical evidence accumulated so far, they have correctly highlighted the importance of careful analysis of conditional factors such as actors and temporal stages of diffusion (usually represented in the adopter categories)[10] as well as the relative rate at which policies diffuse. The main weak point of this literature is the lack of interdisciplinarity. They neglected sociological and organisational analyses which successfully clarified important issues, still not fully explored in political science.

The aspect of interdisciplinarity has been addressed by Fabrizio Gilardi (2008) in his

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[10]The time dimension conditions also the explanatory mechanisms which cannot be taken as constant.

book on diffusion of independent regulatory agencies in Western Europe. He provided an overview of the different disciplines that deal with policy diffusion: sociology (in particular organisational studies), American politics, and the emerging literature on globalisation of policy reforms.[11] His major contribution is to widen the review of policy diffusion toward sociological studies, distinguishing between 'classical' and 'contemporary macro' studies (Strang and Soule, 1998). Whereas the first strand of research focuses on the characteristics of technological innovations and individual adopters, the second is centred upon behavioural strategies and environmental structures as well as organisation and collective actors (Strang and Soule, 1998, 268). Overall, the sociological literature agrees that institutional environment is stronger than functional needs in forcing an organisation to change and innovate (Gilardi, 2008, 82).[12] The new literature on global diffusion of policy reforms benefited from both American politics and sociology, with a clear emphasis on causal mechanisms.[13] From the sociological literature, this research strand borrowed the notions of interdependency and symbolic properties of policy adoption. The contributions from the American politics literature were methodological and took account of quantitative analysis and the operationalisation of geographical and cultural proximity in studies of international diffusion (Gilardi, 2008, 90).

Gilardi concluded by presenting a model of policy diffusion where the different assumptions are integrated in a coherent analytical framework (Gilardi, 2008, 99–100). The model is essentially composed of political payoffs, that are electoral and policy rewards, and the effectiveness of policy innovations (Braun and Gilardi, 2006). The above mentioned causal mechanisms modify the two variables, linking the micro with the macro level. Overall, his conclusions are strongly sound, with a clear and comprehensive model of diffusion being

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[11]Savage (1985, 3) provided another classification of research foci across the different disciplines that have analysed policy diffusion.

> Client-centered studies revolve about the individual adoption process and primarily utilize cross-sectional analyses of survey data. Geographic-centered studies focus on the spread of adoptions across given populations and more often resort to analyses of recorded data. Organization-centered studies incorporate aspects of the other two traditions and, consequently, are typically more variable in research methods.

He argued that the vast majority of studies on policy diffusion among American states were geographic-centered.

[12]Essentially two explanations motivate the adoption independently from functional considerations: the organisation's desire to increase its legitimacy, and taken-for-grantedness over time of an innovation. (Gilardi, 2008, 83)

[13]Gilardi identified rational learning, bounded learning, competition, and emulation as the diffusion casual mechanisms; each of them relies on a different set of assumptions (Gilardi, 2008, 91–9).

presented. However, the model tends to overlook the characteristics of innovations and adopters as well as the notion of complimentary and contingent innovations (Mahajan and Peterson, 1985).

Focusing on American politics, Berry and Berry (2007) reviewed instead models of diffusions, i.e. the national interaction model, the regional diffusion model, the leader-laggard model, the isomorphism models,[14] and the vertical influence model. They considered also a set of internal determinants such as motivation of policy makers to innovate, resources for and obstacles to innovation, as well as complimentary and contingent innovations. They unified the two explanations in a comprehensive model of 'government innovation'. The dependent variable is the probability that a given state adopts the innovation in a specific year. The independent variable 'motivation' could include dimensions such as the severity of the problem, the character of public opinion, and the degree of electoral competition in the state. The resource/obstacle variable would capture the factors facilitating or opposing innovation such as the level of economic development, professionalism of policy makers, presence of policy champions and entrepreneurs, and strength of policy advocacy coalitions. Furthermore, a set of dummy variables should represent the presence of previous policy innovations in order to capture the extent of 'innovation interrelationships' (Mahajan and Peterson, 1985, 39-40). The external variables 'would measure the behaviour of other states' (Berry and Berry, 2007, 238). Beyond the lack of formalisation of diffusion, it is not clear however how one would go about operationalising diffusion variables on account of the different explanatory models available. Moreover, the model overlooks the interactive and cumulative elements that may exist among variables, especially among those related to the institutional and culture environment. In other words, adding variables does not disclose the combined or opposing effects of each variable on the adoption of an innovation.

The interactive character of diffusion variables is instead the main focus of Barbara Wejnert's (2002) extensive review. Her analytical framework is composed of three elements: characteristics of innovations, characteristics of innovators, and the environmental con-

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[14]The term isomorphism is in this case misleading because they refer to studies that find cultural proximity and historical connection (Weyland, 2006), ideological similarity (Grossback, Nicholson-Crotty and Peterson, 2004), political, demographic and budgetary similarity (Volden, 2006). Isomorphism is used in sociology for referring to postulates such as taken-for-grantedness and legitimisation.

text (Wejnert, 2002, 298-9). Each of these components is formed of specific sub-elements. Notwithstanding that '[f]ew scholars have studied the characteristics of innovations per se as determinants of diffusion' (Wejnert, 2002, 299), she has usefully distinguished between private and public consequences of innovation. Innovations have public consequences when collective actors are involved (Wejnert, 2002, 299). Public consequence innovations are mainly adopted when norms, values, or expectations about certain forms or practices become deeply ingrained in society and institutionalised (Wejnert, 2002, 300).[15] She argued also that the media are relevant in changing the perception of adopters' concerning the benefits of the innovation. The latter is usually neglected in political science, although Braun and Gilardi (2006) have derived a micro-level model of policy makers' preferences. Wejnert stressed that familiarity with the innovation and socioeconomic characteristics are the most strong characteristics associated with policy innovation. Finally, the environmental context introduces another array of diffusion variables such as geographic settings, societal culture, political conditions, and global uniformity. Geographical variables refer to the closeness and the density of countries' interaction (Wejnert, 2002, 311).[16] Global uniformity 'reflects the view of the contemporary world as one cultural community, characterized by collective development grounded in a synchronized, cohesive process of evolution.' (Wejnert, 2002, 315). Such uniformity is due to institutionalisation, global technology, and modern mass communication media. (Meyer et al., 1997; Drori et al., 2003; Drori, Meyer and Hwang, 2006; Drori, Jang and Meyer, 2006; Wejnert, 2002, 315)

Wejnert concluded by identifying three areas of improvement in diffusion research. The first concerns '[t]he interaction between variables can be either potentianting or mitigating, and the relative weight of each variable may change according to the circumstances characterizing the innovation and its context.' (Wejnert, 2002, 318) The second improvement refers to the effect of spatial variables that should be significantly modulated when connectedness between actors is determined more strongly by other, nonspatial social context variables (Wejnert, 2002, 319). Finally, scholars have to identify thresholds in relation to an actor's capacity to adopt an innovation. Aside from the relevance of such

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[15]Discussing the weakness of 'relational models', Strang and Meyer (Strang and Meyer, 1993) provided an excellent review of institutional conditions for diffusion, especially the the role of theoretisation and modernity.

[16]Usually they are measured by trade, capital flow, common language, and religion.

theoretical insights, there is no methodological detail on how to capture these levels of interaction among different variables. For instance, Jensen (2004) integrated the mechanisms of isomorphism—such as coercion and competition—as detractors and enhancers of spatial diffusion.

What conclusions can one draw from these reviews? The most striking point is that different theoretical and methodological approaches are used in conducting those literature reviews. Gilardi and Graham et al. were more interested in providing an overview of the different subfields in policy diffusion, explaining also the evolution of and the interaction among them. Wejnert aimed to examine the comprehensiveness of the theoretical discussions and empirical findings, referring to a number of arrays of independent variables. From a theoretical perspective these reviews can be divided in two main groups: those that relied on models and those based on causal mechanisms. The first strand of literature is usually situated within the terrain of classical and spatial diffusion studies, whereas the second goes beyond the theory of connections, explaining if and how these connections occur. This is also reflected in the operalisation of the independent variables. The classical studies can rely on a more consolidated set of variables, whilst the contemporary studies on international policy diffusion have still to reach a definitive and ultimate variable array of emulation, taken-for-grantedness, and legitimacy. Although the manifest divergence in assumptions, the literature fails to remark the linkages and overlaps of the central concepts of the models and causal mechanisms. In addition, another shortcoming is the lack of a systematic overview of theories of 'adoptability', defined as the organisational capacity to adopt an innovation. In order to address such flaws, the next section turns to the broader foundations of policy change.[17]

2.4 Policy change, policy innovation, and diffusion mechanisms

Policy change occurs irregularly and steadily and has a limited impact on the established structure of relationships (Mintrom, 2000, 35-6). Policy innovation is a type of policy

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[17]A similar approach has been taken by Klingman (1980) in his model of social change that incorporates diffusion into time-series regression models of incremental development.

change, a technological change (Stoneman and Diederen, 1994, 918) which 'represents a break from the past' (Mintrom, 2000, 36). Accordingly, some scholars argue that incremental change is excluded from the definition of policy diffusion (Klingman, 1980; Berry and Berry, 2007, 223). The scope of this section is to understand which and how (internal and environmental) factors matter when a government decides to change, adopting a technological innovation.

Institutional change may occur under three different circumstances (Goodin, 1996, 153):

- sheer accident or unforeseen circumstances: For instance, the interaction of different institutions may result in totally unforeseen new types of institutions.

- evolutionary change: The institutions that best suit certain stages of social development simply survive, through the operation of some kind of selective mechanisms.

- intentional design by strategic agents.

Change and the consequent process of spread of innovation can thus be re-directed toward the general question of agency vs. structure, as evidenced by scholars that over time have taken account of a wider causality of diffusion. Each of these change typologies refers to alternative elements of diffusion: interaction, social system (the outer environment), and the individual decisional process in adopting an innovation.

Information and spatial interconnectedness are the key terms of 'positivist spatial diffusion theory'. 'Innovations are being adopted by individuals or areal units subject to their position in space and within the spatial organization system relative to the origin of the innovation' (Meir, 1982, 57). In order to explain diffusion, the emphasis is on the intensity of spatial and/or hierarchical flows of information about an innovation. Accordingly, 'mathematical models such as random-mixing models, wave models, and hierarchical models in which stochastic rather than deterministic processes' are used (Meir, 1982, 58).

> 'The implicit assumption ...is that the utility of the innovation is perceived uniformly by both the diffusion agent and the potential adopter. This means that the agent views all individuals within a given social or areal context as potential adopters who, subject to resource availability, only lack sufficient information to induce demand for innovation.' (Meir, 1982, 59)

Literature on diffusion, however, has emphasised and evidenced that diffusion is not only determined by the amount and strength of information but also by other factors related to individual compatibility with a specific innovation (Blaut, 1977). In other words, spatial diffusion theorists have isolated their research domain from both the internal and external contexts, the agency and the environment, the micro and the macro.

Two alternative theoretical approaches address these aspects: natural selection and decision-making (Aldrich and Pfeffer, 1976). The first approach considers change as determined by the environment of the organisation.[18] This model is applied at the population level of organisations, the so-called collective rationality (DiMaggio and Powell, 1983). Institutional theory literature has explained how organisational innovations are adopted through nonchoice behaviours to provide legitimacy rather than with the view of serving the organization's own interests or contribute to organizational efficiency or control (Meyer and Rowan, 1977; Tolbert, 1985; Tolbert and Zucker, 1983; Zucker, 1987). The emphasis of this theoretical perspective is on the environmental constraints that force adoption via passive acquiescence and how myths, meaning, and values, rather than efficiency, autonomy, and exchange, may drive and determine organisational behaviour (Oliver, 1991, 151).

Alternatively, the decision-making approach 'posits an active role of the organization affecting its environment, as well as arguing that environmental constraints leave a range of possible social structures consistent with survival' (Aldrich and Pfeffer, 1976, 84). It derives from 'theories of personality and cognitive choice that emphasize more the effect of intended, conscious action' (Aldrich and Pfeffer, 1976, 84). In decision-making, the fundamental phase of the innovation-decision process, 'the adopter interacts with the innovation in order to decide whether to adopt or reject it.' (Meir, 1982, 62, see also Rogers, 2003)[19] Having identified the three theoretical sources of organisational change and innovation, one can usefully classify and connect diffusion research traditions studies according to the prevalent explanations.

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[18]'Environments differentially select organizations for survival on the basis of the fit between organization structure (and activities) and environmental characteristics.' (Aldrich and Pfeffer, 1976, 80-1)

[19]By decision-making is therefore meant the process of 'selecting from various alternatives one course of action' (Starling, 1998).

2.4.1 Internal sources and types of rationality

Following Tolbert and Zucker (1983, 25–6), random interaction and decision making approaches fit into the 'internal sources' of organisational structure. Both theoretical standpoints assume the capacity of the agent, although surrounded by an outer adoption environment (Meir, 1982), to decide on adopting an innovation. Adopting units are rational actors pursuing efficiency and effectiveness (Tolbert and Zucker, 1983; Weyland, 2006).

Moreover, '[d]iffusion itself is often described as a rational process' (Strang and Meyer, 1993, 489). Governments, for instance, would scan and monitor all policy experiences, 'irrespective of its origin, and would rationally update their beliefs about policies in the light of experience' (Meseguer, 2006, 2). Weyland argues that a synoptic rational adoption decision process—composed of a systematic collection and treatment of all relevant information and ascertainment of options' payoffs through cost-benefit analysis—leads ultimately to policy convergence.

This mode of comprehensive rational learning is, however, an ideal type. With the central assumption that 'information diffusion drives technology diffusion' (Geroski, 2000, 609), positivist spatial diffusion scholars or 'sociological realists' have associated learning with the spatial distance of potential adopters from the origin of the innovation (Meir, 1982, 57). Their 'relational models' reframe rationality, considering the intensity of the information exchange as the only sufficient condition to explain the rate of diffusion (Strang and Meyer, 1993, 488).

Based on the normally distributed cumulative adoption curve (Gray, 1973, 1175–6), the simplest model used in policy diffusion is Gray's national interaction model. It presumes that 'officials from states that have already adopted a program interact freely and mix thoroughly with officials from states that have not yet adopted it, and that each contact by a not-yet-adopting state with a previous adopter provides an additional stimulus for the former to adopt' (Berry and Berry, 2007, 226). This diffusion model essentially relies on the *random* learning assumption. The cumulative proportion of states having adopted at a specific year depends upon the proportion of previous adopters (Gray, 1973; Mahajan and Peterson, 1985; Berry and Berry, 2007, 226). Empirically, this model has been rarely used. Only Midlarsky (1978) for his study on the diffusion of urban disorders, Vasquez (1995)

on the origin of interstate conflicts, and Kobrin (1985) on the diffusion of nationalisation of oil production, tested empirically such models.[20]

More recent contributions relax the national interaction model delineating patterns of interaction within networks. Moving away from this simplistic model which abstracts differences in the goals, capabilities or actions of individual members of the population (Geroski, 2000, 610), one can assume the existence of 'sets of small separate groups, with full communication between some but no communication between others' (Tolbert and Zucker, 1983, 28). In particular, economic globalisation and regional integration urge the emergence of 'transnational policy communities',[21] composed of policy-makers and experts 'that share their expertise and information and form common patterns of understanding regarding policy through regular interaction' (Stone, 2000a, 50).[22] Empirical analyses showed that global communicative networks are carriers of policy processes and are involved in the diffusion of ideas, standards, and policy practice (Stone, 1999; Stone, 2000a; Stone, 2000b; Sahlin-Andersson and Engwall, 2002). Analysing the diffusion of gender mainstreaming, True and Mintrom (2001) evidenced that transnational networks composed of nonstate actors are capable of linking—via communication interactions and institutionalisation of norms—individual jurisdictions to the broader environment. Moon and deLeon (2005) showed the cumulative effect of different typologies of network interactions, i.e. interbusiness interaction, government-business interactions, and government interaction, on the diffusion of voluntary environmental standard across thirty-four countries.

Regional diffusion models delineate neighbourhood and hierarchical effects. The probability or the rate of adoption are negatively related to the adopters' remoteness and lower hierarchical position within a spatial system that would cause smaller volumes of information flow and weaker awareness of the innovation (Meir, 1982, 58; Berry and Berry, 2007, 228-9). Used especially in American politics (Berry and Berry, 1990; Mintrom, 1997; Balla, 2001),

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[20]While Menzel and Feller (1977) and Glick and Hays (1991) simply assume the presence of a social system composed of American states.

[21]For instance, in policy areas such as education, health, welfare, and population growth (Stone, 2008, 23-30). Stone (2008, 30-1) identified three types of transnational policy communities: internationalised public sector officials (gathered in transnational executive networks) who 'have a dual domestic and international function'; international civil servants working for international organisations; transnational policy professionals usually consultant, business leaders, scientific experts, NGO executives.

[22]See also Rose (1993) and Haas (1992) on transnational epistemic communities

these models are not able to capture the causal explanations of diffusion, the 'why' and the politics behind a choice to adopt a policy innovation (Graham, Shipan and Volden, 2008, 28). However, Berry and Berry (2007, 229) argue that '[b]oth learning and competition can be the basis for assuming that diffusion channels are regional in nature'.

Bounded rationality emphasises the clustered component of information gathering. Relying on cognitive psychology, Weyland (2006, 35) claims that decision of adoption is driven by inferential shortcuts, through which the 'administrative man' aims towards identifying satisfactory solutions rather than utility maximisation (Guseh, 2003, 318). Compared to the comprehensive process, the adopting unit does not assess all the possible options systematically and simultaneously but does proceed through successive assessments of single options. Empirically, Wyeland (2006) identified through process tracing the cognitive shortcuts followed by a small sample of Latin American governments in pursuing their health and pension reforms. Focusing on hospital financing reforms, evidence of overall Bayesian learning in the large sample of the OECD countries of was found by Gilardi et al. (2009). Similarly, Meseguer (2009) probed that Bayesian learning is the strongest determinant for the diffusion of market-oriented reforms across the world.

Cognitive shortcuts and information cues are also given by 'the most important foreign economic competitors' (Simmons and Elkins, 2004, 173). Berry and Berry (2007, 225) recognise that '[s]tates compete with each other: they emulate policies of other states to achieve an economic advantage over other states or avoid being disadvantaged'. In a context of direct economic competition, especially in regulatory sectors, such as such as capital account liberalization, tax breaks, and labor rights, characterised by relatively short-term policy responses (Simmons, Dobbin and Garrett, 2008, 18), 'foreign policy adoption alter the benefits of adoptions for others' (Simmons and Elkins, 2004, 172). In other words, competition is a diffusion mechanisms related to countries' competitiveness (Simmons and Elkins, 2004). It is important to clarify that competition is not meant here as a condition of the organisational environment or social system (see below for the explanation of the link between competition and environmental change) but a strategic interdependence model that allows a country to select its 'competitive networks'. Recent quantitative analyses of diffusion of economic reforms, such as taxation (Swank, 2006), investment protection treaties (Elkins, Guzman and Simmons, 2008), and capital account

openness (Quinn and Toyoda, 2007) support this causal mechanism.

Competition overlaps with the hierarchical model. '[G]iven that one country's international standing is conditioned perforce by that of other nations, reputation and status gains are inherently competitive.' (Brooks, 2007, 704) Because the hierarchal model assumes that the higher-status social units are the pioneers, the communication about an innovation follows a precise top-down pattern (Knoke, 1982, 1316; Berry and Berry, 2007, 230). Countries can be perceived to be in a higher rank with respect to economic growth (Collier and Messick, 1975), reputational status (Brooks, 2007), legislative experience, technical expertise, or administrative personnel (Leichter, 1983, 228). Although, hierarchical model specifically posits diffusion of a policy across countries, its empirical prediction is difficult to distinguish from the internal characteristics (Berry and Berry, 2007, 230).

To recall, the internal determinants model tends to identify the functionalist origins of a policy innovation. It postulates that organisations with specific characteristics, such as greater size and greater level of slack resources, are more predisposed to adopt an innovation. Rather than the strength of information flows, it is the inner environment of a given country and its characteristics, such as modernisation (Collier and Messick, 1975) or the size and complexity of public sector (Tolbert, 1985; Dobbin et al., 1988, 71), that matters.[23] Empirically, this model assumes the form of a cross-sectional regression analysis (Berry and Berry, 2007, 240) and has attracted the attention of many scholars interested in the evolution of American administration (Glick and Hays, 1991; Canon and Baum, 1981).

2.4.2 External sources of policy innovation

Changes occur also because of their societal legitimacy, regardless of their value for internal functioning of the organisation (Meyer and Rowan, 1977; DiMaggio and Powell, 1983; Tolbert and Zucker, 1983; Tolbert, 1985; Zucker, 1987; Dobbin et al., 1988). 'Legitimation is a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.' (Suchman, 1995, 574) According to Simmons, Dobbin, and Garrett (2008, 34), 'understanding how public policies become socially accepted is the key to understanding

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[23]For a review of variables associated to adopter characteristics in sociological and communication studies, see Wejnert (2002) and Rogers (2003).

why they diffuse.' Indeed, the process of institutionalisation follows a typical sequential pattern of events: emergence of innovation, its diffusion (the pace of institutionalisation), and its legitimation (the stability, sustainability of the institution) (Lawrence, Winn and Jennings, 2001; Tolbert and Zucker, 1983; Zucker, 1987).

Mechanisms of institutionalisation are related to the social forces that energise the diffusion of an innovation, leading to its entrenchment in organisations (Lawrence, Winn and Jennings, 2001, 628), and transcend any single organization's purposive control (Suchman, 1995, 572). The emphasis here is on the fact that '[o]rganizations do not simply extract legitimacy from the environment in a feat of cultural strip mining; rather, external institutions construct and interpenetrate the organization in every respect.' (Suchman, 1995, 576) In other words, institutionalist theorists downplay the agency (and its decision-making process, its interconnectedness, and its influence from and on the other members of social network) and emphasise the structure of the policy sectors (i.e., health care, education) (Suchman, 1995, 576). Although maintaining the analysis at the agency level, the focus is on the meaning and identity of the individual organisation (Lawrence, Winn and Jennings, 2001, 636).

Mechanisms of institutionalisation rest on the ecological perspective. Like the economic theory of perfect competition, this perspective posits that the environment selects the most fit, optimal organisations which comply with the legitimacy standards set by the relatively successful organisations (Aldrich and Pfeffer, 1976, 83-9). Forcing 'one unit in a population to resemble other units that face the same set of environmental conditions' (DiMaggio and Powell, 1983, 149, note 5), structural determinants of rationality are institutional conditions for diffusion (DiMaggio and Powell, 1983; Strang and Meyer, 1993).

This homogenisation of organisational structures are driven by coercion, imitation, and professionalisation. Coercion assumes the form of a common legal environment that, composed of legal and technical requirements of the state or hierarchical superior actor, affects the organisation's behaviour (DiMaggio and Powell, 1983, 150). More recently, it has been suggested that coercion is a central source of diffusion causing a manipulation of potential adopters' incentives through 'conditionality' and 'unilateralism' exercised by more powerful actors (Simmons, Dobbin and Garrett, 2008, 8), such as international organisations (Finnemore, 1993; Weyland, 2006), super-power governments, and the European Union

(Checkel, 1999; Simmons, Dobbin and Garrett, 2008; Gilardi, 2008). In highly uncertain environments, organisations tend to model themselves after similar but more legitimate or successful organisations (DiMaggio and Powell, 1983, 152). Normative isomorphism is related to the professionalisation, theorisation, and modernisation of actual society. Professional standards are imported into the local situation or used to inform the construction of new social arrangements. Providing a substitute to close, inductive examination of the experiences of others, professional and scientific standardisation emerges and consolidates thanks to global paradigms or theoretical models (Strang and Meyer, 1993, 494–9).[24]

The ultimate outcome of theorisation is a universal force that constructs and legitimates 'modern' national states which are founded on universalised notions of rationality, progress, and evolution (Meyer et al., 1997). Drori et al. (2003) have explored the concept of modernity and described how science, as a worldwide institution, has an impact on world polity. It affects policies of both dominant and peripheral powers and supports the mobilisation of a transnational system of organisation and professions. This concept of a universal model has been extended by Meyer and his associates (1997) in their account of the culturally constituted nation-state within a world society which is a rationalising force in an extraordinarily comprehensive way. Jensen (2003, 523) applied institutional theories for explaining the conditional diffusion of lotteries among American states.

2.5   Conclusions

Through an overview of four literature review papers and an encompassing analysis of overlapping concepts of causal mechanisms and spatial models, this chapter has captured the rich theoretical debate on policy diffusion. Overall, the review has shown that conceptually and epistemological distinct perspectives have a different emphasis on the following elements and features of diffusion:

- *interdependency vs. innovation*—Granted that diffusion is about (random, evolu-

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[24]Although deriving from different concepts, such mechanisms of diffusion are not always empirically distinct (DiMaggio and Powell, 1983, 150). For instance, Weyland (2006) and Simmons et al. (2008) grouped the three typologies of isomorphism in a comprehensive category: 'quest for legitimacy' or 'emulation'; rather Gilardi (2008) distinguishes between taken-for-grantedness mechanisms and legitimatisation sources.

tionary, or strategic) change, the question is whether such change refers to a technological innovation as a amelioration of an input-output process or, instead, to a marginal variance of established institutions. Following Weyland (2006), in the former type of change it still remains to be discerned whether the innovation assumes the semblance of a principle or a model.

- *agency vs. environment*—Although diffusion captures the external dimension of policy adoption with the analytical prominence of interconnectedness of adopting units, there is agreement in the literature that the two levels of analysis are the two sides of the same 'adoptability' coin. Internal determinants and attributes of a country do not only give rise to the null hypothesis of diffusion and Galton's problem, but determine the capacity of an adopting agent in receiving and processing information about prior choices of different governments. It is worth noting that such a perspective is not clear-cut. Composed of actors, norms, values, and institutions, the adoption environment influences (directly and indirectly) organisations which may have different responses and a different capacity of adjustment (Oliver, 1991). The degree of capacity for pursuing its interest based behaviour—notwithstanding the environmental uncertainty and external actors—is a key element in distinguishing the different theoretical approaches of diffusion and understanding the explanations behind the emergence of an innovation (Abrahamson, 1991, see also Tolbert and Zucker, 1983 and Section 2.4). Accordingly, relying on a strong theoretical foundations, it remains to ascertain the extent of intensity of external pressure on an organisation. This is the main purpose of the next chapter, which, in Section 3.5, poses the basis for the formulation of hypotheses of diffusion.

- *rate of diffusion vs. probability of adoption* – This issue concerns the different dependent variables used in diffusion studies. It is a source of instability in the generalisation of empirical evidence (Downs and Mohr, 1976). Rogers (2003) and other classical scholars (Gray, 1973; Mahajan and Peterson, 1985; Geroski, 2000) have conceived diffusion as a normal distributed event. Political scientists are generally more interested in the probability of adoption in order to test alternative hypothesis.

- *static vs. dynamic analysis*—Surprisingly, time is a dimension often neglected by political scientists that tend to overlook when diffusion became causally relevant and for how long: Is the explanatory power of a variable constant throughout the

diffusion process? Diffusion is a process that can be distinguished according to either the types of adopters, i.e. pioneers, early majority, and laggard, or the phases of the innovation-decision, i.e. adoption, implementation, evaluation, institutionalisation, and eventually obsolescence.

- *spatial models vs. causal mechanisms*—Given the assumption of rationality, spatial models focus on the macro level of the geographical and cultural proximity; whereas diffusion mechanisms underline the micro aspects of the decisional process. The difference, however, should not be overestimated. As evidenced, for instance, by the literature on policy networks, more often than not competition, emulation, and learning underpin models. In other words, simplified versions of communication on and interdependency of policy change often resemble causal mechanisms in order to better approximate the actual phenomena under investigation. Further, recent literature has evidenced the necessity to improve the theoretical design through the consideration that the broad array of diffusion variables can bring an 'interactive impact' (Wejnert, 2002). For instance, isomorphism pressures may mitigate or potentiate the impact of a fixed amount and strength of information on adoption (Strang and Soule, 1998; Wejnert, 2002; Jensen, 2003). A careful reflection on both elements is necessary to disentangle a complex phenomenon such as policy diffusion. In a quantitative framework, variables associated with different causal mechanisms are not easy to tell apart and test.

These different emphases make it difficult to generalise the now abundant empirics, and scholars are still lamenting the lack of a cumulated knowledge (Graham, Shipan and Volden, 2008). For instance, it is still not clear whether the S-shaped curve is the foundational element of policy diffusion (Graham, Shipan and Volden, 2008).[25] Given the still extreme variance among empirical findings, Downs and Mohr recommended instead to:

> postulate the existence of distinct types of innovations whose adoption can best be explained by a number of correspondingly distinct theories. These theories may include different variables, or they may contain the same explanatory variables while positing different interrelationships among them and

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[25]This is not the case in marketing studies in which generalisation is based on this core element (Mahajan, Muller and Bass, 1995).

different effects upon the dependent variable. (Downs and Mohr, 1976, 710)

Furthermore, these different emphases pose analytical challenges of which a researcher should be aware in order to enhance the quality of her research design. The starting point is to recognise whether the phenomena under analysis involves an innovation, a technological (policy) change. From this key element the research can be developed comprehensively and coherently, embedding the attributes of innovation and innovators, as well as the adoption environment. As suggested by Downs and Mohr (1976, 704), '[w]hen we recognize that different organizations classify the same innovation into different categories, and also that determinants vary in existence or strength depending upon the category into which the innovation is classified, we are by these very facts recognizing the existence of interaction'. Consequently, it is necessary to theoretically frame the analysis according to the 'innovation-decision' design, in which the adopting unit is in relation to the specific innovation. This research strategy focuses on 'adoptability' rather than on innovation (Downs and Mohr, 1976, 706). To do so and to search for a theoretical framework of RIA adoption and diffusion, the next chapter turns to the literature of RIA and relates this administrative requirement to the NPM global movement. Indeed, it is only on the basis of an accurate knowledge of the unit of analysis that a researcher can formulate her cogent choices on the central elements of policy diffusion.

Chapter 3

RIA and the diffusion of administrative reform

3.1 Introduction

The previous chapter concluded by remarking on the complexity of deriving a theoretical framework without referring to the innovation under analysis. Notwithstanding its diffusion, there are only handful of small-n comparative studies on RIA (Radaelli, 2001; Renda, 2006; Wiener, 2006; Nilsson et al., 2008; Hertin et al., 2009). Only recently have economists working at the OECD systematised the available data on RIA systems. They derived clusters of countries from their data on the extent and patterns of implementation (OECD Regulatory Policy Committee, 2009; Jacobzone, Choi and Miguet, 2007; Jacobzone et al., 2007). On the other hand, there is relevant academic literature explaining the emergence of the 'Cost-Benefit state' in the US (Sunstein, 2002; McGarity, 1991) and empirically testing the effect of the President's executive orders by demanding executive agencies perform economic analysis of regulatory proposals (Posner, 2001; Johnston, 2002; Shapiro, 2005; Shapiro, 2007). A review of this literature helps to identify the internal context and determinants of the emergence of RIA. Regulatory appraisal unified such different policy objectives as providing regulatory relief such well as retrenching the regulatory state, enhancing the bureaucratic accountability, and achieving a rational analysis of the regulatory programmes (Coglianese, 2002; Pildes and Sunstein, 1995; Mc-

Garity, 1991, 4).

A recent study has associated better regulation agendas for enhancing economic rationality with the NPM (Radaelli and Meuwese, 2009).[1] But the question is whether and how the above mentioned reasons of emergence are transformed and assume different meanings in a context of a diffused administrative innovation. March and Olsen (1983) have exhorted scholars to consider rational management reforms and political control of bureaucracy as two different rhetorics that are embedded in a broader environment. Indeed, the 'diffusion environment' is nested inside an international communication system where reforms are communicated and ideas are contaminated via an ideational transfer processes, or simply via catalysts such as communities of consultants and international organisations (Radaelli and Meuwese, 2009).

Relying on the globalisation of NPM-style reforms and tools, this chapter attempts to link the explanations of the origins of RIA to the theoretical approach that focuses on how reforms are communicated, transformed, and interpreted. The structure of the chapter is the following. On the basis of an overview of the theoretical literature (Section 3.2) and empirical evidence on RIA (Section 3.3), this chapter situates such a regulatory governance tool within the terrain of policy diffusion as well as public management literature. Section 3.4 accounts the premises of diffusion of administrative reform, contrasting two strands of literature according to the different administrative reform outcomes, i.e. convergence or the persistence of national characteristics. Shifting the attention to the modalities of communication and different formations of the administrative reform global trend, Section 3.5 goes beyond such scholarly dispute and builds up the theoretical framework. Section 3.6 concludes by summarising the diffusion elements analysed in this research. Research questions, methodologies, and data collection are coherently presented according to each central concept. This section highlights also the main methodological contribution to the policy diffusion literature: Policy change related to diffusion of administrative innovation is not instantaneous and consequently it must be ascertained across time and, specifically, across the phases of the innovation-decision process. This would provide a better understanding of the most plausible causal mechanism for diffusion.

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[1]Distinctive features are also relevant: RIA is an ongoing and centralised control mechanism; in contrast, the 'typical' NPM tools have instead a strong emphasis on ex post control of performance and decentralisation of responsibility (Radaelli and Meuwese, 2009).

3.2 An overview of the theoretical literature on RIA

Beside definitional and analytical perspectives, a theoretical investigation of RIA needs a conceptual framework to grasp the essential design features of the rulemaking process, broadly defined as the procedure that regulators must comply with when proposing regulation. This invites a joint consideration of regulation theories and theories of the administrative process in order to recognise the broader governance implications of RIA as an element of rulemaking. This point recalls the conclusions of Chapter 2, which has advocated the combination of attributes of an administrative innovation with attributes of a given adopting unit.

The definition of RIA is not univocal. It encompasses 'a range of methods aimed at systematically assessing the negative and positive impacts of proposed and existing regulation' (OECD, 1997b, 7), The methodology varies depending on policy objectives, the evolution of regulation, and even traditions and cultures of public administration in different countries. RIA can be used to assess the impact on business and social welfare; administrative and paperwork burdens; regulatory burdens on small businesses; and the consequences on international trade and employment (Jacobs, 1997, 13). Put differently, 'it is a flexible tool. Its objectives, design and role in administrative processes differ among countries and even among regulatory policy areas' (Jacobs, 1997, 14). Yet, the following two elements are commonly present in an RIA system:

- the description of the issue raised about the need for regulation;

- a systematic and consistent economic appraisal of foreseeable impacts arising from regulation.

In other words, RIA is an instrument of analysis and communication that assumes the form of 'a short, structured document which is published with regulatory proposals and new legislation' (Better Regulation Unit, 1998, 28). It has also emerged as an instrument at the disposal of the independent regulatory agencies of several countries such as Italy, the UK, and the US. In a recent article, Lorna Schrefler (2010) has proposed four typolo-

gies of knowledge used by independent agencies on the basis of scope conditions and the characteristics of the policy process. Despite the policy relevance of and recent scholars' attention to economic analyses conducted by independent agencies, this thesis focuses on regulatory appraisal requirements on executive departments/agencies. This choice is justified by its broader spread and the longer process of institutionalisation.

Different disciplines have different perceptions of the final outcome of this analytical tool. Economists argue that analytical techniques imported from economic theories would help regulators to avoid casual and rough decisions not buttressed by empirical analysis (Arrow, Kenney, Cropper, Eads and Hahn, 1996). But this conception is much too apolitical and neutral. Lawyers and administrative scholars perceive RIA as an administrative requirement inserted in the terrain of public law. Political scientists would consider it as an incentive mechanism in the relationships between regulators, political agents, and their constituencies. Furthermore, organisational scholars would be interested in its compatibility with previous existing institutions.

Nothwithstanding its analytical potential, scant attention has been dedicated to the linkages between regulation theories and the administrative process wherein RIA is supposed to work (Croley, 1998; West, 2005a). Another limitation on some scholars is the tendency to reflect on RIA with the US political system in mind. The latter is characterised by key features such as delegation to regulatory agencies, Presidential oversight of rulemaking (Chapter 5 details the American RIA system, describing the role of the Presidential oversight body), the presence of a special type of administrative law (the reference is to the APA), and judicial review of rulemaking. Chapter 4 will show that in Europe, where administrative requirements are still less specific on rulemaking, there is more direct ministerial or parliamentary control on delegated rulemaking that, in a wider connotation, covers the production of rules by parliaments as well as agencies.

With these caveats in mind, the first logic of adoption is based on delegation. Administrative procedure such as RIA is effective in several ways in achieving the political control of bureaucracy. Firstly, it allows interest groups to monitor the agency's decision-making process. Secondly, it 'imposes delay, affording ample time for politicians to intervene before an agency can present them with a fait accompli' (McCubbins, Noll and Weingast, 1989, 481). Finally, by 'stacking the deck' it benefits the political interests represented in the

coalition supporting the principal (McCubbins, Noll and Weingast, 1987, 273–4). CBA plays a specific role. It is 'a method by which the President, Congress, or the judiciary controls agency behaviour' (Posner, 2001, 1140), minimising error costs under conditions of information asymmetry.

American administrative doctrine and practice have recognised that the executive is a unitary entity, so there is a legitimate degree of control over rulemaking to be exercised by the political agent. In a variant of this explanation, presidents or prime ministers are allowed to foster deregulation and stop the regulatory initiatives of zealous executive agencies or departments. Yet, centralised review of rulemaking can also trigger action, overcoming, as in the US, the bureaucratic inertia of 'ossified' agencies, and shift policy towards a pro-regulatory stance (Kagan, 2001).

Assuming that administrative procedure can change the opportunity structure in which actors (the executive, agencies, and the pressure groups, including civil society associations) interact, the second logic comes from two models of administrative governance that are potentially more open to diffuse interests and more accountable to citizens. Indeed, in a neo-pluralistic framework appraisal systems are adopted to produce equal opportunities for pressure groups (Arnold, 1987). Thanks to the regulator's collection of information from different sources, interest groups compete in a level-playing field and reach the optimal decision. Differently, under the condition that weaker interest groups and the community as a whole have access to the decision-making and are deliberately empowered, the civic republican model posits that actors are able to pursue the broader community interest (Sunstein, 1990; Ayers and Braithwaite, 1992; Seidenfeld, 1992).[2]

Under this logic, however, the explanation of why the political agent adopts RIA is not very clear. One must assume that elected officials want to change the opportunity structure to achieve conditions that approximate to the neo-pluralist ideal-type and that they are exposed to pressure from the median voter. As a matter of fact, the American Congress passed statues[3] that increase participation in the rulemaking process. Further, the courts have also imposed requirements on agencies to release data, disclose the basis of discus-

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[2]Within this theory, Croley expects administrative procedure and RIA to provide 'an opportunity for public-spirited dialogue and deliberation about regulatory priorities' (Croley, 1998, 102).

[3]The Consumer Protection Act (1972), the Occupational Safety and Health Act (1970), and the Toxic Substance Control Act (1976).

sions with pressure groups, and carry out public hearings. Yet the problems associated with interest-group-oriented models, such as slow decisional process (Kagan, 2001, 2267) and the 'ossification of rule-making' (McGarity, 1992), have driven regulators to use more flexible instruments, such as negotiated rulemaking (Coglianese, 1997). Formal requirements may also push agencies to behave less transparently. The real deals with pressure groups are not done during the formal ceremony of consultation and other administrative procedures, but earlier and less transparently (Kagan, 2001, 2267, quoting a former General Counsel of the Environmental Protection Agency (EPA) who compared formal procedures to the Japanese Kabuki theatre).

Finally, there is a logic based on rational policy-making. The requirement to use economic analysis systematically in rule-formulation (re-stated in all US Executive Orders, but defined in much milder forms in European guidelines) fosters regulations that increase the net welfare of the community (Arrow, Kenney, Cropper, Eads and Hahn, 1996). But the notion of 'legal rationality' is more encompassing and refers to process as well as economic outcomes (Heydebrand, 2003).[4] Further, Majone (1989; 1996) has fleshed out a notion of the regulator in Europe in which rationality still plays an important role for the achievement of regulatory legitimacy. Regulators are credible if they provide reasons for their choices, support decisions with transparent economic analysis and objective risk analysis, and enable courts to review their decisions.[5]

Ultimately, the logic of rational policy-making hold new forms of accountability and legitimacy (Vibert, 2007). On the other hand, there are several perplexities on instrumental rationality and the possibility of direct influence of evidence-based tools on policy choice. West (1983) is sceptical on the capacity of executive agencies to marry rationality with other political goals such as political control and democracy. Others are puzzled by the repeated reference, in governmental guidelines on the economic analysis of proposed regulation, to rational synoptic theories of the policy process, although experience has shown the empirical and normative limitations of these theories (Jacob et al., 2008; Radaelli, 2005). Perhaps this is a case of 'triumph of hope over experience' (Hood and Lodge, 2004). Or perhaps the truth is that, as Sanderson (2004, 367) puts it, 'in spite of the post-modernist

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[4]Rationality is also used as synonymous with independence from the political sphere, as shown by the long tradition of technocratic political and legal theory in the US, from James Landis (1938) to Stephen Breyer (1993) and Bruce Ackerman (1981).

[5]See also Freedman (1978) on the legitimacy of the American regulator.

challenges, a basic optimism about the role of scientific knowledge remains embedded in Western liberal democratic political systems'. Such optimism is the necessary rhetoric for reorganising public administration and achieving political control of bureaucracy (March and Olson, 1983).

Within the broader discussion on the emergence of the regulatory state or regulatory capitalism (Levi-Faur, 2005; Lodge, 2008), European literature confirms this interpretation. Looking at the UK, a leading author (Moran, 2003) has found that the regulatory state triggers the colonisation of areas of social life that were previously insulated from political interference and managed like clubs. Thinking of the EU, Jabko (2004, 215, emphasis in original) has been arguing that:

> The process of market-oriented regulatory reform in Europe ... has *not* meant the emergence of an a-political regulatory state solely devoted to the pursuit of efficiency and completely divorced from a more traditional conception of the state that would stress the pursuit of political power, societal values and distributional goals.

Administrative mechanisms of political control can also lead to symbolic politics via rituals of verification (Power, 1997). Given the increasing relational distance between principal and agents generated by de-centralisation, contracting out, and the creation of independent agencies, formal procedures replace trust and administrative procedure replaces informal coordination. If political organisations produce knowledge about the expected impact of policy to increase their legitimacy rather than efficiency (Brunsson, 1989), we would expect tools like RIA to play a role in the symbolic dimension of the regulatory state.

Although the determination of preferences of special groups can be problematic (Waterman and Meier, 1998; Kerwin, 2003, 275–6) and the theory of delegation neglects the bureaucratic agency's reaction (West, 1988; McGarity, 1991; Ayers and Braithwaite, 1992; Hammond and Knott, 1999; Kerwin, 2003, 278–9), all in all RIA as administrative procedure solves the principal's problem of controlling bureaucracies. Chapter 4 will shows that its position within the family of control systems is perhaps unique. Whereas some instruments operate either ex ante (e.g., statutes and appointments) or ex post (e.g., judicial review of agency's rulemaking), RIA provides *ongoing* control, functioning whilst rules are

being formulated and regulatory options are assessed. To sum up, although embedded in political rhetoric and notions of rationality, intervening variables in the explanation, there are strong theoretical arguments—as well as empirical evidence as next section shows—for deciding upon political control as the most plausible logic of adoption of RIA.

3.3 The effects of RIA: Empirical evidence

The aim of this research is to categorise and measure institutional changes brought about by RIA. To do so, Chapters 4 and 5 pay particular attention to concept formation. The claim is that long-term effects of an appraisal system are as important as a government's choice to adopt and need to be gauged across the policy cycle (Weiss, 1979). A related caveat is to control for the null hypothesis of 'no effects of RIA'. The most difficult issue—Cary Coglianese (2002) reminds us—is the counterfactual reasoning: Would the institutional change have taken place in any case without RIA?

A classic method for the evaluation of changes is the observational study. There are two types of observational study: longitudinal and cross-sectional (Coglianese, 2002). A longitudinal study compares the outcomes of administrative procedure over time; a cross-sectional study compares policy outcomes in the same period between a group of countries operating under the procedure and another one that does not. This review of the literature emphasises the absence of time-series cross-sectional analysis on patterns of adoption, implementation, and evaluation of RIA.

3.3.1 Longitudinal-quantitative studies

Economists have carried out longitudinal and quantitative empirical studies. A group of quantitative studies deals with the accuracy of the cost and benefit estimates. Morgenstern, Pizer, and Shih (2001) assessed the correspondence between costs reported in RIAs and the actual regulatory costs. They concluded that generally regulatory costs are overestimated, a conclusion shared by other authors. Harrington, Morgenstern, and Nelson (2000) compared twenty-five ex ante cost predictions made by the Occupational Safety and the Health Administration (OSHA) and EPA with ex post findings made by

independent experts. They argued that cost overestimation is essentially due to the lack of consideration of 'unanticipated use of new technology' (Harrington, Morgenstern and Nelson, 2000, 314). In a comprehensive and recent literature review, Hahn and Tetlock (2008) concluded that costs and benefits are poorly estimated in the US, but it is not clear if there are systematic biases. Further, they found that the quality of economic analysis is pretty much stable across time and is always below the standards set by the guidelines. Overall, they have insisted on the marginal effect (corresponding however to large sums of money for relevant decisions) of economic analysis and, more difficult to prove, a deterrent effect on bad rules which would otherwise have been enacted. Similarly, a recent study on European countries showed very limited use of economic analysis (Nilsson et al., 2008).

Another group of quantitative studies has assessed the soundness of economic analyses through scorecards and checklists. Scorecards measure the overall impact of different regulations, relying on economic performance indicators such as costs, benefits, lives or life-years saved, and cost-effectiveness (Hahn, 2005). However, scorecards disregard un-quantified costs and benefits, neglect distributive impacts, and do not disclose the true level of uncertainty (Heinzerling, 1998; Parker, 2003). Checklists are a collection of quality assurance measures (generally expressed in yes/no format). Hahn and associates have developed a checklist for assessing the American RIA system (Hahn, 1999; Hahn et al., 2000). Checklists has been also used for assessing the European Commission's impact assessment (Lee and Kirkpatrick, 2004; Vibert, 2004; Renda, 2006) and comparing the latter with American standards (Cecot et al., 2008). International organisations and audit offices also make use of scorecards and checklists for evaluation purposes (Government Accountability Office, 2005; National Audit Office, 2004; OECD, 1995, for a detailed discussion on evaluation practices, see Chapter 9). Overall, there is little evidence for the economic rationality explanation.

What do we know about the overall consequences of regulatory oversight on the final regulatory outcomes? Croley (2003) found significant correlations between rule stage, level of economic significance of regulation, and the frequency of written comments from the oversight body, on the one hand, and the frequency with which submitted rules were changed, on the other. Furthermore, drawing on 1986 Morrall's data on final and rejected regulations (reviewed to accommodate some of Heinzerling's critiques), Farrow (2000) as-

sessed whether OMB review altered the probability of rejection of high-cost-per-life-saved regulation. He concluded the type of regulation and the budget of trade-groups opposing the regulation predict the probability of rejection of ineffective regulation better than the cost-per-life-saved variable. This seems to corroborate the rational choice theorists' understanding of RIA.

Empirical analyses have also focused on the relationship between regulators and pressure groups. Interest groups seem to be able to discern which among several methods of participation is the most effective in achieving a congenial regulatory outcome (Furlong and Kerwin, 2005; Schultz Bressman and Vandenbergh, 2006). Looking at the correlation between public comments on forty regulations and the direct influence of interest groups, Yackee (2006) has concluded that regulatory agencies change their initial proposals to accommodate interest groups' preferences. Yet another case in which rational choice is supported by empirical evidence.

3.3.2 Longitudinal-qualitative studies

With some exceptions (Froud et al., 1998; Carroll, 2007; Allio, 2008), longitudinal-qualitative analyses are practically confined to the US. They are particularly useful in detecting changes over the medium-long term. Since Kagan (2001), most authors have agreed that the American RIA has been institutionalised (West, 2005b) and used by different Presidents to oversee regulatory policy. The critics of the centralised regulatory review argue that economic rationality is overshadowed by political priorities (McGarity, 1991; Heinzerling, 2002; Shapiro, 2005; Shapiro, 2007). Others claim that the principles of cost-effectiveness and risk-risk analysis would have otherwise been neglected by agencies motivated exclusively by statutory objectives (Breyer, 1993; Pildes and Sunstein, 1995; Viscusi, Vernon and Harrington, 1995). From a constitutional perspective, it has been claimed that presidential control undermines the delegation doctrine (Morrison, 1986). Others have added that regulatory review alters 'the division of power between the Congress and the President in controlling the decision making; the objectivity and neutrality of the administration; and the role of administrative procedure and courts' (Cooper and West, 1988, 864–5). Further, Cooper and West have argued that the centralisation and politicisation of rulemaking exasperated the negative effects on democratic governance of

the politics/administration dichotomy. Because within the American political system the public interest emerges out of a process of decision making, 'each branch must then retain sufficient power to play an influential policy role in both the legislative and administrative processes' (Cooper and West, 1988, 885).

In the opposite camp, Shane (1995) claimed that centralised review of regulatory policy is consistent with the constitutional separation of powers. The issue is whether there is a specific justification for a presidential order on the rulemaking process. DeMuth and Ginsburg (1986) noted that the President, in order to advance his policies, has to control the administrative rulemaking of executive agencies.

By now, most of the legal discussion has converged around a unitary position (Blumstein, 2001), meaning that the executive is a single entity, so the administrative activity of federal executive agencies has to be controlled by the President. Kagan (2001), albeit dissenting with the unitary conceptual framework,[6] agreed that centralised Presidential control has increased.[7] Since the early years, this feature of the system has appeared irreversible, with power shifts towards the institutional Presidency (Moe and Wilson, 1994; West, 2006).

Recent studies do not question that Presidential power has increased, but reveal much less pro-active coordination and more reactive and politically oriented (as opposed to analytical) intervention than one would expect (Shapiro, 2005; Shapiro, 2007; West, 2006). This chimes with earlier findings, for instance that RIA has been an effective means of detecting and shaping those policies of federal executive agencies that impact on the key constituencies of the President (Cooper and West, 1988). Considering a more organisational and political framework, RIA has sometimes enabled agencies to look at rule formulation in new and sometimes often creative ways, as McGarity (1991, 308) concluded, but with the danger of promoting the regulatory economists' hidden policy agendas 'behind a false veneer of objectivity'.

In the US, justifications of centralised review have also evolved, from constitutional ar-

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[6]Kagan (2001, 2320) acknowledges that Congress generally may grant discretion to agency officials alone. Other scholars consider executive agencies as an extension of Congress (Rosenbloom, 2002). In conformity with the constitutional principle of separation of powers, the President must respect the limits of delegation. Within such limits and because the Congresswomen delegate discretion to executive agencies and not to independent agencies, Kagan's suggestion is that the ultimate decisionmaking authority is left in the hands of the President.

[7]Paradoxically, (for those who see centralised control as synonymous of de-regulation) it has been institutionalised and even enhanced during the Clinton years.

guments to policy arguments about the consequences of the Presidential administration, such as accountability and efficiency (Rosenbloom, 2000; Kagan, 2001). Whereas in Europe, so far no constitutional debate around RIA and executive review of rulemaking has emerged—apart from some original attempts to frame the discussion on the European Union impact assessment system (Meuwese, 2008).

3.3.3 Cross-sectional studies and matched comparisons

Since the adoption of the 1995 OECD ministerial recommendations on regulatory reform (OECD, 1995), the Paris-based international organisation has published reports on the adoption, implementation, and evaluation of RIA systems (OECD, 1997b; OECD, 2002a; OECD, 2004b; OECD Regulatory Policy Committee, 2009). Obviously, the OECD is interested in the transfer of best practices (OECD, 1997b) and regulatory quality assurance mechanisms. To do so, the OECD is engaged in collecting cross-national information on RIA. Data collection was also pursued by two projects (European Network for Better Regulation (ENBR) and Evaluating Integrated Impact Assessment (EVIA)) funded by the European Commission DG Research's sixth framework programme that produced more specific data on EU member states' RIA systems both at the macro and micro level. Further, through a survey conducted at the beginning of 2000s, Kirkpatrick and his associates (Kirkpatrick and Parker, 2004; Kirkpatrick, Parker and Zhang, 2004) at the University of Manchester collected data on developing countries. At the level of national government, Argy and Johnson (2003), two high-level civil servants, have used OECD best practice to assess the Australian standards on regulatory quality. Under the aegis of the Italian, Dutch, and Irish Presidencies of the EU, a report has documented the development of RIA in the EU-15 and some of the new member states between 2001 and 2004 (Formez, 2004).

Most of the scholars have, however, focused on few cases or matched comparisons. Hahn and Litan (2005) draw on Radaelli's data and compare quality assurance and the role of economic analysis in Europe and the USA. They find a stark contrast, and make recommendations for more economic analysis in the RIAs conducted by the European Commission. In a similar vein, Lutter (2001) draws his own lessons for the European Commission by looking at the American experience. A comparison between American and the Eu-

ropean Union risk regulatory governance has been conducted by Lofstedt (2004). In an early study, Baldwin and Veljanovski (1984) warned about the legal and administrative limitations of transferring RIA from the USA to Europe, and more precisely Britain. The limited capacity of the British public sector, the lack of consolidation of policy analysis principles, and the features of the British regulatory state suggest a different methodology for an approach to a full and formal CBA. The recent literature seems to prove that they were right. RIA crossed the Atlantic, but it has mutated considerably by blending different institutional contexts, administrative traditions, and forms of governance (Jacob et al., 2008; Renda, 2006; Radaelli, 2005; Radaelli, 2001).

Framing his observations in a comparative-historical framework, Radaelli (2005; 2004) has shown that there is diffusion of discourse but no convergence on practice. RIA systems across the OECD differ in terms of their logic (controlling agencies or departments vs. steering regulatory governance in prime ministerial systems or in coalition governments with a strong parliament), the dominant stakeholders, the main political purpose (de-regulation, regulatory quality, international competitiveness, simplification), and the models of governance pursued by regulatory reformers. Because mimicry and emulation play a role in the diffusion of RIA discourse, in diffusion studies one cannot take for granted rationalistic explanations for the adoption of RIA (Radaelli, 2005, 925). So far there is no attempt to analyse diffusion through a time-series cross-sectional observation. Neither has the adoption, implementation, and evaluation been analysed through a coherent theoretical framework.

On balance, the state of the art is not quite up to the expectations. Most of the studies are based on the US, and are not longitudinal. Diffusion studies and systematic, rigorous comparisons which take context and history seriously are almost absent. Beyond the US, the value of the theoretical approaches to adoption has not been assessed. In Europe, for example, one can suppose that RIA can be used to control the process of rule formulation in governmental departments. However, even if the delegation problems are common everywhere, the institutional context is different. In Westminster systems, the prime minister and the ministers in charge of different departments generally belong to the same political party. In other parliamentary European systems, the prime minister has to control departments that can be headed by ministers of different parties in the ruling

coalition. The role of the parliament varies markedly across countries, but most systems are parliamentary, not presidential (with the partial exception of France).

Neither do the logics of adoption account for Galton's problem. Political control, economic rationality, and regulators' legitimacy may explain adoption in a given country which is isolated from its outer environment. In policy diffusion parlance, however, they exclusively take into account the pioneers' internal determinants. This shortcoming of RIA literature makes it necessary to complement the explanations of adoption by increasing the field of view of the analytical lenses and observing the more comprehensive and evident technological cycle, composed of a set of policy innovations. Indeed, administrative reform and the related NPM movement have been addressed by scholars interested in their spread, diffusion, and even globalisation.

3.4 Diffusion in the literature of administrative reform and new public management

Due to their considerable size and hierarchical structure, public administrations are stable organisations, not easily permeated by environmental pressures. 'Public administrations change less quickly than the political, economic, and social framework in which they have to operate' (Cassese, 2003, 128). The term reform is exclusively associated with public organisations and refers to planned policy interventions (Cassese, 2003, 128), self-conscious actions (Lynn, 2001) that adjust the dimensional, structural and hierarchical constraints to environmental changes.

Since the 1970s, administrative reforms among Western governments have become a constant and autonomous policy, getting a prominent position on the political agenda (Cassese and Savino, 2005, 3, see also March and Olson 1983 on the evolution of administrative reorganisations in the US) and institutionalised in a specific department or ministry. In a globalised and competitive economic system, public administration is a production factor that is exposed to the judgement of the market. To increase efficacy and efficiency neo-liberal political agendas have imposed market discipline on administrative agencies (Ansell and Gingrich, 2003, 164). Furthermore, globalisation forces national governments

to coordinate, collaborate, and harmonise their policies in order to solve transboundary externalities (Cassese, 2003, 131).

Financial crisis and dissatisfaction with the public sector's performance are the main drivers of administrative reform (Cassese, 2003, 130), promoting also an agenda for direct participation or representation of citizens in decision making (Ansell and Gingrich, 2003, 164). Technological innovation is an additional rationale behind organisational change, since the availability of a new set of management tools and techniques imported from the private sector.

The combination of these change factors originated a new 'professional paradigm' (Gow and Dufour, 2000, 583), that is the NPM movement. The latter encompasses management activities but also a new established discipline, constructed against the traditional Weberian public administration (Gow and Dufour, 2000, 578). NPM is composed of several elements or techniques for introducing market logic into public organisations, e.g. agencification, process re-engineering, value for money, result-oriented budget, privatisation, public-private partnership, contracting out, customer orientation (Cassese 2003, 131-2; Gow and Dufour 2000, 579, citing Osborne and Gaebler (1993)). This new mode of public management has now become a 'global innovation' (Karmack, 2004), a 'global trend' (Sahlin-Andersson, 2001, 43, see also Ansell and Gingrich 2003 on the diffusion of administrative reform among OECD member states) and 'the gold standard' for administrative reforms (Peters, 1997, 71).

3.4.1 Persistence of administrative characteristics vs. convergence

Scholars have disputed on the results of the global spread of administrative reform and NPM. On one hand, scholars (especially administrative lawyers and scholars of public policy and public management) tend to agree that internal characteristics of public administrations explain the persistence of the different modalities of adoption and implementation (Cassese, 2003; Page, 2003; Pollitt and Bouckaert, 2004; Peters, 1997): 'under the pressure of the same problems, similar solutions are chosen. But once adopted these solutions fit into different administrative frameworks. They are selected and elaborated by differ-

ent political actors and are implemented at different times, which means that differences arise at a later date and are juxtaposed with the uniformity of policies.' (Cassese, 2003, 137). And, more importantly, the initial conditions of reformers are different in terms of efficiency, legal and constitutional frameworks (Cassese, 2003, 135), and administrative culture—identified by families of nations or state traditions (Peters, 1997).

Administrative reforms and innovations are composed of several programmes, inter-linked and integrated with other reforms (Cassese, 2003, 135), and are packaged by international organisations in order to facilitate their adoption (Strang and Meyer, 1993; Sahlin-Andersson, 2001; Hironaka, 2002, 67). Thus, path dependence matters (Page, 2003, 176). Administrative change is more common in those countries (especially members of the OECD) that have already developed patterns of administrative reforms (Drori, Jang and Meyer, 2006, 219). Also the extent of implementation varies enormously among countries according to who is the promoter (politicians or bureaucrats) and which community elaborates the reform plans (bureaucratic experts, private consultants, or administrative lawyers) (Cassese, 2003, 135).

Overall, national differences still persist notwithstanding the global and institutional pressures. Administrative culture obstructs the transfer of administrative reform, limiting the extent of organisational learning (Peters, 1997). Moreover, even in the context of Europeanisation, there is evidence that the transfer of administrative reform follows decision-based patterns, such as lesson-drawing and 'polydiffusion',[8] rather than coercion and imitation (Page, 2003, 175).

Other institutionalist scholars, on the other hand, emphasised the strengths of external sources and institutions affecting public organisations and leading to homogenisation. Change is explained through the national linkages to the 'world society' (Meyer et al., 1997). In particular, the worldwide spread of reforms aimed at rationalising administrative governance, although through different and divergent patterns, has been proved to be related to economic and trade openness, transnational institutional linkages (measured by the membership in the OECD and international governmental and non-governmental organisations), and the extent of scientification (Drori, Meyer and Hwang, 2006). These

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[8]Polydiffusion is a term coined by Mossberger (2000)(Mossberger and Hale, 2002) and refers to the cumulative impact of different (horizontal and vertical) channels in which ideas rather than policies are communicated and transferred on 'informed decision-making'.

global trends are embedded in management ideologies such as standardisation and accountability, facilitated by various global players such as professional groups, businesses, civil society organizations, and world powers over time and across countries (Sahlin-Andersson and Engwall, 2002).

Government agencies may be more vulnerable to isomorphism pressures than private profit and no-profit organisations (Wejnert, 2002). Coercive and normative pressures can even further reinforce the 'reinventing government' movement: 'Belonging to professional associations and being subject to periodic reviews, accreditation, and licensing appear to make government agencies less rigid and more flexible.' (Frumkin and Galaskiewicz, 2004, 304) Aspects of elite socialisation have also emerged within international organisations, impacting on the national government decision process and outcome (Bearce and Bondanella, 2007).

Turning to the more specific research studies on diffusion of administrative reforms, American scholars were the first to analyse such phenomena among municipalities and states. Tolbert and Zucker (1983) tested different internal determinants of civil service innovations among American councils, within a time span between 1880 and 1935, split into four different periods. Internal organisational factors explained adoption of administrative reforms at the beginning of the diffusion process, whilst they assumed that external and legitimacy factors were the impetus for the later adopters (Tolbert and Zucker, 1983, 35). Knoke (1982), on the other hand, emphasised how the neighbouring model, together with the poor economic conditions of cities, impacted on the adoption of municipal commission and managerial structures between 1900 to the Second World War. He remarked that a better diffusion model encompassing communication flows among networks as well as the professionalisation of municipal administrations was necessary (Knoke, 1982, 1337). In the same vein, Berry (1994) found evidence of the impact of neighbour effects on the diffusion of strategic planning among American states. The probability of adoption depended on the level of resource slack and the size of government and increases in the first year of the incumbent governor. Berry concluded by remarking on the difference between policy innovations and administrative innovations. In the latter bureaucrats enjoy a larger extent of freedom in the decision to adopting an innovation. Accordingly, models of administrative innovation, rather than focusing on spatial influences, should take account of managers'

attributes and attitudes and, consequently, an analysis of the interaction and communication among state officials across national networks is deemed essential (Berry, 1994, 328), possibly discerning the types of communication and the motivations for learning and emulating (Bennett, 1997, 225).

More recently, studies on the global spread of administrative reform have emerged. Combining soft statistical analyses and qualitative evidence, Bennett (1997) argued that prerequisites and diffusion explanations of FOI laws, ombudsmen, and data protection legislations were related to the peculiar element of each administrative innovation. However, in order to explain the pattern of adoption one needs to discern how innovation is communicated and to assess the motivations for learning and emulating (Bennett, 1997, 229). Lee and Strange (2006) linked spatial models and economic interactions with diffusion causal mechanisms (emulation, competition, and learning) of the downsizing of the public sector among OECD member states. They found that external influences were particularly strong between neighbours and countries that trade extensively as well as among trading partners of the US, suggesting a process of emulation linked to information flow and cultural similarity, but little evidence was found of competitively driven influence between trade rivals and vicarious learning (Lee and Strang, 2006, 903). Their research went further indicating that contagion effects appeared only for downsizing initiatives, since proximity to upsizers does not promote upsizing. Lee and Strange explained such asymmetry through the neo-liberal policy discourse dominant in the 1980s and 1990s. They argue that socially legitimated innovations are highly contagious, because diffusion mechanisms such as learning and emulation are theory-driven.

3.5 Searching an integrated model for explaining the spread of administrative reform

The research agenda identified by Knoke, Berry, Bennett as well as Lee and Strange draws attention to the dynamics of communication among networks of administrative reformers. Policy diffusion appears to be driven not by a process of blind imitation, but by a professionally driven dynamic in which policy experts select and codify best practice,

models and templates of administrative reform (Lee and Strang, 2006, 905). Before moving to these aspects, it is worth noting that theoretical frameworks have been proposed in order to enhance comparative analyses on administrative changes and reforms.

Welch and Wong (2001) have presented a model for accounting interactions between the external forces for and the internal forces against convergence. External pressures are exerted by formal and informal global institutions and complement the already mentioned common economic and political pressures. The domestic economic, political, and social environments mediate such global pressures. This distinction, however, should not be overemphasised. Organisations tend to create internal institutions, structural components within organisations that mediate the relationship between organisations and their environment (Dobbin et al., 1988, 77-8). Such governance structure is an intervening variable in the analysis of administrative change inasmuch it is shaped by both organisational and environmental forces. Checkel (1999, 88), for instance, modulated diffusion in four different modes according to the organisational structure. International norms and institutional forces are channeled through policy networks of non–state actors[9] as well as through the state-above-society structure, where elite learning is necessary if international norms are to be empowered domestically. Between these two extremes, there are middle ground mechanisms of diffusion: the so-called 'corporatist domestic structure', in which the societal pressure on elites is primary and the learning is secondary; and the 'statist structure', featuring a predominant elite learning and complimentary societal pressures.

Furthermore, as March and Olsen (1983) emphasised, rational management and political control, the predominant rationales for adopting administrative reorganisation as well as RIA, are different but not mutually exclusive rhetorics – forming overlapping agendas (Ansell and Gingrich, 2003). Symbols, legitimacy values, interpretations, and construction of meanings as well as decision making and efficient allocation of resources are heavily intertwined, and a discussion of explanatory primacy may obscure the reality (March and Olson, 1983, 292).

These two theoretical insights (mediation of global pressures through domestic institutions and the construction of meanings associated with administrative reform) have been ex-

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[9]'This domestic change has little to do with learned logics of appropriateness, and everything to do with politics.' (Checkel, 1999, 89)

ploited by Salihn-Andersson (2001) in her framework for accounting the diffusion of NPM. Starting from the consideration that NPM style administrative reforms have spread globally, she argues that the problem with the actual literature on administrative reform is the focus on the external sources and domestic contexts using a single case approach or a limited set of countries. In other words, what is still missing is the recognition that administrative reforms in a country are part of a global trend. Reforms need to be inserted in the broader global trend and related to the choices of other countries: 'Most explanations offered in the literature ... say little about whether we should expect reforms that are part of such a global trend to be different and to yield different results to reforms that are more unique to single countries'. (Sahlin-Andersson, 2001, 44-5). She has identified three modalities of forming trends, i.e. nationally, internationally, and transnationally,[10] and assumed that '[a] global trend is likely to combine elements of all three, albeit with varying emphases', although it may not always be easy to distinguish these three process empirically. (Sahlin-Andersson, 2001, 46).

This section has already reviewed the nationally formed trend. The remaining part of this section goes on to detail the internationally and transnationally formed trends.

3.5.1   Internationally formed trend

Explanations of global trends are based on flows of information that are interpreted and transformed. If the spatial models explain diffusion through the intensity of communication, this theoretical approach focuses on how communication is interpreted and transformed. The internationally formed trend refers to the interconnectness of governments. The idea is straightforward: Governments and their elites communicate and interact, exchanging ideas, solutions, and experiences as well as learning and imitating from each other. Environmental uncertainty is faced by organisations and governments through a process of imitation. However, this process of emulation appears to rely on cognitive

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[10]'The first type of trend is nationally based and results when a number of countries pursue similar reforms at the same time but independently of each other. [...] The second type of trend is internationally formed. Reformers do not act only in an isolated national context but learn from each other, imitate each other, react to each other and present their reforms to each other. [...] The third type of trend is transnationally formed. In addition to reformers, there are a number of observers and mediators of reform ideas and experiences, such as researchers, international organisations, consultants and publications.' (Sahlin-Andersson, 2001, 45)

shortcuts, due to the lack of a universal model of reform and the lack of homogenisation. Theoretical and normative aspects of NPM are not clear because administrative reforms have been adopted and implemented for their technological and operational elements, rather than their theoretical paradigm (Sahlin-Andersson, 2001; Power, 1997, 52). A general paradigm and theorisation of NPM—and consequently the institutional conditions for diffusion—are absent (Hood, 1995; Gow and Dufour, 2000).

Rather than making use of a spatial model to explain the learning process, imitation relies on information cues such as the prestige and hierarchical status of a country and the similarities in identity. But, similarly to the spatial model, there may be predictable patterns of diffusion: 'we can expect that as one country has imitated another country earlier, it may continue to imitate the same country.' (Sahlin-Andersson, 2001, 49). For instance, Anglo-Saxon countries are regarded as the first to adopt administrative innovations, followed by Scandinavian countries; whilst German countries, as well as civil law and Mediterranean countries are usually the laggards. Through a review of the literature James and Manning (1996) identified a core of the NMP reformers composed of Anglo-Saxon countries plus the Netherlands and Sweden.

Similarly to March and Olsen (1983), Sahlin-Andersson highlights the fact that 'what is spreading is not practice as such, but accounts of this practice'. As a consequence, rhetorics, symbols, and interpretations of administrative reform matter. Administrative reforms are communicated and presented from one source to another and in different manners and different times. 'The distance between the supposed source of the model and the imitating actor provides scope for translating, filling in or editing the model in various ways'. Such an editing process leads to the discharge of contextual (in term of political ideology, administrative connotations, economic and cultural aspects) and time dimensions with the intent to generalise and usefully implement the innovators' experiences in every country. In order to do so, the editing process involves and requires a change in the logic and rationale behind the origin of innovation: 'Developments may acquire a more rationalistic flavour. Causes and effects tend to be clarified, effects are presented as resulting from identifiable activities, and processes are often described as following a problem-solving logic.' (Sahlin-Andersson, 2001, 56)

Moreover, administrative reforms are packaged together in more logically coherent modali-

ties through a rhetoric of administrative rationality. Overall, '[a]s reforms and experiences are accounted for and narrated, they need to be framed and presented to others in terms of existing templates, examples, categories, scientific concepts, theoretical frameworks and widespread classifications that are familiar.' (Sahlin-Andersson, 2001, 58).

3.5.2   Transnationally formed trend

The transnationally formed public management reforms involve the presence and role of change agents and mediators such as international organisations, consultants, and epistemic communities. International organisations are important editors of ideas and experiences. They collect data and information on member states that are summaried and transformed in order to compare and benchmark different member states. Peculiar contexts and experience of administrative reforms are inserted into broader theoretical frameworks with the aim of putting forward normative accounts and recommendations (Sahlin-Andersson, 2001, 61). In particular, the OECD has mediative and inquisitive functions (Mahon and McBride, 2009). Mediative functions refer to those activities that facilitate the construction of policy discussion among experts on the best policy solutions. It is within such international expert fora that standards and benchmarks emerged (Mahon and McBride, 2009). Transnational networks are particularly capable of attracting the attention of national policy-makers to administrative innovations, through a process of packaging, theorisation, and positive feedback. Inquisitive functions involve monitoring of policy choices and outcomes through benchmarking and peer review that allows the auditing, comparison, and ranking of member states (Lodge, 2005; Mahon and McBride, 2009, 89). Accordingly, reform initiatives are promoted by designing and disseminating templates and prototypes of innovations and reforms.

This model is comprehensive and integrates internal and external determinants of reform as well as the horizontal and vertical dimensions of diffusion. Following Berry and Knoke's recommendations, it takes also into account policy networks. Empirically, however, this model has rarely been tested either in qualitative or quantitative analyses. The closest attempt has been conducted by Grigorescu (2003) in explaining the diffusion of FOI laws. Several internal determinants have been complemented with measures of the 'interconnectivity' between international organisations and the domestic society. Inter-

national organisations generate and provide an alternative (to the governments) sources of information aimed toward the general public. The hypotheses tested by Grigorescu assumed that a surge of information from international organisations increases the probability of a national government to strengthen its institutions for transparency. According to his findings, international organisations-generated information flows alter the incentive structure of domestic policy-makers and increase the probability of adoption. International organisations have influenced also the adoption of environment appraisal system through international agreement endorsement and financial support. Hironaka (2002, 71) evidenced also the role of scientific communities in legitimating the use of rational decision tools, that is environmental impact assessment (EIA), and promoting environmental awareness. Among the internal determinants (domestic environmental movement, environmental degradation, and economic development), only the level of GDP per capita has a positive and significant effect on adoption. The challenge of these theoretical models in a large-n comparative analysis is to operationalise the different typologies of global trends, relying also on qualitative evidence for reconstructing the process of communication and interaction among international and transnational networks.

3.6   Conclusions

Long ago, Thomas McGarity (1991, 303) observed that the American 'regulatory analysis is currently in a state of awkward adolescence. It has emerged from its infancy, but it has not yet matured'. After four decades, regulatory appraisal has spread and in many of the pioneer countries, such as Canada, the UK, and the US, has been institutionalised, yielding administrative, institutional, and cultural changes.

Economists, lawyers, and political scientists have enriched the debate on reasons for and (administrative and constitutional) appropriateness of its adoption. They tend to agree on three possible categories of explanations of what policy makers want and can potentially achieve with this administrative procedure: political control, democratic governance, and economic rationality. Furthermore, supported by empirical evidence, rational choice theorists rightly show that RIA is not a politically neutral information device to provide more rational and transparent decision-making.

Whereas the rational choice model may explain the adoption of RIA at the agency level, it does not suffice in capturing the external environment. This raises the challenge of working in a comparative as well as longitudinal mode, with suitable research questions on i) the process of diffusion and the extent of learning, ii) the role of international organisations, and iii) the variance in the political consequences of RIA.

Overall, the literature on RIA has up to now neglected diffusion research that can contrast or integrate rationalistic explanations of RIA adoption with emulation, mimicry, and learning (Radaelli, 2005; Radaelli and Meuwese, 2009). This lack of comparative research can be overcome by looking at the more consolidated literature on the global spread of administrative reforms and NPM. It provides a theoretical model that is still not available in the literature of RIA and is based on different and epistemologically distinct elements of policy diffusion. These are the elements that guide and structure the research framework of this project, encompassing the main methodological claim, research questions, methods, and data collection.

Chapter 4

Combining innovation and administrative attributes: Typologies of rulemaking

4.1 Introduction

On the conceptual level, the literature on policy diffusion has shifted the research focus from the internal characteristics of the adopting unit towards the compatibility of an innovation with a set of organisational attributes. Downs and Mohr (1976) suggested the analysis of organisational innovation should be enhanced to take into account the 'interaction' between an innovation and typologies of organisation. In a similar vein, Meir (1982, 62) represented such interaction through the 'adoption environment' composed of all identifiable conditions for the adoption, such as the adoption unit's experience, norms, values, intentions, socio-economic status, and the institutional and geographical contexts. In other words, the unit of analysis is not exclusively the innovation or the adopting organisation, but the innovation in relation to specific organisations, given that attributes of an innovation are defined by the organisational perception. Putting aside for the moment the impact of information about innovation as well as external determinants on the adoption, a strategy for better understanding the complex phenomena of diffusion requires clarification of such interaction. In order to derive the principal attributes of

innovation, it is necessary to define the intrinsic features of the innovation under analysis and, successively, to specify their interaction with organisational features.

Following Elman (2005), the aim of this chapter is to propose typologies of rulemaking in order to achieve a better comparison of RIA systems adopted and implemented in different administrative contexts. Explanatory typologies are 'multidimensional conceptual classifications based on an explicitly stated theory' (Elman, 2005, 296). They deductively combine the descriptive and classificatory features within a pre-existing theoretical framework (Elman, 2005, 297-8). This feature allows prediction of outcomes of the dependent variable according to combinations of different values of the theory's variables, expressed in dichotomous fashion (presence/absence) and, consequently, the development and testing of more precise hypotheses (Elman, 2005, 298-9). Each cell of the resulting *property space* 'captures a possible grouping of the attributes of the concepts being organized' (Elman, 2005, 296).

The identification of rulemaking typologies serves the purpose of analysing the attributes of the innovation in combination with the adopting countries' administrative traditions, allowing for a more accurate quantitative analysis of its diffusion. Having in mind the theoretical framework laid down in Section 3.5, this chapter focuses on the explanations of global trend formation in which internal characteristics of public administrations disentangle the conditions for adoption. To clarify, the typologies presented here are not explanatory, but support the main argument of the role of administrative institutions for the 'adoptability' of a regulatory governance innovation, that is RIA. Accordingly, the impact of the rulemaking typologies on the adoption of RIA is not direct and exclusive but is conditional on the extent and the quality of communication explored in the succeeding chapters. The argument is that RIA should be analysed in the broader context of administrative law that has common features in all democratic regimes: It attempts to combine the democratic accountability of the executive branch and the effectiveness and efficiency in implementing public policies (Rose-Ackerman, 2007*a*). This trade-off is resolved in different ways according to the different traditions of administrative governance and the extent of the dominant position of the executive with respect to the other constitutional bodies.

Theoretical models have been extensively used to explain the 'power' relationships between

the civil service and the political executive (Nakamura and Smallwood, 1980). The reason for wide use of 'ideal type' models (also for comparative studies) lies in 'the opportunity to compare not only the real world of one nation to the ideal world of the models but national systems to the models and then to each other' (Peters, 1998, 21). Drawn from the literature, these ideal-types have been considered as the way out of the absence of an overarching theory for comparing public bureaucracy (Peters, 1998).

P-A models have been used to explain the emergence of administrative procedure in the US (McNollgast, 1999) and to compare administrative law of Western (Bishop, 1990) and Asian (Ginsburg, 2002; Baum, 2007) countries. Therefore, these models are the theoretical foundation for drawing regulatory typologies. There is, however, a caveat to bear in mind. P-A models, like many other political theories, have been applied in the US and then projected in the rest of the world. This may cause conceptual flaws 'because the constructs, hypotheses, and theories are not necessarily representative of reality (valid) in other political and cultural contexts' (Peters, 1998, 4). But the centrality given here to US-inspired models is due to the emergence of RIA in that country. Consequently, an examination of American administrative rulemaking is deemed to be the necessary premise for developing an adequate baseline in order to derive other typologies. Indeed, as Peters (1998, 2) put it, if we are to develop meaningful theoretical perspectives in the social sciences, we must examine each national experience in light of other nations.

The structure of the remainder of this chapter is summarised in this paragraph. Section 4.2 provides a brief overview of the American administrative state and accounts for the shift from a rigid version of the classical democratic theory (strictly respectful of the constitutional separation of powers doctrine) to alternative administrative models of legislative power delegation. Section 4.3 links administrative law with the concepts of public choice, classifying control mechanisms and administrative processes that hold regulators accountable to the political principal. In the context of the American administrative law, Section 4.4 defines RIA as a hierarchical procedure, inserted among broader constitutional principles. It proposes two dimensions for capturing the evolution of American rulemaking. Section 4.5 expands the property space in order to accommodate the comparison of the rulemaking of a few Western countries. Section 4.6 concludes by summarising the main contributions of the interaction between attributes of innovation and organisational

features in the analysis of diffusion.

4.2 The definition and boundaries of the American Administrative State

'Administrative law is the legal vehicle for organizing and structuring government' (Koch, 1997, XIII). It refers to the 'procedural law of administrative process' concerning 'any practice that affects or is affected by government decision makers other than just the courts' (Koch, 1997, 2). In the US, the configuration of administrative law as a procedure coincided with the New Deal era, in which the expansion of public intervention entailed the control of rulemaking (Stewart, 1975). With the enactment of the 1946 APA, administrative law has assumed a predominant role in the development of regulatory governance (Pierce, Shapiro and Verkuil, 2004, 34).

Within the context of classical and liberal democratic theory, administrative law attempts to justify and legitimise regulatory choices:

> Under the classical definition, administrative agencies would comply with democratic principles as long as their operation was consistent with the concept of government by consent, by rule of law, and by separation of powers. Agencies thus would have to be accountable to popularly elected officials, operate according to legal procedure that provided for due process, and not involve the combination of legislative, executive, and judicial function. (Pierce, Shapiro and Verkuil, 2004, 25)[1] [2]

After sixty years, '[t]he APA and its related statutes continues to provide an organizing vehicle for government intervention into private sector activities' (Pierce, Shapiro and Verkuil, 2004, VIII). In other words, the APA is the 'constitution of the modern regulatory state' (Croley, 1996, 35). Complying with the following four fundamental rules,

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[1]By rule of law is meant the obligation 'that state activities are based on laws justified under the constitution and that, in case of unlawful exercise of power by the state, the individual is entitled to a legal remedy in an independent court.' (Singh, 2001, 12)

[2]See also Stewart (1975) and Freedman (1978).

administrative procedure allows the delegation of the legislative power to agencies within a respectful consideration of the constitutional principles (Stewart, 1975):

- administrative action must be determined by a precise mandate;

- agencies' procedural decisions must comply with the authoritative legislation;

- judicial review must be available to review agencies' action; and

- agencies must facilitate judicial review.

The legal discussion shifted then to what extent the administrative system complies with these four rules. Indeed, more often than not, the American Congress delegates broader authorities to the agency via vague and ambiguous statutes. Further, executive agencies choose the administrative procedure, the negotiated rulemaking, that minimises judicial review (Pierce, Shapiro and Verkuil, 2004, 37). As a result, the actual American administrative state is not totally consistent with the classical democratic model. These inconsistencies facilitated the emergence of alternative models such as the pluralistic and the civic republican (See Section 3.3).

Comparing these administrative models, one can observe that the P-A model is founded on institutional checks and balances that aim to reduce the discretion of bureaucracy and, ultimately, pursue the public interest. On the contrary, the pluralist model revolves around political competition and the republican model relies instead on citizens' political participation through openness, transparency, and access to public information, which constitute the means for establishing an ongoing process of collective self-determination (Pierce, Shapiro and Verkuil, 2004, 28, 38).

For the sake of comparative analysis, institution-centred models have two enormous advantages. Firstly, it is easier and more feasible to compare stable administrative institutions and their mechanisms available to control and reduce the discretion of bureaucrats, rather than political phenomena and emerging deliberative policy tools (Peters, 1998, 9-10). Secondly, promoting rationality and avoiding arbitrariness, administrative procedures are common in all democracies (Rose-Ackerman, 2007a; Moral Soriano, 2002, 122). Before comparing American rulemaking against that of other countries, let us turn to how

political scientists have explained regulatory delegation, disentangling and categorising administrative mechanisms for controlling regulatory agencies.

4.3 From delegation theory to public choice: Classifying control mechanisms

Characterised by the dominant position of bureaucrats, the topic of delegation and the consequent emergence of the administrative state have been explored by lawyers, sociologists, and political scientists. With the aim of lowering the transaction costs of policy making, rational elected officials delegate because of their lack of the technical expertise that bureaucrats acquired by executing programmes, time, and financial resources for designing and realising public intervention (Pollack, 2006).

P-A theorists have modelled the dominant position of the bureaucracy by relying on the economic concept of information asymmetry that causes two types of problems for the political principal, e.g. adverse selection and moral hazard. Firstly, the political principal does not have sufficient information to enable them to choose the agent with the greatest expertise and with preferences closer to her own preferences. The second problem originates from the fact that the principal cannot directly observe the agent's action. Thus, the level of effort that the agent engages in pursuing the principal's interest cannot be determinate. Rather, the agency may pursue the maximisation of its own budget and assure rents for private corporates (Niskanen, 1971).

The elected officials, however, can attempt to minimise the costs of an agent's misbehaviour by designing institutions that modify the bureaucrats' incentive structure. Indeed, there are several options for obtaining information and controlling the agent's behaviour (Lupia and McCubbins, 1994; Moe, 1987). An extensive literature on the relationship between the legislative and administrative branch has proposed different classifications of control mechanisms. The latter have the common feature of attempting to internalise the principal's preferences into the bureaucrats' behaviour, limiting their discretion (Huber, 2002; Ginsburg, 2002, 248). According to the time in which a control mechanism affects the agent, one can distinguish two general classes: Ex ante control mechanisms (such as statu-

tory order, appointment, organisation, and institutional checks) and ex post mechanisms (such as budget, amending legislation, and judicially supervised administrative procedure) (Huber, 2002; Epstein and O'Halloran, 1999; Epstein and O'Halloran, 1994). The former group is composed of control mechanisms operating before regulators actually take actions. Ex post control mechanisms, instead, operate after regulators take actions (Huber, 2002, 399). This classification, however, does not take into account the more recent evolution of American administrative rulemaking in which agency decisions are subject to review that can be concurrent with the regulatory proceeding itself (Pierce, Shapiro and Verkuil, 2004, 1). This is a third and peculiar modality for control of the bureaucracy, an *ongoing* control mechanism.

Looking at their institutional nature, Ginsburg (2002, 248) proposes another three categories of control mechanisms for reducing agency costs:

- perfect internalisation of the principal's preference, through professional indoctrination and training or through promulgation of a substantive political ideology;[3]

- hierarchical supervision, a *direct* manipulation of the angency's incentive through structures such as budget, rules, procedures; and

- third-party supervision, that is a judicially-enforceable administrative procedure, in which the quality-control system of the agent's behaviour is delegated to the courts.

The hierarchical and judicial supervision are particularly relevant for the analysis of RIA. Both refer, reshape, and discipline the decisional criteria and process of an agency, and are common functions of appraisal systems such as EIA and RIA (Taylor, 1984; McGarity, 1991). But it is still necessary to understand in which category RIA fells. To do so, it is necessary to recall briefly the definition and functions of RIA, through a brief exploration of American administrative rulemaking.

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[3]For a comparative review of these control mechanisms see (Suleiman, 1984).

4.4 RIA as an administrative procedure within the Administrative State

The previous chapter (see Section 3.2) provided the theoretical terrain of the emergence of RIA as an administrative procedure. It is an executive requirement that targets regulators in their legislative function. Accordingly, RIA has the same function of an *ongoing* administrative procedure. Its main purpose is to counterbalance informational asymmetries between the principal and the agent, preventing administrative drift (McCubbins, Noll and Weingast, 1987; Bawn, 1997, 1995). It follows that economic appraisals are used by the American Presidents and Congress for overseeing and reducing the slack between them and regulatory agencies (Pierce, Shapiro and Verkuil, 2004; Johnston, 2002; Posner, 2001; Cohen and Strauss, 1995).[4]

Specifically, all Presidential Executive Orders have required agencies to submit a CBA to the Office for Information and Regulatory Affairs (OIRA). This agency of the Office for Management and Budget (OMB) has been specifically established for overseeing executive, regulatory agencies. Since the Reagan administration, OIRA has been empowered to return a regulatory proposal that is not satisfactory in terms of economic analysis quality or does not conform to the decisional criteria established by the general presidential regulatory policy. Different administrative principles justify such ongoing oversight. The Presidential control is justified by the idea of getting better coordination and more efficiency from the administrative state. Overall and broader policy goals, such as clean environment, low inflation, or economic growth, are horizontal and cannot be achieved by an agency in isolation (Kagan, 2001; Harter, 19987). For the unitary doctrine, the President as the head of the executive branches has the duty to coordinate and oversee the governmental agencies, steering them towards his political goals for which he had been elected (Blumstein, 2001; Shane, 1995). To do so, within the same hierarchy and institution (the American executive) the President enacts Executive Order (E.O.) to directly influence the agency's incentive structure, through the promulgation of internal rules that

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[4]Also, the American Congress has passed several acts that require the agencies to provide analysis on specific impacts on information obligations (the Paper Reduction Act) and on small business enterprise (the Regulatory Flexibility Act). It is important to note that during the Clinton administration the Congress initiative, the so-called Regulatory Review Act, to extend the CBA to the legislative process did not have enough support to be enacted.

constrain administrative discretion (Ginsburg, 2002, 249). Accordingly, the American RIA is an ongoing regulatory review falling under Ginsburg's category of hierarchical supervision. Indeed, there are no other parties involved in the American RIA administrative procedure but the President, through his largest Executive office, the OMB/OIRA, and his executive agencies. To clarify, Presidential oversight does not address the independent agencies such as the Federal Communications Commission, Federal Trade Commission, and the Federal Reserve.

However, as already mentioned, the APA delineates a broader control mechanism that, involving public participation and judicial review, still legitimatises the regulatory delegation; a fire-alarm mechanism that, activated by the main stakeholders, alerts the political principal to the regulators' misbehaviour (Lupia and McCubbins, 1994; McNollgast, 1999). It is the cornerstone of the American administrative state. Within the classic democratic model of the separation of powers, this act has solved the constitutional puzzle of the legislative delegation to agencies. Obviously, the ongoing Presidential and Congressional regulatory reviews are additional and innovative steps of administrative rulemaking that were not originally required by the APA (Lubbers, 1998; Rosenbloom, 2002; Kerwin, 2003).

Ongoing control mechanisms, such as RIA, shape the rulemaking that is dynamic and has evolved according to the different stages of the administrative state and regulatory reform, accommodating changes in political goals and ideologies (Croley, 1996). As a result, an analysis of the American RIA system cannot overlook the importance of the APA. The requirement for appraising and enhancing the empirical foundations of rulemaking is implanted in pre-existing administrative principles, such as citizens' participation and ex-post judicial review. Overall, RIA has to be considered as an innovative and hierarchical procedure that cannot be analysed in isolation from *the* administrative procedure of the notice-and-comment established by APA (Bawn, 1995; Bawn, 1997; Arnold, 1987, 65). Table 4.1 presents the two dimensions for classifying American rulemaking: the presence of RIA as a hierarchical supervision and the presence of judicial supervision.[5]

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[5]Early work on the political control of bureaucracy has been criticised by the lack of flexibility in accounting for the presence of more than one political principal, as in the case of the United States which is considered as a dual administrative system given the competition between the President and the Congress in gaining control of the administrative executive. Both elected institutions play an important role in the agent's preference and action. It is impossible to gauge which of the two principals would assume a dominant position within the relationship with the regulatory agent (Kerwin, 2003). Accordingly, another dimension to include in the analytical typologies of RIA is the presence in the constitutional system of a multi-principal. However, this dimension does

Table 4.1: The evolution of American rulemaking as the interaction of RIA and the judicial review of administrative procedure

		Ex-post judicial review of rulemaking	
		YES	NO
Hierarchical ongoing review	YES	The actual model	RIA without APA-type fire-alarm mechanism
	NO	The pre-E.O.s era	The pre-administrative state era

The evolution of the American administrative state can be represented by shifts across the property space. The pre-EO 12291 era was characterised by notice-and-comment requirements and the absence of hierarchical control (Coglianese, 2002; Pildes and Sunstein, 1995). Moreover, Federal agencies were in search of legitimacy and more often than not conducted economic analysis to support their decisions independently and voluntarily (Andrews, 1984). It seems fair to conclude that the proposed property space can capture the longitudinal changes of American rulemaking. In addition, it allows also for the counterfactual, the no adoption of ongoing control mechanism and administrative procedure legislation (see row and column containing No). The pre-administrative state era was characterised by the Congress staffed by professional technocrats and experts on policy implementation, able to instruct agencies through precise and accurate statutes. In the common law tradition, courts were safeguarding the featly to statutory commands (Bignami, 2001, 13). The next section shows that the possibility of adopting RIA without an administrative procedure of public participation and judicial review is common among the other countries.

4.5 Expanding the property space

Based on the administrative law and categories of control mechanisms, the previous section has portrayed American rulemaking through a property space. In order to compare RIA systems implemented in other countries' administrative traditions, it is necessary to

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not add great value in the explanation of the diffusion of RIA. The next chapter shows that in all sampled countries RIA is exclusively a control mechanism of the executive. The role of the legislative branch is extremely marginal. Further, the failure of the American Congress in enacting the Regulatory Review Act is not applied on primary legislation.

assess whether the categories derived from the American administrative law still hold. In particular, the American rulemaking is characterised by an ex post oversight conducted exclusively by the courts.[6]

Among OECD countries, this control mechanism is unique to American and Korean administrative law. The latter contains other requirements such as RIA and sunset clause that makes Korean rulemaking one of the most comprehensive and advanced (Baum, 2007; Baum and Bawn, 2005). According to the OECD (2000, 27) review of Korean regulatory reform, the current RIA system was adopted in 1997 within the Basic Act on Administrative Regulations. (Ginsburg, 2002; OECD, 2000; OECD, 2007b; Baum and Bawn, 2005, for a review of the regulatory reform in Korea). RIA is therefore strongly based on a formal legal framework that is as broad as the American APA in regulating the regulators (OECD, 2000; Ginsburg, 2002).[7]

According to a leading political scientist, judicial review of the rulemaking process is not a feature of European countries' administrative law, notwithstanding the spread of administrative procedure legislations[8] and the principle of rule of law.[9]

> The United States is unusual in having an Administrative Procedure Act that requires notice, hearings, and reason giving for rules and that permits judicial review of the rulemaking process. In Europe, most governments are not required to use popular, participatory procedures for the issuance of government rules and guidelines. (Rose-Ackerman, 2007b, 18-9)

The peculiarity of the American administrative rulemaking process stands in contrast to the review of the delegated legislation process in other countries. The divergence from the

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[6]In an important case, the INS v. Chadha, 462 U.S. 919 (1983), the Supreme Court has declared unconstitutional the Congressional veto on the basis of the separation of powers doctrine. As a result, once a regulatory agency has passed regulation, only the courts can intervene to correct any invalid behaviour.

[7]According to the OECD (2002a, 18), '[t]he 1996 Administrative Procedures Act sets out general requirements for developing and implementing new legislation and established the Administrative Appeals Commission to hear a wide range of administrative disputes. The APA's requirements have been further supplemented by provisions of the 1997 Basic Act on Administrative Regulations (BAAR). The BAAR, much broader in its application, forms the legislative core of current regulatory reform policy in Korea and is a key driver of the reform process.'

[8]Most of the OECD member states have adopted an administrative procedure law, usually applied to the adjudicative function of the administration.

[9]See also Kagan (2001) for an account of the disadvantages of the 'adversarial regulatory style' present in the US.

American model can be assessed through the extent of the review of rulemaking in order to ensure the constitutional principle of separation of power. Accordingly, it is necessary to 'expand' the property space used for categorising American rulemaking. Rather than fire-alarm mechanisms installed through administrative procedure, one can hypothesise the existence of a set of different constitutional powers that intervenes in correcting a misuse in regulatory delegation.

For instance, in the other common law countries the review of 'delegated legislation' is conducted by the Parliament (See Table 4.2). As in the US, in the UK the separation of powers is assured by the judicial review, the means by which the courts control the lawful exercise of the power given to the executive by act of Parliament. 'If an individual, or a body of persons, is aggrieved by an administrative decision, and their rights adversely affected, there is a requirement that procedures exist whereby such decisions may be challenged in the courts.' (Barnett, 2006, 720) However, since the lack of a specific and detailed procedure that regulators are obliged to follow, the judicial review is limited to ensure that there has been no breach in of statutory requirements.[10]

Table 4.2: An expanded property space of modes of regulatory reviews

		Other modes of regulatory review			
		Judicial review	Parliamentary scrutiny and consultation	Council of State	Minimal
Ongoing hierarchical review (RIA)	YES	Korea, US	Canada, UK	France, Netherlands	Germany
	NO	-	-	-	-

In order to assure the separation of power and Parliamentary supremacy, it is required that regulations are scrutinised directly by Parliament, as established by the 1946 Statutory Instrument Act. The Joint Committee on Statutory Instruments and the Commons Select

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[10]For instance, in the UK the courts seek, by judicial review, to ensure the following four principal objectives:

- that the Acts of Parliament have been correctly interpreted;
- that discretion conferred by statute has been lawfully exercised;
- that the decision maker has acted fairly;
- that the exercise of power by a public body does not violate human rights.

Committee on Statutory Instruments are in charge of formally controlling for technical defects.[11] Within this context, the role played by the governmental Regulatory Impact Assessment (for guidelines and overview of the appraisal process see (Better Regulation Executive, 2007)) is marginal (Page, 2001; National Audit Office, 2001). Indeed, the British RIA is a government policy within the executive hierarchy, and traditionally the consultation of the business sector is embedded within it (Froud et al., 1998). This consultation is a practice that 'is both assumed and assured' (Vogel, 1986, 170). It is possible to generalise this consideration to other common law and European countries that 'still rely on a more informal and "confidential" process of consultation in where the bureaucrats mediate and bargain among conflicting interests' (Brickman, Jasanoff and Ilgen, 1985, 305; see also Rose-Ackerman, 2007b).

In comparison to the UK, although the Canadian Parliamentary scrutiny of delegated legislation was established in the early 1970s during the Trudeau administration, the RIA-procedure has caused a greater impact on the delegated legislation process. It has been introduced within the Federal Government Regulatory Policy requiring federal departments to draft and publish in the Canada Gazette—together with the regulatory proposal—a CBA. Thus, the Canadian regulatory policy allows public participation. In other words, it is similar to the American notice-and-comment procedure. In 1986, its general principles have also been codified in the Citizens' Code of Regulatory Fairness. Although open and transparent, the Canadian regulatory process 'is non-statutory, based on government policy, and supplements statutory requirements' (Elliott, 2003, 58). However, since the enactment of the Charter of Rights and the Citizens' Code of Regulatory Fairness, judicial review over delegated legislation has been strengthened (Prince, 1999). Indeed, the Charter, which is entrenched in the Constitution, has the purpose 'to authorize the courts to protect a set of fundamental civil liberties from the laws and actions of public sector agencies and officials by scrutinizing and limiting their actions' (Prince, 1999, 236). However, it is doubtful whether the Charter has made an impact on rulemaking both in either procedural or substantive terms (Prince, 1999, 237). Rulemaking, as a matter of fact, is still reviewed by Parliamentary committees, responsible for ensuring the executive accountability (Weir, 1997).

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[11]Judgment on the merits of or policy behind the regulatory choice are excluded from the parliamentary scrutiny (Boulton, 1989, 552)

The separation of power and rule of law are not exclusive constitutional doctrines of common law countries. These are the founding principles of the Constitutions of many Western and civil law countries (Schwartz, 2006; Singh, 2001). However, looking at the constitutional history some differences can be traced:

> Anglo-American constitutional history is a record of attempts by legislature and courts to restrain excess by the executive branch. French constitutional theory, on the other hand, has been influence by the memory of constant obstruction of the executive branch by the *Parlements*—the common-law courts of appeal under the *Ancien Régime*. (Schwartz, 2006, 6)

These different historical patterns have led to different modes of judicial review. In France, as well as in civil law countries, judicial review is conducted by separate, specialised, and—only with the evolution of the administrative state—de facto independent administrative courts, the Council of State (Schwartz, 2006, 6-8). Although there is convergence toward similar administrative system principles,[12] the different historical patterns are still affecting the extent of judicial review that is not as broad as in the common law countries. As Schwartz (2006, 331) puts it:

> The enforcement of the principle of administrative legality by the Council of State encountered a serious obstacle, however, in the doctrine of acts of government. Under that doctrine certain administrative acts are placed in a position of complete immunity from judicial control. The acts meant are those touching matters considered to be within the exclusive competence of the political branches of government. It cannot be denied that the doctrine of acts of government has constituted a serious lacuna in the rule of law as it has been developing in France.

Under the Constitution of 1946, the executive is vested by an inherent rulemaking power that goes beyond legislative delegation (Schwartz, 2006, 90). The combination of different historical constitutional patterns, doctrines, and distribution of authorities among constitutional institutions has led to a different, *advising* role of the judiciary. This is a

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[12]For a discussion of the 'common' administrative order at the European level, see Chiti (2004)

conclusion that can be generalised to civil law countries directly inspired by the French administrative model. The Council of State has a relevant position in the rulemaking of civil law countries (for instance Italy and the Netherlands), and must be consulted on all draft laws and many decrees, but only in order to assess the legal quality, consistency and administrative appropriateness. In France, for instance, '[t]hough the government does not have to follow the advice of the *Conseil d'État* it can only adopt either the original text or the text proposed by the *Conseil*, and the risk of legal challenge is high if it ignores the *Conseil* advice, as the *Conseil* is also the legal appeal body where decrees and administrative actions can be challenged.' (OECD, 2004*a*, 44)

As a result, in France RIA is an hierarchical administrative procedure (established in mid-1990s through a *Circulaire*, a sort of Presidential executive order) with a marginal impact on other constitutional bodies.[13] The Council of State 'is not entitled to pass judgment on the political appropriateness of laws, which means that it has not yet been able to engage in a broader economic or social evaluation' (OECD, 2004*a*, 90).

Also in the Netherlands, the executive prevails over the other constitutional powers. The Dutch cabinet government is a collegiality made of a widely disparate set of party leaders who negotiate at length before coming to an agreement on a working programme (Eldersveld, Kooiman and van der Tak, 1981, 10-1). As a result, the Dutch RIA system has been established by different ministerial programmes. RIA is composed of a series of tests on environmental and economic impacts of proposed regulation as well as a more specific assessment of administrative burden costs. This fragmentation is also reflected in different guidelines set within the Prime Minister's directives on regulation.[14] Voermans (2003, 5) defines these directives as a

> 'draftman's handbook' dealing with every important activity within the legislative issues e.g. how to prepare a draft, how to implement European legislation, what kind of legislative instruments to use, how to delegate legislative powers, how to attribute administrative authority, what kind of quality considerations are to be made, etc.

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[13]The analysis of the reasons for the emergence of the French RIA system, adopted since the mid-1990s, goes well beyond the goal of this chapter.

[14]I thank Prof. Wim Voermans who, during an interview held at the University of Exeter in November 2006 in the context of the ESRC project 'Regulatory Quality in Comparative Perspective', explained this to me.

Looking at the administrative and legislative contexts, there is a huge difference between the Dutch and the American RIA. The Dutch RIA has been entrenched within a rulemaking process designed by the Prime Minister's directives, considered as a 'handbook'; in the US the rulemaking is designed by the APA, the constitution of the regulatory state.

Finally, moving on to the last column of Table 4.2, in Germany the rulemaking review is minimal, notwithstanding the fact that the administrative courts are fully integrated in the judiciary and totally independent (Singh, 2001, 8,16-7). Contrasting the general purpose of German administrative law with the American one, Kagan[15] (2001, 187) argues that

> [t]he prescriptiveness of American statutes and regulations reflects politicians' and interest groups' desire to control regulatory agencies that they do not fully trust; the rules are designed to prevent the agency's "capture" by regulated entities or, on the other hand, by regulatory zealots, and to facilitate judicial review that will check unwarranted administrative regulations. In Germany, in contrast, the detail of federal environmental regulations is designed to provide guidance to the state and local officials who are responsible for implementing federal law, and to *shield* regulatory administrators from judicial interference.' (emphasis in original)

Also according to a comparativist lawyer, the main purpose of German administrative law is functional. It

> 'is not an isolated body of rules and regulations concerning the operation of the administration; it is concerned about the ordering of the society for the goals it sets forth itself. For this reason not merely control but also effectiveness and efficiency of the administration are important (Singh, 2001, 5).

Such difference in the overall scope of administrative law is ultimately reflected in the rulemaking process:

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[15]Quoting Kelemen (1998).

Germany has no general law like the Administrative procedure Act 1946 of the United States to regulate the procedure for making the delegated legislation. Some of the basic requirements on the procedure are laid down in the Basic Law. Others may be laid down in the enabling law itself. But by and large there is no tradition or practice of prior consultation of the affected interests or groups or subsequent scrutiny through the laying procedure or through a special committee of the legislature as is generally the practice in England or in other common law countries (Singh, 2001, 49).

Moreover,

[t]here is no general requirement that reasons must be given for the statutory orders. But sometimes the issuing authorities give reasons in their local or departmental gazettes. Similarly, reasons are attached to the statutory orders submitted to the Bundesrat for its consent if the statuory order is not otherwise understandable or the statement of reasons is appropriate in a particular case (Singh, 2001, 51)

Further, judicial review and delegated legislation are overlooked by academic discussion (Singh, 2001, 7).

4.6 Conclusions

The separation of powers is 'not purely a principle but a concept of constituting, allocating and balancing of state power' (Schmidt-Assmann, 1998, 157, quoted in Singh 2001, 18). This doctrine and the necessity to hold regulators accountable allows the application of principal-agent models for analysing and comparing administrative states and regulatory processes (Bishop, 1990). Considering RIA as an administrative procedure, this chapter has shown a systematic approach in comparing regulatory oversight and has developed a property space. The matrix includes cases of adoption/no adoption of RIA as a hierarchical control mechanism of the executive, and different modes of *external* review of rulemaking. The proposed typologies are useful for making predictions on patterns of diffusion and the

extent of implementation, and for assessing the impact of RIA on the administrative state, bureaucrat's behaviour, and, ultimately, politics. In particular, the readiness of countries in adopting the innovation can be represented as a continuum. On one extreme there are the common law countries in which the review of rulemaking is conducted by the courts, as in the US, or by the Parliament. This group of countries are the most compatible with the innovation and, therefore, more likely to adopt earlier than other countries with different administrative traditions. In Chapter 7, this hypothesis will be tested through a discrete event history analysis of the probability that a given country will adopt RIA in a specific year. On the other extreme there is a typology of countries in which the rulemaking and its review are marginal since the administrative tradition privileges values of efficacy and efficiency over democratic accountability and political control. In Germany and more generally in germanic legal origin countries the introduction of RIA occurs in an administrative context that is not developed to give reasons. Finally, in the middle of these two extremes there are the French legal origin countries in which administrative courts review regulation and provide advice to the executive.

In a diffusion research framework this chapter has made the following contributions:

- it has defined RIA as a hierarchical and direct control mechanism, acting between the political principal and the administrative agent within the Executive;

- it has inserted the innovation of RIA within the broader context of administrative law and constitutional principles;

- it has proved how difference in the institutional context of adopting units shapes the definition, role, and impact of this administrative innovation;

- it has derived different typologies according to the different type of ex post review of rulemaking;

- it has provided the first set of testable hypotheses of probability of adoption. The English legal origin countries are more likely to adopt RIA earlier than other countries with different administrative law traditions.

The practice of judicial review of administrative procedure, established by law, is an almost 'unique' attribute of the American regulatory governance. The other European countries

rely on the scrutiny of a Parliament or Council of State that may technically check the legal compliance with enabling legislations or may not scrutinise the regulatory process at all. The absence of a constitution of the regulatory state makes it difficult to apply the pluralist and civil-republican models to European countries. The latter would need wider adjustments in order to accommodate relevant differences in administrative traditions and practices. Indeed, notwithstanding the wider application of the separation of powers and the rule of law doctrines, the definition, extent and application of founding principles of an administrative regime vary. Administrative law envisions the trade-off between discretion and rule (Koch, 1997, 5) and between bureaucracy's freedom to achieve efficient outcomes and respect of democratic principles and control of bureaucracy in order to protect the public interest. There are, however, different extents and modalities for balancing this trade-off: 'In Great Britain, excessive delegations of Parliamentary powers are political concerns; in the United States, they are primarily judicial' (Weeks, 1937, 330, cited in Schwartz, 2006, 93)

Chapter 5

The spread of an administrative principle

External models provide crucial inputs to the process of designing and gaining adequate consensus on directions for change. But internal circumstances, judgment, and politics largely determine how those models are used. Ideas and experience from other countries interact with and complement, rather than substituting for local experience and objectives. More borrowing does not necessarily, or even probably, mean less local control and input.

(Nelson, 2004, 51)

5.1 Introduction

As the above quotation suggests, models are crucial for policy change and diffusion. However, models interact and are shaped by internal attributes, inputs driving adoption and design decisions. The aim of this chapter is two-fold. Firstly, it presents the extent of spread and further useful elements for the successive analysis of diffusion. Secondly, it ascertains what has spread, clarifying that RIA is a general lesson that is perceived as new by governments.

Analysing the interaction between innovation and organisational attributes and deriving

the assumptions of adoptability, the previous Chapter sets the theoretical basis from an internal, administrative perspective. Building on this foundation, this research now turns to assess the extent of communication and interdependency among governments. But because the chosen theoretical framework is based on the recognition of a global trend of administrative reform, an analysis of diffusion cannot begin without verifying the extent of the spread among the sample of countries. To clarify, the term spread, rather than diffusion, is used here because this chapter does not address the 'diffusion questions' of how and why. In other words, the causal distinction between governments' interdependency on an innovation and the diffusion null-hypothesis is a matter for the next two Chapters. The spread is analysed observing the shape of the cumulative adoption curve and the events occurring during the process, and categorising the adopters. The latter is also a modality to take time into account. These pieces of information are crucial to the successive analyses. The other essential question addressed is about the specificity of policy innovation as an administrative model or a general principle. In the case of a model the consequent policy change is not as profound and uniform as the contagion effects unleashed by a neat and clear policy model (Weyland, 2006, 18).

This Chapter is structured as follows. The next section 5.2 describes the most important events occurring throughout the diffusion process, provides insights on the shape of the cumulative frequency adoption curve, and classifies each country according to adopter categories. Through a qualitative analysis that explores the patterns of emergence and institutionalisation among the pioneer countries (Australia, Canada, Denmark, Germany, the UK, and the US), Section 5.3 evidences that RIA is essentially an administrative principle rather than a specific and universally and paradigmatically valid model of innovation. Furthermore, relying on the theoretical and internal explanations of adoption, this section shows the variance in the design, objective, and purpose of RIA, but also remarks a common process of institutionalisation. The initial tool for enhancing administrative coordination has been empowered to become an oversight mechanism. The other elements related to macro analysis of the diffusion process such as the earliness and probability of adoption, extent of implementation, and evaluation are presented in the succeeding Chapters.

5.2 RIA: A normally distributed innovation

The major feature of diffusion of a 'successful innovation' is an S-shaped trend of adoption (Rogers, 2003, 275), implying that the frequency of adoptions over time is normally distributed and that their cumulative distribution is similar to the cumulative normal curve (Gray, 1973, 1175). In particular, there are three explanations for such a pattern of diffusion (Gray, 1973, 1175–6). Firstly, the time of adoption is determined by numerous interacting elements and the determined value is a result of a chance combination. Secondly, the S-shaped curve is similar to an individual learning curve and this model puts great emphasis on the learning dimension of diffusion. Thirdly, the interaction explanation relies on the concept that non-adopters are increasingly influenced by the increased number of adopters. In other words, '[m]any human traits are normally distributed ...[and] the degree of innovativeness is also expected to be normally distributed' (Rogers, 2003, 272). As a consequence, one can argue that 'the normality or non-normality of the adopter distributions is independent of the theoretical assumption that ideas spread because adopters somehow influence nonadopters.' (Gray, 1973, 1176). To put it differently, *over time* this pattern of diffusion is an expectation and a major element of generalisation of innovation researches (Mahajan, Muller and Bass, 1995; Rogers, 2003).[1]

Examining Figure 5.1, one can observe an almost perfect S-shaped trend (See Chapter 6 for the overall fit of the data to the Gray's interaction model). The spread has had a slow start. After the US, Canada is the only country adopting RIA in the 1970s. During the 1980s, a bunch of countries adopted RIA: Germany in 1984; Australia, the Netherlands, and the UK in 1985 and; Hungary and Sweden in 1987. The most rapid increases in the frequency of adoption occurred in two time intervals, i.e. 1995–1999 and 2003–2006. In the first period of time fifteen countries adopted RIA. In particular, in 1999 there is the highest frequency of adoption: as many as five countries adopted RIA in that year. In the new century there is the second rise with nine adopting countries. Both rises were preceded by a long period of no or low frequencies of adoption.[2] This may be due to a

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[1]Rogers (2003, 274) gave us further insights specifying that '[t]he part of the diffusion curve from about 10 percent adoption to 20 percent adoption is the heart of the diffusion process. After that point, it is often impossible to stop the further diffusion of a new idea, even if one wished to do so.'

[2]Only few countries adopted RIA just before such periods of time, e.g. Denmark in 1993 and Poland and the Slovak Republic in 2001.

Figure 5.1: Cumulative and annual frequencies of adoption
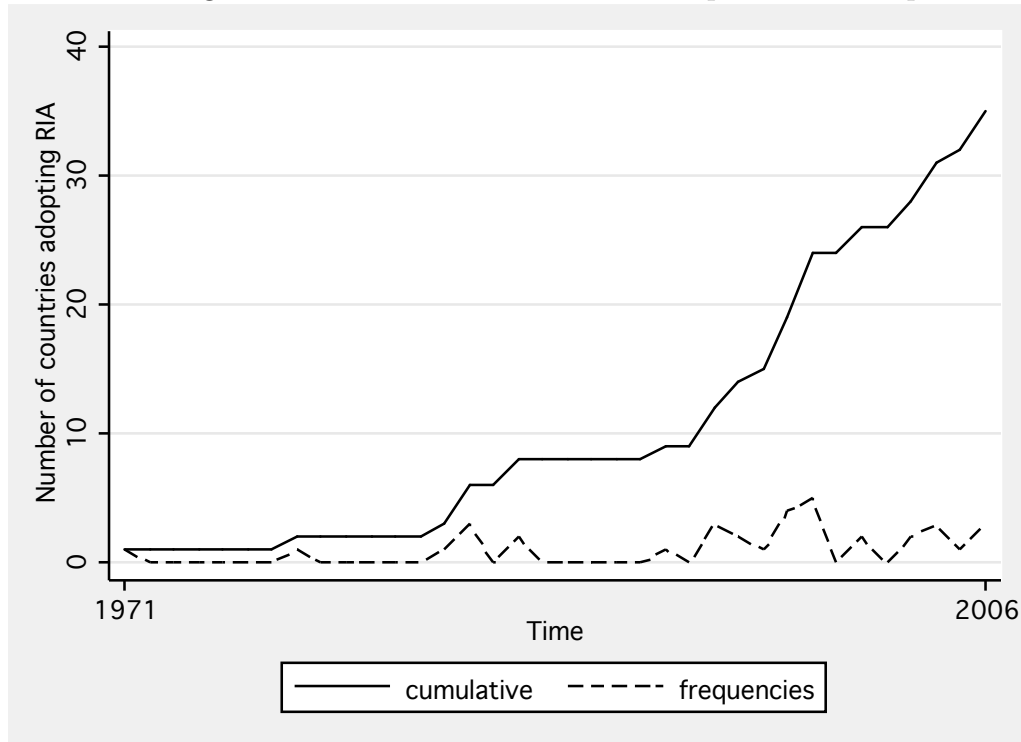
variation in diffusion pattern, derived by the international organisations' pressure on their member states. Indeed, the OECD (in 1995) and the EU (in 2002) formally endorsed a policy to enhance the quality of regulation. Indeed, 'vertical' hypothesis refers to the diffusion process facilitated by the adoption of higher level of governments (Gray, 1973, 1180–1). As a consequence, it is essential to distinguish between the vertical and horizontal (country-to-country cue taking) dimensions of diffusion (Menzel and Feller, 1977, 534).

These two important events can be used for distinguishing three categories of adopters, composed respectively of nine, seventeen, and nine countries:[3]

- the pioneers that adopted RIA before 1995, the year of the OECD's recommendations;

- the majority of countries that adopted RIA in and just after 1995;

- and the laggards that adopted RIA after the European Commission's launch of the 'Integrated Impact Assessment' system in 2002.

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[3]The pioneer and laggard countries represent around the 25% of the adopters, just marginally above the threshold identified by Rogers as a no-returning point of the diffusion process (See Note 5 in this Chapter). The majority is half of the adopters. This classification is in line with the normally distributed expectation.

Among the first group, there are almost all of the Anglo-Saxon countries. After the US, several Anglo-Saxon countries looked at the American experience and adopted RIA: Canada in 1978 (Stanbury and Thompson, 1982), Australia and the UK in 1985 (Froud et al., 1998), and New Zealand in 1995. But the emergence of RIA is not limited to the Anglo-Saxon countries, there is also a mixed group of European countries (Germany, the Netherlands, Hungary, Sweden, and Denmark).

1995 is a crucial year for the diffusion of RIA. In March, the Council of the OECD adopted the 'Recommendation on Improving the Quality of Government Regulation' (OECD, 1995). The OECD member countries committed themselves to pursue regulatory reform via a set of principles spelled out in a so-called 'Reference Checklist for Regulatory Decision-making' (OECD, 1995, 8). This checklist is the baseline for OECD review on regulatory reform progress achieved by each member country. This peer-review would be summarised in specific reports. Question No. 6 (Do the benefits of regulation justify the costs?) of the recommendation refers clearly to RIA. 'Regulators should routinely estimate the expected costs and benefits of each regulatory proposal and of feasible alternatives, and should make those estimates available in accessible format to administrative and political decision-makers.' (OECD, 1995, 16) It should not be surprising, indeed, that between 1995 and 2003, the majority of the OECD member countries governments (Austria, Belgium, Finland, France, Iceland, Ireland, Italy, Korea, Mexico, New Zealand, Norway, and Switzerland) enacted administrative requirements for appraising the economic impact of regulatory proposals.

The year 2001 sees another important event for the diffusion of RIA, especially among the EU member states. A group of national experts on regulatory reform gathered together and drafted the cornerstone document of the European better regulation, the so-called Mandelkern group report.[4] Throughout successive years, the report strongly promoted better regulation and RIA within the European political agenda (see for instant the Hellenic Presidency (2003)). Meanwhile, the European Commission (2001) published the

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[4]This advisory group took its name from the chairman Mr. Dieudonn Mandelkern, a French *Conseiller d'Etat*. It was made up of representatives of the then fifteen Member States. Officials from the European Commission's Secretariat-General also attended. An interim report was finalised at the end of February 2001 and considered by the Heads of State and Government at the Spring European Council in Stockholm. The group's final report was released in November 2001 and was tabled at the Internal Market Council on 26 November. It was considered by Heads of State and Government at the European Council in Laeken in December 2001.

White Paper on Governance, in which the adoption of an ex-ante appraisal system was reckoned crucial for enhancing European regulatory governance. In March 2002, the European Commission reformed its scattered *fiche d'impact* system—composed of thematic impact assessments, such as environmental impact assessment, gender impact assessment, social impact assessment, business impact assessment, and health impact assessment conducted by each directorate general in isolation—and proposed a system of 'integrated impact assessment', a document for presentation at the inter-service consultation. With the support of the DG Enterprise, the Secretariat General of the European Commission drafted the guidelines.

Further, 2002 is also the year in which a new European Administrative State has emerged. Another six European Commission communications were issued on policy formulation, ranging from consultation and the use of scientific advice to comitology and regulatory agencies (Allio, 2008, 56).[5] In 2005, the political discourse on RIA reached the highest level of attention. The European Commission recommended a common methodology at the EU and national level (European Commission, 2005*a*) and better regulation become a priority of the Lisbon strategy for growth and jobs (Radaelli, 2007), inserted in the EU mechanisms of facilitated coordination (European Commission, 2005*a*; Radaelli and De Francesco, 2007). This political agenda as well as the attention paid by the OECD to the Central and East European Countries (CEECs) through the SIGMA programme—a joint initiative of the OECD and the EU with the aim to promote administrative and regulatory reforms—might have facilitated adoption among the laggards, e.g. Bulgaria, Greece, Lithuania, Portugal, Romania, Slovenia, Spain, and Turkey, a mix of Mediterranean, usually considered late reformers (James and Manning, 1996; Peters, 1997; Torres, 2004), and former Socialist countries.

As mentioned, notwithstanding its diffusion, the methodology of the ex ante regulatory analysis varies across countries (OECD, 1997*b*; OECD, 2002*a*; Radaelli, 2005; Jacob et al., 2008). As suggested in the OECD checklist (OECD, 1995, 17), the OECD member countries have taken 'a pragmatic and realistic approach' in the adoption of RIA. In Swe-

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[5]The Communications were on general principles and minimum standards for consultation (COM(2002) 704 final); the collection and use of expertise (COM(2002) 713 final); simplifying and improving the Regulatory Environment (COM(2002) 278 final); a proposal for a new comitology decision (COM(2002) 719 final); the operating framework for the European regulatory agencies (COM(2002) 718 final); a framework for target-based tripartite contracts (COM(2002) 709 final).

den, there is, among others, a requirement to consider the impact of regulation on small businesses (the so-called SimpLex test). The German government's first experience with regulatory appraisal was a checklist on regulatory quality (the so-called Blue checklist). In Denmark, the government requires a compliance cost assessment and in the Netherlands there are the 'Table of Eleven' and three checklists covering the regulatory quality aspect on the economic, environmental, and technical and judicial quality of the drafting. Abandoning the primordial choice to assess exclusively (business) compliance costs, other countries, such as New Zealand and the UK, have embarked on a comprehensive methodology such as CBA and risk analysis. Such variance of the methodology in assessing the future impact of regulation has gone well beyond the methodologies reported by the OECD in its first book on the RIA experiences in the pioneering member countries (Viscusi, 1997).

5.3 Different patterns of emergence and institutionalisation of an administrative principle

The variance in the choices for RIA is not only limited to the economic methodology and technique but regards also the organisational design and the institutionalisation. On one hand, the innovation is re-invented in order to accommodate the organisational needs, on the other hand the adopting unit also is rearranged to fit the innovation (Rogers, 2003, 424). Across adopting units, the process of institutionalisation may vary (Lawrence, Winn and Jennings, 2001). This section focuses on a sample of pioneering countries, providing evidence for diffusion of RIA as a principle, a general lesson. Because the role played by the OECD and the EU is irrelevant, such choice is straightforward and justified in order to determine whether the American model has travelled around the world. Through a simple operationalisation based on the three logics of RIA (See Section 3.2), this section provides a qualitative analysis of changes in the methods, central oversight unit, and rules related to RIA.

Economic rationality logic and the wide application of the principles of welfare economics (Markoff and Montecinos, 1993, 42) can provide support if regulators are required to

avoid failures (Howlett and Ramesh, 2003, 35) through CBA. Once the need (in the case of market failures) and the efficiency (if a government has the capacity to correct, to supplement, or replace the market (Stokey and Zeckhauser, 1978; Vining and Weimer, 1990)) of a regulatory intervention has been established, CBA is an essential technique for selecting the most efficient policy option (Arrow, Kenney, Cropper, Eads and Hahn, 1996; Arrow, Cropper, Eads, Hahn, Lave, Noll, Portney, Russell, Schmalensee, Smith and Stavins, 1996; Howlett and Ramesh, 2003, 35).

Regulatory legitimacy and accountability is not a distinctive logic of RIA. For instance, in order to be held accountable by the Congress and courts, American regulators were in search of legitimacy well before the adoption of RIA (Freedman, 1978).[6] However, RIA, as a policy appraisal system, is an analytic decision framework and communication device capable of disciplining decision-makers and preventing their usurpation of power (Russell, 1990, 20). RIA is an opportunity for regulators to establish 'a formal analytic mechanism or set of conventions to collect, organize, summarize, and present information about alternative sets of outcomes to decision makers and the public' (Russell, 1990, 20). Shaping the concepts of legitimacy and accountability is a difficult enterprise. However, a solution is to refer to the undisguised principle that legitimacy can be achieved only when the bases of decisions are made explicit and open so that citizens can choose to exercise their oversight potential (Russell, 1990, 22). Accordingly, the focus is on a subset condition for legitimacy and accountability, that is transparency and, specifically, publishing.[7] Accordingly, the operationalisation of transparency is made through analysing the presence of a specific administrative requirement for publishing RIAs in the official journal. This choice to focus on the most formal way of publicising stems from the desire to benchmark the governments' commitment towards transparency.

The last logic considered is the centralisation of control over regulators. The history

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[6]In order to enrich congressional and judicial debate concerning the matters under their purview (Landy, Roberts and Thomas, 1994, 16), regulatory agencies are required to provide 'a clear and coherent picture of what the agency is doing and why' (Landy, Roberts and Thomas, 1994, 16), developing and communicating an analytical strategy for action that fosters deliberation and transparency. Such necessity of communication has required policy planning and dedicated staffs that apply systematic methods to the development and evaluation of government programs (Cook, 1988, 136).

[7]Publishing is an essential element of public participation. A precondition for developing public participation throughout collection of information and interaction (Carley, 1980, 81). 'The quality of information collected and the level of appreciation of the policy process by citizens will be proportional to the amount of publicising.' (Carley, 1980, 84)

of the American administrative system shows that presidents have always struggled to assert a more centralised control over the regulatory agencies (McDonald, 1994; Pildes and Sunstein, 1995, 11). After an initial period of a light-touch form of institutionalisation aimed at enhancing the coordination among executive agencies, a clear mandate was issued by President Reagan to establish a central unit (within the President's office) empowered to return regulatory proposals not complying with requirements of the RIA process. The presence of a central unit and its power to return a poorly assessed regulatory proposal are the variables concerning the extent of political control.

Table 5.1 clearly shows two different patterns of emergence, although the generalised absence of a substantial control mechanism and the lack of public disclosure and transparency (apart from Canada) must be borne in mind. Australia, Canada, and the US have a similar pattern of emergence with the choice for CBA and the establishment of a central unit. In the US, During the President Nixon administration, a memorandum by the OMB Director George Schultz required all regulatory proposals of the newly created EPA and OSHA to be reviewed in an interagency coordination process, the so-called 'Quality of Life' review.[8] The agencies were required to prepare and submit to the OMB a summary of the benefits and costs of each proposed regulation and its alternatives (McGarity, 1991, 18). In Canada, the government required a 'Socio-economic Impact Analysis' of the major social regulations for which regulatory costs were estimated to be over ten million dollars. The Treasury Board of Canada Secretariat (TBS) also demanded that departments publish a summary of the analyses in the Canada Gazette (Stanbury and Thompson, 1982, 8). The Australian RIA was introduced on a non mandatory basis in 1986, and publication was not required.[9] As a result, 'ministers and regulatory departments/agencies routinely eschewed preparation of RIS' (Argy and Jonhson, 2003, 22). Notwithstanding, the non mandatory basis a regulatory oversight body was established at the same time of the adoption of RIS (Argy and Jonhson, 2003, 23). The methodology has always been CBA.

On the other hand, the European countries (in particular Germany and the Netherlands) are characterised by a lean adoption. The regulatory appraisal system relied on checklists

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[8]Under the Nixon, Ford, and Carter administrations, the role of the central body 'was principally technical, consultative, and advisory' (Sunstein, 1996, 24) and the regulatory review was designed 'to increase interagency dialogue, coordination, and analytical precision' (Sunstein, 1996, 25).

[9]OECD database on formal policies of regulatory reform available at www.oecd.org/dataoecd/48/13/1910817.pdf, accessed on March 2006.

Table 5.1: Patterns of emergence and institutionalisation of RIA

Country	Year	CBA	Publication in official journal	Central Unit[a]	Substantial review (veto power)
At the time of adoption					
US	1971	Yes	No	Yes	No
Australia	1985	Yes	No	Yes	No
Canada	1978	Yes	Yes	Yes	No
Denmark	1993	No	No	Yes	No
Germany	1985	No	No	No (1999)	No
Netherlands	1985	No	No	No (1989)	No
UK	1985	No	No	Yes	No
Actual institutionalisation of RIA					
US		Yes	Yes	Yes	Yes
Australia		Yes	No	Yes	No
Canada		Yes	Yes	Yes	Yes
Denmark		No	No	Yes	Yes [b]
Germany		No	No[c]	Yes[d]	No
Netherlands		No	No[e]	Yes	Yes[f]
UK		Yes	No[g]	Yes	Yes

[a]The year of establishment is specified when it is subsequent to the adoption.

[b]But only on the part of RIA concerning with administrative burdens.

[c]Although the 2000 revised Joint Rules of Procedure stipulate that draft bills must include an explanatory memorandum (which should include an RIA) and an introductory summary sheet.

[d]Minister of Interior has the overall review power; Minister of Finance on impact of budget; Minister of Economic and Labour (general impact on economy).

[e]Although RIA supports the drafting of the explanatory memorandum.

[f]But only on the part of RIA concerning administrative burden.

[g]There is however a single internet portal collecting all RIAs.

aimed at increasing awareness of issues affecting regulatory quality, a limited approach to rationality applied to problem solving. Further, coordination among regulators is not enhanced through the establishment of a central unit. In particular, together with the 'Joint Rule of Procedure' for the German federal ministries, the 'Blue Checklist', endorsed by the Cabinet in 1984, was intended to discipline the regulatory process, introducing 'a broad set of issues for regulators to consider when preparing new federal legislation' (OECD, 2004a, 12).[10] Although for that time the Blue Checklist could be considered an innovative policy tool, compliance with the guideline was not monitored or sanctioned. In the Netherlands, a Prime Ministerial Directive defined the criteria of a regulatory quality and process for assuring the necessity, lawfulness, proportionality, legislative coherence, assessment of administrative burden, and effectiveness of new legislation. The directive was the result of the work conducted by the Ministry of Justice for achieving a more simplified regulatory environment, but the Ministry was not entitled to overview the regulatory process.

Denmark and the UK, by constrast, immediately established a central unit for regulatory reform. The Thatcher government adopted a the Compliance Cost Assessment (CCA), setting up the Enterprise and Deregulation Unit within the Department of Trade and Industry. However,

> '[t]he CCA exercise was the subject of an administrative direction, contained in a 'Concordat', and thus was envisaged primarily as an aid to policy-making *within* government. So, also, the central Enterprise and Deregulation Unit which coordinated and supervised the exercise was given no power to review

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[10]The checklist, spelled out in a guideline, was a set of the following questions:
- Is action at all necessary?
- What are the alternatives?
- Is action required at the federal level?
- Is a new law needed?
- Is immediate action required?
- Does the scope of the provision need to be as wide as intended?
- Can the length of the period for which it is to remain in force be limited?
- Is the provision un-bureaucratic and intelligible?
- Is the provision practicable?
- Is there an acceptable cost-benefit relationship?

the substance of regulatory proposals, thus distinguishing it from the US Office of Management and Budget.' (Froud et al., 1998, 12, emphasis in the original)

Coordination was also pursued in Denmark through the 1993 Prime Minister's circular on intra-governmental consultation on legislative proposals. The main focus of the regulatory appraisal system was on economic and environmental effects. In 1994, the Danish government drafted guidelines for business impact assessments and created a committee of representatives of business and of the financial/economic ministries to monitor the aggregate impact of new legislation on competitiveness. The methodology of the Danish RIA was (and still is) a collection of sectoral impact assessments on the environmental and financial sustainability, as well as on business and public sector administrative burdens.

Turning to the actual stage of institutionalisation, the lower part of Table 5.1 shows that, with the exclusion of Australia, all pioneering countries have modified and strengthened their RIA institutions. There is almost a complete institutionalisation among the Anglo-Saxon countries that were able eventually to unify all three logics and themes of regulatory reform. Also the Continental European countries have progressed toward a more substantial oversight of the regulatory process.

Since its adoption, RIA has been confirmed (Pildes and Sunstein, 1995) and institutionalised through the OIRA by successive American Presidents (West, 2004; Blumstein, 2001) and the innovation has always been reconfirmed until now. Through his E.O. 12,291, President Reagan was able to transform the 'rationalistic' appraisal strategy into an instrument for centralising the regulatory relief efforts. Indeed, a formal mechanism for OMB-OIRA oversight was defined, exercising a 'substantive control' over executive agencies (Sunstein, 1996, 25): 'Unlike its predecessors, E.O. 12,291 was intended to impose substantive restrictions on agency rulemaking as well as analytical requirements' (McGarity, 1991, 20).[11] On the other hand, the same E.O. has strenghtened the APA requirement guaranteeing regulatory transparency. Since 1981, indeed, the Federal Register has been detailing economic impacts at the stage of notice-and-comment and final rule publication, amelio-

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[11]The burden of proving the efficiency of a regulatory proposal shifted from the central unit to the executive agencies (McGarity, 1991, 21). The OMB could [and can] return a regulatory proposal to an executive agency if the accompanying economic appraisal is considered of poor quality.

rating the citizens' right to participate in the rule-making procedure.

After a slow pace and almost ineffective implementation of the Socio-Economic Analysis, the Canadian government, supported by various evaluation studies and an analysis of the American experience, enacted the crucial reforms in 1986 (Stanbury and Thompson, 1982). The 10 principles of regulatory quality were issued. A Regulatory Impact Analysis Statement (RIAS) has been required for every proposal having a consistent economic impact and its pre-publication in the official journal was made compulsory (OECD, 2002b). More recently, the Cabinet Directive on Streamlining Regulation clearly set the responsibility of the TBS to assure analyses are consistent with the overall government's regulatory policy and coherent with existing policies and the government's policy agenda. In order to do so, the TBS 'is expected to review regulatory proposals, challenge departments and agencies on the quality of regulatory analyses, and advise them when the directions set out in the Directive have not been met.' (Government of Canada, 2007, 16)

In Australia, only in 1997 were the administrative requirements within the regulatory process strengthened and RIS made mandatory. The central unit, the so-called Office of Best Practice Regulation (OBPR) within the Department of Finance and Deregulation has become a watchdog of the government's regulatory policy,[12] advising regulators on how to enhance the quality of their proposal, although without a substantial veto power. There is no requirement to publish RIS in the official journal.

The European cluster has clearly strengthened the control of the regulatory process through the parallel diffusion and implementation of the Standard Cost Model (SCM). The latter is a formula for quantifying the total cost borne by businesses for communicating with the public administration. It is a multiplication of three elements: the number of businesses affected, the frequency of information requirement, and the cost of producing and transmitting information required. In Germany, the Blue Checklist became mandatory in 1996 with a substantial revision of the joint rules of procedure for federal ministries (OECD, 2004a, 32). A further revision was necessary in order to demand that a summary of RIA within the explanatory memorandum that, however, is not published in the official journal. Three ministers are now in charge of the RIA process, i.e. the Minister of Interior,

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[12]Replacing the Productivity Commission, an independent and advisory body that has however held a relevant role in reporting to the government the overall quality of the regulatory environment and the evaluation of the better regulation policy.

Finance, and Economics and Labour. However, the degree of control is not substantial since the joint rule of procedures does not empower the three ministries to supervise other ministries' regulators who have the discretion to take into account feedback on the quality of a regulatory proposal.

However, more consistent steps towards institutionalisation have been made by the Danish and Dutch governments. These steps have overlapped with the emergence of a rigorous policy to cut administrative burdens. In the Netherlands,

> [i]n principle, ministries can take care of [business administrative burden assessment] themselves. However, the ministry of Finance monitors all legislative proposals and checks ex ante calculations made (new administrative burdens arising in the period 2003-2007 have to be compensated). Also the Dutch Advisory Board on Administrative Burdens (ACTAL) fulfils an important role, as a central government advisory body monitoring and advising the Dutch government on the reduction of the administrative costs.[13]

Moreover, stringent measures have been taken to control the production of new regulations and to reduce business administrative burdens through a ceiling specified for each ministry. This is a strong incentive to prevent additional administrative burdens, because rises must be compensated for elsewhere.[14]

Similarly, since 1999 the Danish government has strengthened the political control over regulators in two ways. Firstly, the Minister of Finance is now in charge of a substantial RIA quality control given that it is responsible for reviewing RIA prepared by ministries, based on the financial and administrative impacts, and, in particular, on business and overall economic effects' (Jacobs and OECD, 1999, 19, see also Italian, Irish, and Dutch Presidencies report—box 3.7). Secondly, this oversight has been strengthened even further by the decision of the Danish government, following the Dutch government's experience, to set up the target to reduce administrative burdens by 25% at the end of 2010.

Ten years after RIA adoption, the Blair government chose CBA as its methodology. This was an important improvement in order to legitimise RIA (Froud et al., 1998). Further,

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[13]www.compliancecost.com, accessed on March 2006
[14]www.administratievelasten.nl, accessed on March 2006

the central unit set up since the early days of the CCA has been flanked by independent bodies, such as the the Better Regulation Task Force, recently re-labelled Risk and Regulation Advisory Council, and the Small Business Unit, now abolished. The establishment of independent task forces is a trend observed also in the Netherlands with the creation of ACTAL. The regulatory process has been modified since the introduction of CBA. Indeed, there has been an additional phase added for monitoring the quality of regulatory proposals and analysis since the setting up of the Panel for Regulatory Accountability chaired by the Prime Minister. 'All regulatory proposals likely to impose a major new burden on business require clearance from the Panel for Regulatory Accountability...The Panel's consideration is based on a thorough RIA for the proposal being agreed by the Cabinet Office, before the proposal can be put to wider ministerial approval.'[15] The publication of RIAs is limited to departments' websites. The central unit for RIA, now established within the Department of Business, Innovation and Skills, is also running an internet portal collecting RIAs. The government has recently drafted a regulators' compliance code, based on the 2005 Hampton report on administrative burdens.[16]

Overall, this qualitative evidence has shown that the common pattern of RIA emergence is characterised by two phases. In the first phase, RIA has been used by the principal to enhance coordination among regulators. Such coordination was also achieved through the establishment of a 'coordinating' unit. In Australia, Denmark, Canada, the UK, and the US the establishment of such a body was simultaneous with the adoption of the administrative requirements of RIA. Germany and the Netherlands established central coordinating units well after RIA adoption. European countries had also a different modality

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[15]www.cabinetoffice.gov.uk/regulation, accessed on March 2006

[16]'The 'Hampton enforcement principles' are that:

- regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most;

- regulators should be accountable for the efficiency and effectivenss of their activities, while remaining independent in the decisions they take;

- no inspection should take place without a reason;

- businesses should not have to give unnecessary information, nor give the same piece of information twice;

- the few businesses that persistently break regulations should be identified quickly;

- regulators should provide authoritative, accessible advice easily and cheaply; and

- regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.' (www.cabinetoffice.gov.uk/regulation, accessed on March 2006)

to 'reinvent' rationality than that of Australia, Canada, and the US that preferred the welfare economics paradigm and CBA. In the European countries, instead, rationality was conceived as an analytical improvement of the problem solving process, relying on a system analysis paradigm. In the second phase, RIA has been used by the principal as a tool for controlling the regulators. In this phase there is a relevant change both in the administrative requirements and in the structure of the 'controlling' bodies in order to devise control mechanisms for overseeing regulators.

5.4 Conclusions

This Chapter evidences that RIA is a successful innovation that spread according to the 'typical' pattern of normally distributed adoption frequencies. In particular, two events might have facilitated the spread of RIA; the OECD's endorsement of regulatory reform and the European Commission's revamp of its policy appraisal system. Several qualitative findings indicate that RIA spread was accelerated by the combination of horizontal communication among countries and the international organisations' effort to 'broadcast' this innovation, diffusion communication channels which will be tested in the next Chapter. Moreover, the qualitative review of the process of emergence and institutionalisation among a sample of pioneer countries has shown that there is not a unique model of RIA. RIA is instead an administrative principle usually governed through a central unit. A principle that requires regulators to 'report'— in few cases in the official journal—costs or disadvantages and/or benefits or advantages. The empowerment of the central unit has transformed the coordination principle in a political control mechanism.

Given the absence of a unique model and the lack of evidence confirming policy transfer between the US and most European countries, one may be led to hypothesise a scenario of multiple sources of emergence. The European approach to regulatory governance is closer to a system analysis paradigm. Notwithstanding such differences with the Anglo-Saxon countries, almost all the pioneering European countries have shifted toward the purpose of controlling the regulators. Denmark and the Netherlands have strengthened political control over regulators, focusing on administrative burden. Reduction targets and methodology to measure administrative burden were important for this shift. Business

administrative burden assessment is now adopted in many other followers.[17] The reliance on a 'newer' and limited economic paradigm focusing on administrative burden for business still marks a relevant difference between the European pattern of institutionalisation, that revolves around the SCM and the reliance on internal checklist with a limited transparency and a lack of external control mechanisms, and the American 'cost-benefit state'.

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[17]www.administrative-burdens.com, accessed on May 2010

Chapter 6

Prerequisites of adoption and patterns of diffusion

6.1 Introduction

Typologies of rulemaking, attributes of innovation, and key events are useful elements to bear in mind in the empirical tests of the 'order of adoption'. This chapter derives empirical findings from the following questions: Are there explanations of the order of adoption? Are such explanations constant along the diffusion process? Collier and Messick (1975) have argued that 'systematic variations in the sequence' of adoption may occur. In order to capture the extent of variation in patterns of diffusion, the time which has elapsed since the first adoption of RIA has been divided into three periods of time, relying on the previously mentioned crucial events for the institutionalisation of RIA, i.e. the international agreement signed by OECD member states and the establishment of the European Commission's 'integrated impact assessment'.

Literature on cross-national adoption of policy innovations has distinguished between prerequisites or necessary conditions for and different patterns of diffusion (Collier and Messick, 1975; Bennett, 1997). This chapter juxtaposes different hypotheses about the formation of patterns of successive adoptions. From a diffusion perspective, the interaction model (Gray, 1973) and regional models (Collier and Messick, 1975; Bennett, 1997)

and, at the agency level, the assumption of 'innovation interrelationship' (Mahajan and Peterson, 1985) as well as the internal characteristics of potential adopters are gauged separately through soft statistical and qualitative analyses. The purpose of such an exercise is to assess the plausibility of each model and guide the selection of independent variables, to be tested by means of an integrated model of diffusion in the next chapter.

This chapter is structured as follows. The next section considers as the only necessary and sufficient condition the simplest diffusion model, that is the interaction model. It assumes that adopter governments' elites mingle with non-adopters' elites and share information about the advantages and disadvantages of the policy innovations. This model has been used exclusively among the American states, and, thus, requires adaptations when applied at the international level. Section 6.3 refers to the concepts of contingent and complementary innovations, testing the hypothesis that previous adoptions of different but complementary and integrated administrative requirements are predictors of the order of adoption of RIA. In order to distinguish specific patterns of diffusion, concepts of hierarchical and spatial diffusion are used. 'In the case of hierarchical diffusion, innovations appear in the most advanced or largest centres and are then adopted by successively less advanced or smaller units'. On the other hand, spatial diffusion considers as relevant 'spatial proximity' or 'major lines of communication' (Collier and Messick, 1975, 1306). Section 6.4 complements the discussion on the internal determinants, introducing the socioeconomic characteristics of the innovators, and Section 6.5 expounds the soundness of the regional model applied at the international level. Finally, Section 6.6 concludes by highlighting the most plausible patterns of diffusion.

6.2   The interaction model

The interaction model is the simplest explanation for diffusion (Mahajan and Peterson, 1985; Berry and Berry, 2007). It presumes that 'officials from states that have already adopted a program interact freely and mix thoroughly with officials from states that have not yet adopted it, and that each contact by a not-yet-adopting state with a previous adopter provides an additional stimulus for the former to adopt' (Berry and Berry, 2007, 226). This model implicitly relies on the concept of learning that is developed within

a social system (Gray, 1973; Mahajan and Peterson, 1985; Berry and Berry, 2007, 226). American political scientists assume that the social system is the community of American states; in a globalised world, however, one can hypothesise that the international organisations and transnational networks of policy-makers function as a social system.

The major feature of this diffusion model is the S-shaped trend of adoption, implying that the frequency of adoption over time is normally distributed and their cumulative distribution is similar to the cumulative normal curve (Gray, 1973). Figure 5.1 confirms the normality of the cumulative proportion of adopters. A more formal assessment of the shape of the cumulative adoption curve requires the formalisation of a model according to the following equation (Gray, 1973):

$$A_t = aA_{t-1} + bA_{t-1}(L - A_{t-1}) \tag{6.1}$$

where A_t is the cumulative proportion of states having adopted RIA in year t; A_{t-1} is the cumulative proportion of states having adopted RIA in year $t-1$; b is the coefficient of diffusion from interaction; L is the maximum possible proportion of adopters for RIA; and, consequently, $L - A_{t-1}$ is the pool of potential adopters in year t. In other words, equation (6.1) expresses '[t]he cumulative proportion of states having adopted any law at year t depends upon the proportion of states retaining the law plus some proportion b of the interaction between previous adopters and eligible adopters'. Usually, the coefficient of the first term A_{t-1}, a, is set equal to 1, given that States usually maintain their innovative programmes. This assumption holds also in this specific case, since all OECD and EU member states have not abandoned their RIA programmes. However, this model has been designed keeping in mind the interaction among the American States. In the US, national decision-makers meet periodically in the formal venues of the Council of State Governments. At the international level this model does not hold in the case of new independent states or where there is a lack of interaction among some countries.

Turning to the first issue, with $L = 1$ it is assumed that all adopting units have the potential to adopt the innovation (Gray, 1973, 67). L is a constant parameter to be estimated in order to take into account the 'compelling reasons' that make a state not susceptible to adopting a particular law. In particular, Gray refers to 'hard-to-amend

limitations in the state's constitution or values of political subculture [that] might cause a state's leaders to be practically immune to diffusion from interaction' (Gray, 1973, 67). In the case of RIA, however, Constitutions and political values play only a marginal role, but the parameter that represents the limit on the pool of eligible adopters can be used for considering the formation of new countries considered in the sample. Indeed, countries such as Estonia, Latvia, Lithuania, and Slovenia have acquired their independence at the beginning of the 1990s,[1] whilst the Czech Republic and the Slovak Republic have been formed as recently as the 1993. Accordingly, L is not always constant. Between 1971 and 1989, the pool of all potential adopters is thirty-two out of thirty-eight countries in the sample: $L = 32/38 = 0.84$. In 1990, $L = 0.87$; in 1991 $L = 0.95$ (36/38) and, finally in 1993, L is attested at 1. Accordingly, the equation (6.1) needs to be changed as follows:

$$A_t = A_{t-1} + bA_{t-1}(L_t - A_{t-1}) \tag{6.2}$$

By regressing such an equation, it is possible to assess the fit of the model. Although the variance explained by the model is extremely high .9879 (R^2) and, as expected, the intercept is really close to zero ($c = .0011$), the standard deviation of the coefficient b, that assumes the value 0.1452, is rather large at .102, signalling problems with the model (Gray, 1973, 1177).

Turning to the second issue, there is an evident flaw in applying this model to this specific case. Since the process of diffusion of RIA started in 1971 and the sample also comprises CEECs, which until the beginning of 1990s were socialist regimes, it is implausible to assume their interaction with Western countries and the US. A way to cope with this flaw is to modify the equation (6.1) on the basis of the assumption that only members of the OECD are able to interact, sharing information about administrative reforms, and, consequently, to adopt RIA. For the CEECs the participation with the SIGMA project (established in 1992) is considered sufficient condition for interaction. This is a plausible assumption since only Hungary adopted RIA before the ratification of the convention on the OECD or the participation in the SIGMA project.

Accordingly, it is necessary to change the limit on the pool of eligible adopters in equation

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[1]Lithuania in 1990; the others in 1991.

(6.2):

$$A_t = A_{t-1} + bA_{t-1}(O_t - A_{t-1}) \qquad (6.3)$$

where O_t is the proportion of countries that are involved in the OECD activities.

The $R^2 = .9886$ and the intercept very near to zero ($c = .00007$) denote again that the model performs well, explaining more than 98% of the variance. However, in this modified equation the impact of interaction is stronger than in the previous version ($b = .2391$ rather than .1452) and statistically significant (the standard error is .1167, $p = .049$). Thus, the OECD seems to play a role in facilitating the interaction among its and EU member states. Indeed, it is important to note that two of the three countries that have not adopted RIA yet, Cyprus and Malta, are also the countries that are not OECD members and only in 2005 have joined the SIGMA project.

Nevertheless, since the values for R^2 in each modified version of the model are extremely high, one can question the sustainability of the model. Further, the interaction (both at the EU and OECD level) is not a plausible model of the initial pattern of diffusion because the OECD have been dealing with regulatory reform and RIA only since 1995. In addition, several scholars also criticised this model for treating 'all potential adopters as totally undifferentiated actors who interact "randomly", that is, who are equally likely to have contact with all other members of the social system' (Berry and Berry, 2007, 228). To sum up, there are two criticisms of this model. Firstly, it does not take into account the peculiar features of each country. Secondly, it does not recognise that interactions among states are not random but follow precise (often institutionalised) logic (Berry and Berry, 2007, 228). Starting from contingent and complimentary innovations, the next two sections face each of these critics of the interaction model.

6.3 Contingent and complementary innovations

Table 6.1 shows the years of adoption of EIA, FOI laws, and an APA in each of 38 countries. Whilst the content and purpose of the first two legislations are well delineated

and common in all countries, the scope of the APAs vary across countries (Pigott, 2002, 380-1). Indeed, the American APA is unique in empowering a judicial review of rulemaking (Rose-Ackerman, 2007a; Kagan, 2001). In most of the other countries, law-making is excluded from judicial review. Moreover, as Chapter 4 has shown, there are different modes of regulatory review, conducted by the Council of State or Parliamentary committees.

Nevertheless, APA, adopted in almost the totality of the sample of countries, is the fundamental law for curbing administrative discretion and 'judicialising' administrative actions and decisions. Although in most countries the requirement to justify and notify the administrative decision is general and not specifically aimed at the regulatory activities, such a 'giving reasons' requirement is the cornerstone of the external accountability of public administration and can be considered as the first step toward a broader judicialisation of decision-making (Shapiro, 1992). A remark is necessary on the observations for the Anglo-Saxon countries for which the year of adoption of statutory instrument acts are considered.[2]

Table 6.1 shows that contingent and complementary innovations are a useful concept for capturing a broader sequence of adoption. Only three countries have adopted RIA before an APA: Latvia, the Netherlands, and Sweden; the latter two are pioneers. Only seven countries have adopted RIA before the adoption of an FOI law, i.e. Canada, Estonia, Germany, Hungary, Mexico, Switzerland, and the UK. Four of them are pioneer countries (Canada, Germany, Hungary, and the UK). Finally, only six countries adopted RIA before EIA: Denmark, Germany, Hungary, Norway, Sweden, and the UK; five of them are pioneers. It is important to note that Germany, Hungary, and the UK adopted RIA without having FOI legislation and EPA, and Sweden without APA and EPA. To sum up, previous adoptions of good governance innovations are a necessary condition, especially among the later adopters.

Ranking correlations among these policy innovations confirm this finding. The Kendalls tau b correlations are statistically significant at the $p < .05$ level for all three innovations (with the following values: 0.246 for APA, 0.25 for EIA, and .3 for FOI). The Spearman correlation is only significant for FOI ($rho = 0.4229$; $p = .0114$).[3] These results, how-

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[2]In such countries, it is the Parliament which reviews regulation, scrutinising the contents and terms of a statutory proposal.

[3]The Spearman correlations of APA are attested at the level of $rho = 0.3207$ ($p = .0604$) and

Table 6.1: Years and ranks of adoption related to RIA, APA, and FOI

Country	RIA	Rank of RIA	APA	Rank of APA	FOI	Rank of FOI	EIA	Rank of EIA
US	1971	1	1947	3	1966	3	1969	1
Canada	1978	2	1972	12	1982	8	1973	2
Germany	1984	3	1976	13	2005	35	1990	13
Australia	1985	4	1977	14	1982	8	1974	3
Netherlands	1985	4	1992	26	1978	6	1978	6
UK	1985	4	1946	2	2000	25	1999	30
Hungary	1987	7	1957	6	1992	14	2001	34
Sweden	1987	7	1986	20	1766	1	1998	29
Denmark	1993	9	1985	19	1970	4	2004	37
France	1995	10	1988	22	1978	6	1976	5
New Zealand	1995	10	1989	23	1982	8	1974	3
Norway	1995	10	1967	8	1970	4	1999	30
Estonia	1996	13	1993	28	2000	25	1992	15
Mexico	1996	13	1994	32	2002	31	1988	10
Korea	1997	15	1996	34	1996	18	1981	7
Belgium	1998	16	1937	1	1994	17	–	–
Czech Republic	1998	16	1967	8	1999	23	1992	15
Finland	1998	16	1982	17	1951	2	1994	21
Latvia	1998	16	2001	37	1998	22	1992	15
Austria	1999	20	1950	5	1987	12	1993	18
Iceland	1999	20	1993	28	1996	18	1994	21
Ireland	1999	20	1947	3	1997	21	1989	12
Italy	1999	20	1990	24	1990	13	1986	8
Switzerland	1999	20	1968	11	2004	34	1988	10
Poland	2001	25	1960	7	2001	29	2000	33
Slovak Republic	2001	25	1967	8	2000	25	1994	21
Bulgaria	2003	27	1979	16	2000	25	1995	25
Lithuania	2003	27	1994	32	1996	18	1997	27
Japan	2004	29	1993	28	1999	23	1997	27
Spain	2004	29	1992	26	1992	14	1986	8
Slovenia	2004	29	1986	20	2003	32	1993	18
Romania	2005	32	1993	28	2001	29	1995	25
Greece	2006	33	1999	35	1986	11	1990	13
Portugal	2006	33	1991	25	1993	16	1999	30
Turkey	2006	33	1982	17	2003	32	1993	18
Cyprus	–	–	1999	35	–	–	2002	36
Luxembourg	–	–	1978	15	–	–	1994	21
Malta	–	–	–	–	–	–	2001	34

Sources: Reynolds and Flores (2000); Sadler (1996); Seedern and Stroink (2002); GLOB-ALEX www.nyulawglobal.org/globalex, FAOLEX faolex.fao.org/faolex, accessed on June 2007; Collection of Laws for Electronic Access of the World Intellectual Property Organization www.wipo.int/clea/en/index.jsp, accessed on June 2007; Swedish Agency for Administrative Development (2005); Freedominfo.org freedominfo.org/index.htm, accessed on June 2007

ever, cannot directly be linked to any causal mechanism of adoption of policy innovations (Bennett, 1997, 219), since they are not sufficient conditions and plausible explanations for specifying patterns of diffusion.

6.4 Internal determinants: Economic growth and size of government

Innovations in administrative law have often been appreciated as a necessary corrective to growing bureaucratic power and 'government obesity' (Bennett, 1997, 219). Ultimately, as Rowat (1973, vii) put it administrative legislations are 'necessary new protections against bureaucratic bungling and abuses of power.' From a different (and organisational) perspective, the size of bureaucracy determines the capacity and the readiness to adopt. Indeed, policy diffusion literature refers to obstacles to innovation and the resources available to overcome them (Berry and Berry, 2007). Consequently, public administrations of greater size are more likely to innovate.

Early literature on policy diffusion has tested internal determinant models through cross-sectional regression analysis. The dependent variable is usually 'the earliness of adoption' and the independent variables are some measures of the political and socioeconomic characteristics. Some problems arise from this methodological choice, such as the year to consider for observing internal determinants. Essentially, there are three options: the year of adoption of the first country, the year of adoption in each country, or the mid-point of the diffusion cycle. Furthermore, the implicit and often implausible assumptions are that i) the internal determinants do not change substantially over time; ii) each state is a single and independent case in the analysis where only internal determinants matter (Berry and Berry, 2007, 241). Due to these limitations, the goal here is to find significant correlations between the earliness of adoption and internal determinants in order to identify which independent variables are more relevant.

The size of government is a multifaceted concept. It may refer, for example, to the financial assets, the annual expenditure, the number of employees, or the size of clientele.

EIA $rho = 0.2988$ ($p = .0861$).

(Hood and Dunsire, 1981, Chapter 4). Further measures of the size of government are composite. In order to measure and rank the freedom of economic activities across the world's countries, the term 'size of government' often labels indexes compiled by think tanks and research institutes such as the Fraser Institute and the Heritage Foundation. The Fraser Institute's index[4] has been selected at the beginning (1970) and in middle (1990) of the diffusion cycle; the Heritage foundation's index[5] in 1995 and in the year of adoption of RIA for each country. Another more traditional measure of government size is general central government current expenditure as a percentage of GDP (Bennett, 1997, 221), and has been considered in 1971, 1990, and in the year of adoption of each country.

Table 6.2 shows that only two measures are statistically significant: the general government final expenditure in 1971 and the Fraser Institute's size of government which, however, has opposite correlation with the 1990's index. These contrasting results lead to the necessity to choose for the integrated model to test through EHA only the measure of the government expenditure that also has more observations. Although there is no statistical significance, Graph 6.1 shows that in the earlier stages of policy diffusion a certain level of government consumption was a necessary condition for adopting RIA.

Table 6.2: Pearson correlations between the years of RIA adoption, indexes of size of government, and general government final consumption expenditure as % of GDP

	Fraser Institute 1970	Fraser Institute 1990	Heritage Foundation 1995	Heritage Foundation adoption year	Gov't expenditure % GDP in 1971	Gov't expenditure % GDP in 1990	Gov't expenditure % GDP adoption year
Years of adoption							
No. obs.	25	28	24	23	26	35	35
Pearson Correlations	.557**	$-.146$	.185	.099	$-.565**$	$-.290^{\dagger}$	$-.251$
p	.0038	.4571	.3872	.6509	.0026	.09	.146
Significance levels:	$\dagger < 10\%$	$** < 1\%$					

The second set of measures is related to the level of economic development of a country. The chosen indicator is the World Bank's GDP per capita (constant 2000 US $) in 1971,

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[4]Varying from 0 to 10 (where 10 represents the maximum level of freedom), this sub-index summarises four measures: general government consumption as share of total consumption, transfer and subsidies as a share of GDP, government enterprise and investment as a share of gross investment, and top marginal income tax rate.

[5]It varies from 0 to 100, where 100 represents the maximum level of freedom.

Figure 6.1: Timing of adoption by the level of government expenditure

Source: World Bank's World Development Indicators
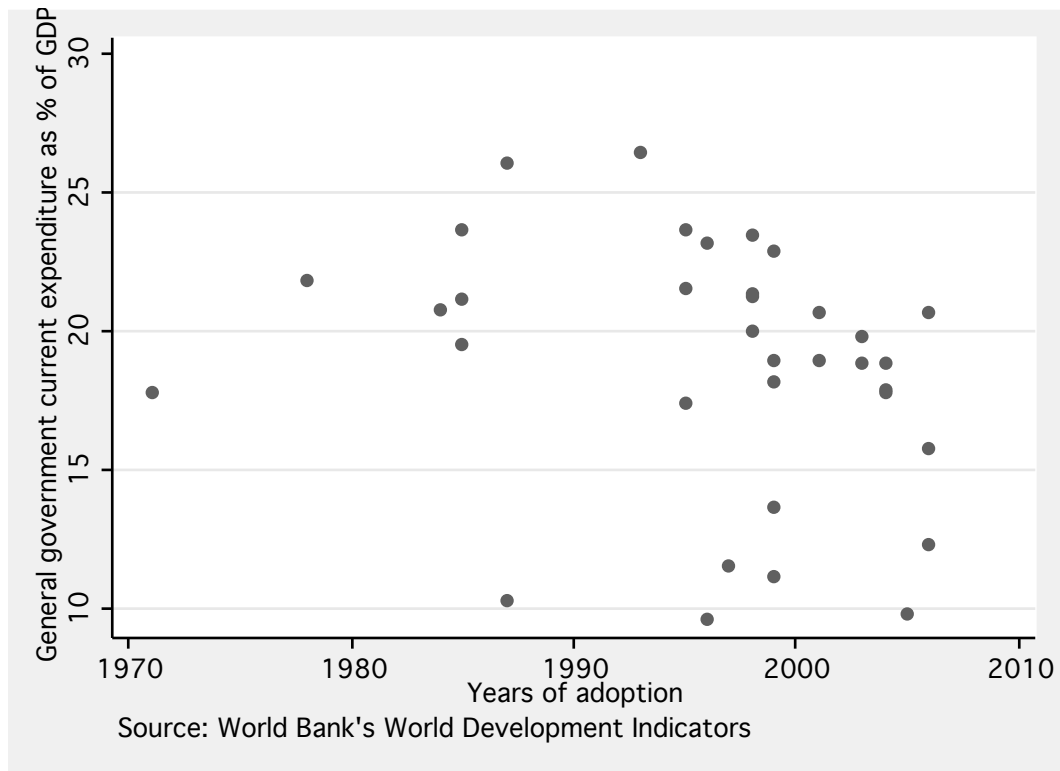
1990, and in the year of adoption in each country. Only with the correlation at the midpoint of the diffusion cycle the parameter is significant ($r = -.406$, $p = .0156$, See Table 6.3) and consequently the parameter should be treated with great caution. The following scatter graph (Figure 6.2) does not show a precise economic growth hierarchical pattern of adoption. Indeed, although in the initial phase of diffusion the adopter countries had at the time of adopting RIA the same level of GDP per capita, around the mid-1990s the innovation spreads regardless any hierarchical pattern. The later adopters, however, tend to be low-income countries.

6.5 Regional model

Spatial models of diffusion have been initially developed in the literature concerning policy diffusion among American States. Relying on different assumptions, such models assume that spatial proximity plays an important role in explaining diffusion patterns. Whereas in the neighbour model the probability of adoption can be positively related to the number of bordering States that have already adopted a policy innovation, the fixed region model

Table 6.3: Pearson correlations between the years of RIA adoption and GDP per capita

	GDP per capita 1971	GDP per capita 1990	GDP per capita adoption year
Years of adoption			
No. obs.	27	35	35
Pearson Correlations	− .327	− .406*	− .15
p	.096	.0156	.391
Significance level:	$* < 5\%$		

Figure 6.2: Timing of adoption by the level of GDP per capita

Source: World Bank's World Development Indicators
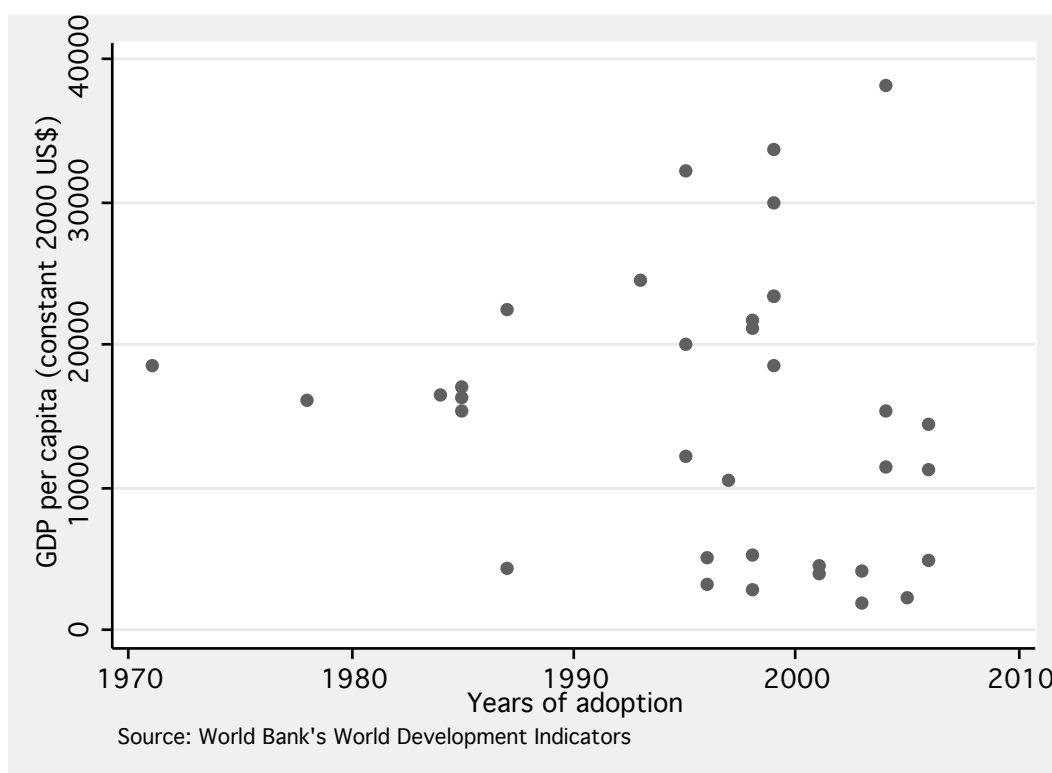
assumes instead that States learn from or compete with other states within the same region (Berry and Berry, 2007, 229). In other words, the two models differ on the assumption of the channels of influence: 'Fixed-region models presume (if only implicitly) that all states within the same region experience the same channels of influence. In contrast, neighbour models—by avoiding fixed regional groupings of states and instead pointing to the influence of all bordering states—assume that each state has a unique set of reference states for cues on public-sector innovations.' (Berry and Berry, 2007, 229)

Scholars interested in worldwide diffusion have not taken geographical proximity and composition of regions for granted. Country clusters are a specific outcome of analysis (Brams, 1966; Kopstein and Reilly, 2000). In this research strand, the focus in on spatial dependence, defined as 'the extent to which behavior in one state is a function of behavior in adjoining states' (Kopstein and Reilly, 2000, 35). It is comprised of two concepts:

- 'spatial stock' that encompasses 'assets, liabilities, or general qualities of a given unit... that shape the alternative available to decision makers' (Kopstein and Reilly, 2000, 13), and also shared international organisation membership (Brams, 1966, 885) as well as the neighbours' internal characteristics (Kopstein and Reilly, 2000, 13);

- 'spatial flow' that represents instead 'the movement of information and resources between countries' (Kopstein and Reilly, 2000, 13), captured by variables such as foreign direct investment, international trade, (Kopstein and Reilly, 2000, 13) and diplomatic exchanges (Brams, 1966).

These are useful concepts that will be considered in the operationalisation of the integrated diffusion model.

The main flaw of geographic diffusion within the international system is the over-reliance on spatial dependency. Indeed, also at the international level, concepts such as cultural commonality, historical connections (Weyland, 2006), and shared geopolitical and economic characteristics matter (Brooks, 2005, 281). In order to capture such other forms of proximity, one could also apply the idea of a fixed regional model for the analysis of a world-wide policy diffusion. In doing so, 'families of countries' are widely used in political analysis and public policy. Common legal and administrative heritage categorises Europe in British, Napoleonic, Germanic, Scandinavian, and Central and Eastern countries. In similar vein, legal origin provides another useful worldwide classification: English, French, German, Scandinavian, and Socialist legal origin countries (La Porta et al., 1999).

Mooney (2001, 110-1) suggested the initial stages of diffusion are characterised by relevant regional effects, whereas latter stages have a non-constant effect. Following his method (2001), Table 6.4 lists the average proportions of common legal origin countries. Whilst

Mooney calculated the average proportion of adjacent adopters Average Proportions of Adjacent Adopters (APAA),[6] Only countries of the same legal origin are assumed 'adjacent'. Figure 6.3 shows that the cluster effects are constantly positive, with a mostly linear and undirectional effect. In other words, legal origin has a constant effect on the order of adoption.

Figure 6.3: Observed average proportion of legal origin adopter

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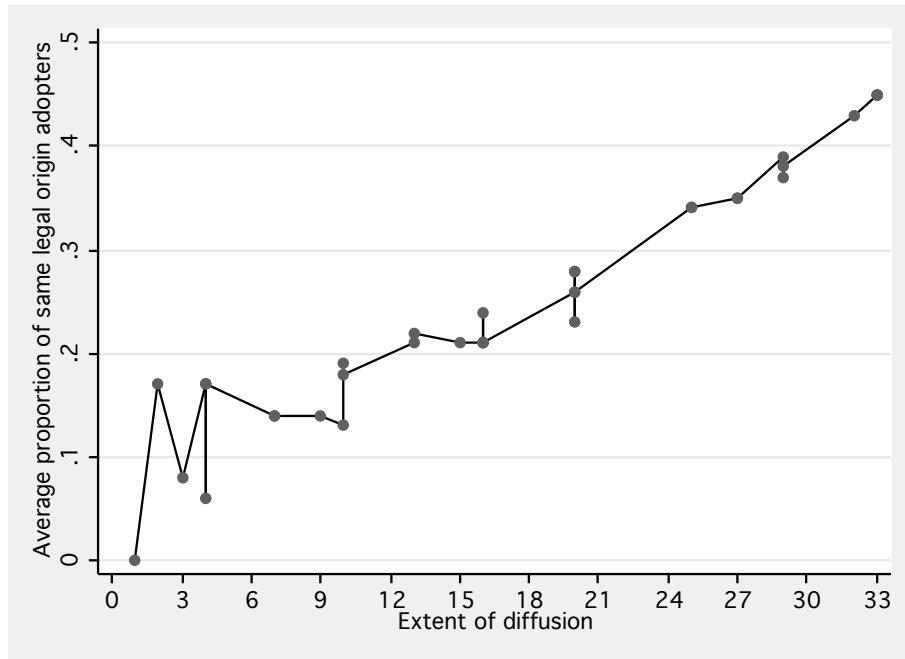
[6]This is a running average of proportions of neighbouring countries that had previously adopted the innovation. It is calculated by adding all previous proportions to the current one and dividing by the number of previous adopters (Mooney, 2001, 108).

Table 6.4: Average proportion of legal origin adopters for RIA diffusion

Country	Legal origin	Year	Extent of diffusion	Same legal origin adopters	Proportion of adopters	APAA
US	English	1971	1	0	-	-
Canada	English	1978	2	1	0.2	0.2
Germany	German	1984	3	0	0	0.1
Australia	English	1985	4	2	0.4	0.2
the Netherlands	French	1985	4	0	0	0.07
UK	English	1985	4	2	0.4	0.2
Hungary	Socialist	1987	7	0	0	0.14
Sweden	Scandinavian	1987	7	0	0	0.07
Denmark	Scandinavian	1993	9	1	0.25	0.16
France	French	1995	10	1	0.12	0.15
New Zealand	English	1995	10	4	0.8	0.23
Norway	Scandinavian	1995	10	4	0.8	0.23
Estonia	Socialist	1996	13	1	0.11	0.23
Mexico	French	1996	13	2	0.25	0.24
Korea	German	1997	15	1	0.25	0.23
Belgium	French	1998	16	3	0.37	0.24
Czech Republic	Socialist	1998	16	2	0.22	0.23
Finland	Scandinavian	1998	16	3	0.75	0.27
Latvia	Socialist	1998	16	2	0.22	0.23
Austria	German	1999	20	2	0.5	0.28
Iceland	Scandinavian	1999	20	4	1	0.31
Ireland	English	1999	20	5	1	0.31
Italy	French	1999	20	4	0.5	0.25
Switzerland	German	1999	20	3	0.75	0.25
Poland	Socialist	2001	25	4	0.44	0.38
Slovak Republic	Socialist	2001	25	4	0.44	0.38
Bulgaria	Socialist	2003	27	6	0.66	0.39
Lithuania	Socialist	2003	27	6	0.66	0.39
Japan	German	2004	29	4	1	0.42
Spain	French	2004	29	4	0.5	0.4
Slovenia	Socialist	2004	29	9	0.88	0.41
Romania	Socialist	2005	32	9	1	0.46
Greece	French	2006	33	5	0.63	0.46
Portugal	French	2006	33	5	0.63	0.46
Turkey	French	2006	33	5	0.63	0.46

It is important to note that among the pioneer countries that adopted RIA before the 1995

OECD agreement,[7] there are four Anglo-Saxon countries (Australia, Canada, the UK, and

the US) and five European countries (Denmark, Germany, Hungary, the Netherlands, and

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[7]To recall, instead of categorising on the basis of the normal frequency distribution (Rogers, 2003, 280-1) (through which innovators, early adopters, early majority, late majority, and laggards represent respectively the 2.5%, 13.5%, 34%, 34%, and 16% of adopter population), I rely on the two more important events which occurred during the diffusion process.

Sweden). To trace down if and how a policy had been transferred from one country to another, it is necessary to carry out a process tracing analysis (Weyland, 2006) and this goes well beyond the goal of this chapter. However, similarities in administrative style, socioeconomic conditions, as well as political ideology and cultural proximity played an important role in the transfer of the American experience with RIA among the pioneering Anglo-Saxon countries. For instance, the Canadian RIA has been adopted explicitly through learning from the US. This is reflected in the Federal government regulatory policy that imported most of the features of the American APA, such as the notice-and-comment procedure (Stanbury and Thompson, 1982). Further, the political ideology proximity was essential in the transfer of the American experience in the UK (Froud et al., 1998).

For the rest of the European pioneers it is more difficult to grasp how the innovation was transferred. Hungary is without doubt an exceptional case among the pioneers. At the time of adoption, Hungary had a low income per capita and had not yet adopted FOI law and EIA. Looking at the similarity in the methodology and the process (checklists for the drafters of legislation with not compulsory use of CBA) used in Denmark, Germany, and the Netherlands to assess the future economic impacts of regulatory proposals, one can conjecture that some interactions between these countries occurred. One the other hand, Sweden with its long tradition of regulatory agencies may be another exceptional case where no policy transfer occurred. It is also worth noting that among this group there are 6/7 of the core reformers group identified by James and Manning (1996) in their global survey of NPM.[8]

Among the majority of followers, the group of countries that adopted RIA between 1995 and 2002, when the European Commission set up the new integrated impact assessment, there are countries with different socioeconomic and political conditions. New Zealand and Ireland can be considered as the laggards among the cluster of the Anglo-Saxon countries. Mexico and Korea may be assimilated by the influence exerted by the US.[9] Vertical influences from the OECD may explain the adoption in the EU and OECD member states such France, Iceland, Italy and Switzerland, whilst geographical proximity to pioneers may be more relevant in countries such as Austria, Belgium and Norway. It is

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[8]This group is composed of Australia, Canada, New Zealand, the Netherlands, Sweden, the UK, and the US. New Zealand did not belong to this group, adopting RIA only one year later.

[9]See Ginsburg (2002) on the influence of the US in the adoption of APA in Korea and Japan, although the latter is a laggard

difficult to gauge which mode of interaction—geographical proximity with pioneer countries such as Hungary and Germany, the US economic and commercial hegemony, or the OECD's influence—has the stronger explanatory power without specific case studies. All the CEECs countries started participating in OECD network activities.[10] Six out of eight of the countries identified by James and Manning (1996) that have adopted significant administrative reforms are present also in this middle group of RIA adopters.

Finally, among the laggards, there are essentially two clusters of countries: the Central and Eastern European (Bulgaria, Lithuania, Romania, and Slovenia) and the Southern European member states (Greece, Portugal, Spain, and Turkey), all listed among James and Manning's less significant reformers.[11] In this latter stage of diffusion expert groups, several networks of national experts on regulatory reform and better regulation, have been set up by the European Commission and the Council (Radaelli and De Francesco, 2007), further facilitating interaction among EU member states.

6.6 Conclusions

Although the literature on diffusion of policy innovations is extensive, it is still necessary 'to define when and where diffusion becomes causally relevant in domestic policy choice' (Brooks, 2007, 701). This chapter provides empirical evidence of horizontal and vertical dimensions of diffusion. The vertical pattern of diffusion and the construction of a social system for the interaction tend to overlap. Indeed, although there is no coercion—even in the emerging 'European administrative space' member states are still free to choose the extent and modalities to reform their administrative regimes (Siedentopt and Speer, 2003), the vertical influence of the OECD and EU has been increased since the mid-1990s. Networks of high level civil servants and experts on regulatory reform might have played an important role in the diffusion of RIA through a quest for legitimisation mechanisms and, ultimately, in the Europeanisation of administrative requirements (Siedentopt and Speer, 2003, 23).

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[10]Also no-OECD countries, such as Estonia and Latvia, had been involved in OECD reform programmes under the aegis of the OECD-EU SIGMA programme that provides financial aids for modernising the public administrations.

[11]Together with Germany, a pioneer, and Switzerland, a majority adopter.

The initial phase of diffusion was characterised by the exclusive presence of the horizontal dimension of diffusion. Policy transfers and emulations are evidenced among the Anglo-Saxon countries. Assessing the same dynamic is more complex among the majority of adopters and European countries. For their socioeconomic and administrative characteristics, the cases of Hungary and Sweden are unique.

These findings confirm the hypothesis of variation in the sequence of diffusion explanations. Whereas pioneers generally have similar socio-economic and administrative features, laggard countries have lower economic growth. Overall, the diffusion of RIA is not a random phenomenon but is patterned, where the 'innovation interrelationship' with administrative innovations is a relevant element and generally a necessary condition for adoption.

Chapter 7

An Event History Analysis of the integrated model

7.1 Introduction

Internal determinants, previous administrative innovations, and horizontal and vertical diffusion patterns explain the order of adoption. Specifically, previous administrative innovations reveal the capacity of public administrations; the size of government and the extent of economic development are dimensions of adoptability, especially at the beginning of the cycle of diffusion. The role played by the OECD has also been proved through an adjustment of the interaction model for assessing the rate of adoption. In other words, different and combined patterns of diffusion impacted on the adoption of this specific innovation of regulatory governance.

Whereas the previous chapter conducted a series of preliminary and separated analyses of the most plausible explanations, this chapter tests a unified theoretical framework, focusing on the *probability of adoption* of country i in year t. Chapter 3 and, specifically, Section 3.5 relies on a theoretical framework for the formation of global trends of administrative reform and NPM. To recall, Salihn-Anderson (2001) identifies national (same responses to common global pressure), international (country-to-country communication), and transnational (international organisations as broadcasters of reforms) explanations of

administrative reform. The preliminary findings confirm that these three levels of analysis are necessary and indispensable for capturing the complexity of a phenomenon such as adoption of an administrative innovation, that is now assessed through a discete EHA. The next chapters, 8 and 9, go beyond adoption, assessing the capacity of government in implementing and evaluating the innovation.

This chapter is structured as follows. The next Section formulates the hypotheses of adoption and diffusion of RIA, referring to the three levels of the theoretical framework. Section 7.3 highlights the methodological choices made in order to achieve accuracy in the statistical analysis. Section 7.4 summarises the results of the EHA, and, finally, Section 7.5 remarks on the explanatory role of each internal and external determinant.

7.2 Hypotheses of RIA adoption and levels of analysis

A comprehensive research strategy with three levels of explanation, such as the Sahlin-Andersson (2001) framework, is not novel in diffusion studies (Dobbin et al., 1988). Starting from the internal determinants, several hypotheses can be formulated. The first hypothesis concerns the adopter's rationality and institutional capacity. Adopting innovation is a complex process developed from a public organization's accumulated stock of knowledge and skills (Boyne et al., 2005, 423). This rationalist and functionalist perspective regards innovations as interconnected, contingent, and complementary, following predictable patterns of adoption. 'Past experience and the cumulative stream of innovation will aid the process of innovation adoption.' (Boyne et al., 2005, 423) Accordingly, RIA may be predicted to be adopted only after other administrative innovations, such as EIA and FOI law, innovations with stronger ranking correlations and homogenous datasets.

Hp 1a: Previous adoption of EIA increases the likelihood of adopting RIA.

Hp 1b: Previous adoption of FOI law increase the likelihood of adopting RIA.

The second set of hypothesis of national formed trend refers to the concept of administrative complexity and the extent of modernisation of a given country. As Bennett (1997) put

it, the increasing complexity of modern systems requires a rational administrative system so as to enhance capacity and efficiency. In order to do this, administrative management needs to be based on supervision and control through the standardisation of procedures. RIA is an instrument of information that facilitates political control of the bureaucracy. The greater the complexity and size of a government, the greater the necessity to enhance the flows of information and strengthen the political control, solving all sorts of problems that involve transaction costs.

Hp 2a: The greater the size of a government, the higher the likelihood of RIA adoption.

On the other hand, Ackerman and Sandoval-Ballesteros (2006) argued that there is no clear relationship between economic development and wealth and the adoption of administrative innovations. However, as the diffusion process goes on, it is also plausible to predict that low income countries would catch up with the pioneers and richer countries in adopting administrative reform. This imitative process has been described as 'hierarchical diffusion', that is a tendency for each successive adopter to adopt at a progressively lower level of economic growth (Collier and Messick, 1975, 1308).

Hp 2b: Adoption of RIA is negatively associated with economic development and wealth.

Finally, the third national-level hypothesis is about the extent of a government's accountability, since the main purpose of administrative law is to strengthen the development of liberal democracy. Accordingly, new control mechanisms are necessary in order to keep the expanded executive institutions accountable to citizens and parliaments. As Peters (1992, 212) argues, administrative institutions and their bureaucracies are important elements of the social and political environment that can trigger or hinder the search for efficient administration and management. In particular, administrative culture and state tradition 'play a role in defining the way in which administration is conducted, and the receptivity of the administrative system to change' (Peters, 1997, 78).

How can one conceive external accountability and administrative culture? Regulators' external accountability refers to the regulatory review process. RIA, notwithstanding its main purpose of being a hierarchical control mechanism between the political principal and the bureaucratic agent, affects and strengthens the regulatory review. Chapter 4 has shown that there are different modalities in which government regulations are scrutinised

for their quality and lawfulness. Because of the wide application of an APA, in the United States and in South Korea courts function as external reviewers. In common law countries, on the other hand, the quality control of delegated legislation is conducted directly by dedicated Parliamentary committees. Civil law countries rely instead on the consultation of an independent constitutional body such as the Council of State. Finally, in Germany, there is a marginal ex-post regulatory review. One may expect that the extent of external accountability is stronger in countries with direct and judicial review. It is relevant in countries where external review is conducted by the Parliament and weaker in countries like Germany and civil law countries where the review is marginal or consultative. A further step would be to link the extent of external accountability with the adoption of RIA. The argument is that administrative tradition—reflected in the modes of reviewing regulation—has an impact on the likelihood of adopting RIA.

Because of the lack of data for all the 38 countries of the sample regarding the different modalities of regulatory review, I rely on the categorical variable of 'legal origin'. This variable has been used by La Porta, Shefler, and their Harvard associates (1999) as a variable of government quality, determining the difference across countries in terms of economic performance. This variable will probe the hypothesis of 'fixed regional' diffusion, in which spatial proximity matters less than common cultural and historical background in defining the patterns of horizontal communication among countries (Berry and Berry, 2007).

Hp 3a: English legal origin countries are more likely to adopt RIA.

Hp 3b: French and German legal origin countries are less likely to adoption RIA.

Turning to the internationally formed explanations and the other modalities of horizontal information exchange, another set of alternative hypotheses can be formulated. A rationalistic explanation would be based on economic pressure or conditions that influence national reforms and are international (rather than national) conditions. In this context, several authors refer to the concept of economic competition (Dobbin, Simmons and Garrett, 2007). The indicator is usually the share of trade that a country has with all the other countries. This is because the country's position within the international trade networks indicates potential sources of change pressures, in this case, for rationalising regulatory

governance. This variable has been also used for measuring the relative position of a country in the 'world society' (Meyer et al., 1997; Drori, Meyer and Hwang, 2006).

Hp 4: The higher the trade openness of a country, the higher the likelihood of adopting RIA.

Another operationalisation is necessary to appreciate the source of influence and to capture whether the idea of RIA has travelled from the United States, the pioneer country. In order to appreciate the importance of the US as a source of influence and to capture how adversarial legalism has travelled from the US, Kelemen and Sibbitt (Kelemen and Sibbitt, 2004) showed that between 1985 and 1999, the number of offices of American law firms in Western Europe more than doubled.[1] The stock of US foreign direct investment (FDI) is used here as a broader measure of the extent of economic influence from the US in a given country.

Hp 5: The higher the stock of foreign direct investment from the United States, the higher the likelihood of adopting RIA.

Finally, the transnationally formed hypotheses refers explicitly to the OECD that has been active—since 1995—in the promotion and dissemination of RIA and better regulation tools. The OECD has a series of mechanisms to promote the adoption of administrative reforms and innovations. Accordingly, the first hypothesis to test is the role of the OECD as a communication facilitator, a central broadcaster of regulatory reform. It is a prerequisite for sharing ideas of administrative reform.

The OECD has other political mechanisms for disseminating knowledge on reforms of administrative and political-economic governance, beyond its members (Mahon and McBride, 2009). SIGMA is a partnership project between the OECD and the European Commission that provides funds to the EU new member states. It was launched in 1992 to help countries in Central and Eastern Europe modernise their public governance, but it was extended to support EU candidate administrations as well as European Neighbours and Partners (SIGMA website). Administratively, the SIGMA project is led by the same OECD directorate in charge of the thematic area of regulatory reform, which is the Public

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[1]'American firms have flourished in Europe because they had the size, forms of organisation, and experience in legal fields that became vital for corporate clients in the increasingly liberalised market.' (Kelemen, 2006, 112).

Governance and Territorial Development Directorate. Working papers available at the SIGMA website demonstrate that SIGMA has been promoting better regulation and RIA since 1996 (OECD, 1997c; OECD, 1997d; OECD, 1997e). This project promotes administrative reform, providing advice, peer reviews and assistance, analyses of institutional and legal frameworks, networking, drafting of handbooks and reference material, and training (SIGMA website).

*Hp6a: Since 1995, the longer a country participates in OECD **or** SIGMA networks of experts on regulatory reform, the higher the likelihood of adoption RIA.*

*Hp6b: Since 1995, the more a country participates in OECD **and** SIGMA networks of experts on regulatory reform, the higher the likelihood of adoption RIA.*

Since the 1995 agreement on regulatory reform, the OECD has published peer-review reports on countries' progress in this specific political economy. The process is a sort of naming-and-shaming mechanism, even if the report is approved by the member state under review. One can predict that a member state in order to be considered smart, innovative, and legitimate among its peers will adopt RIA in the three years immediately before and after the publication of the report. SIGMA has carried out inquisitive functions since 2004, as it has been reviewing the regulatory management capacities of the new ten EU member states. Accordingly, the OECD monitoring and surveillance process has been widened to no-OECD member states.

Hp7 An OECD or SIGMA member state is more likely to adopt RIA three years before and after the publication of the OECD's regulatory reform report.

Table 7.1 summarises the models with variable and data source associated with each hypothesis that have been tested via a discrete event history analysis (EHA), producing logit maximum likelihood estimates (MLE) that are presented in the next Section and Table 2 shows the descriptive statistics of the independent variables.

Table 7.1: Models of diffusion of RIA

Model 1: Internal determinants and fixed regional effects

Adoption of RIA = EIA + FOI law + GDP + Gov't expenditure + legal origin

Hps	Independent variables	Description	Data source
1a	EIA	Adoption dummy variable	(Reynolds and Flores, 2000); www.faolex.com; (Sadler, 1996)
1b	FOI law	Adoption dummy variable	www.freedominfo.org
2a	GDP per capita / 100000	GDP per capita (constant 2000 US$)	WB development indicator
2b	Gov't expenditure	General government final consumption expenditure as % of GDP	WB development indicator
3	Legal origin (LO)	Set of dummy variables for legal origin	La Porta (1999)

Model 2: Model 1 + horizontal diffusion

Adoption of RIA = Model 1 + openc + US FDI / 10000

4	openc	Export plus import divided by GDP is the total trade as % of GDP	Penn world table
5	US FDI / 10000	Stocks of American direct investment abroad	Bureau of Economic Analysis

Model 3: Comprehensive model

Adoption of RIA = Model 2 + OECD network + OECD report

6a	OECD network	No. of years of better regulation networking within OECD or SIGMA	Author's calculation
7	OECD report	Dummy variable: oecdrep = 1 if report published three years before and after adoption	Author's calculation

Model 4: Comprehensive model

Adoption of RIA = Model 2 + Total OECD network + OECD report

6b	Total OECD network	Sum of years of better regulation networking within OECD and SIGMA	Author's calculation
7	OECD report	Dummy variable: oecdrep = 1 if report published three years before and after adoption	Author's calculation

7.3 Event history analysis and its methodological issues

Since Berry and Berry (1990), the application of EHA has became established among policy innovation studies. The EHA model explains a 'hazard rate', which is the unobservable probability of a country to adopts RIA in a specific year. However, the observed dependent variable is dichotomous: whether a country adopts RIA (ria = 1) or not (ria = 0). The dataset for analysis is called the 'risk set, and is a pooled cross-sectional time-series, being composed of an observation for each unit at each time period during which the unit is at risk of experiencing the event.' (Berry, 1994, 325) Accordingly, once a country adopts RIA, no observation is collected in successive years. The dataset starts in 1968, three years before the adoption of the first country, the United States, instead of making the common choice of starting the data collection after the first adoption, excluding from the analysis the pioneer. Exclusion of the first country is not justified in the baseline model of adoption based exclusively on internal determinants. Furthermore, a carefully conceived time frame is recommended by Heichel et al. (2005, 830–1), noting that most of the diffusion studies overlook this important element of the research design. To clarify, 1968 is considered a key year, indicating the start of formation of neo-liberal ideas and ideology.

A further specification is necessary for the choice of the EHA model. The logit model has been preferred because it describes the event probability in a distinct observation time window (with the individual binary information 'event occurred: yes or no') whereas in the Cox model the response variable is given as the time elapsing before the event occurs, which is commonly called 'survival time' (Langner et al., 2003, 1). This feature of the logit model allows for flexibility in the analysis. In particular, it can accommodate the complication related to the late entry of a country in the risk set because of its later independence (Beck, Katz and Tucker, 1998, 1272–3). Czech Republic, Estonia, Latvia, Lithuania, Slovak Republic, and Slovenia have been considered as late entries, entering in the risk set as they get independence.

Further, in the logit model the standard treatment (for most statistical packages) for missing data is the deletion of any case containing them (Beck, Katz and Tucker, 1998). The so-called 'casewise' deletion has been implemented in this research, although this

method reduces the sample size to 919 and 860 out of a possible 990 observations, which is a 7% and 13% reduction.[2]

However, there are also three specific warnings or specification issues related to the logit model (Buckley and Westerland, 2004). The first one is related to the likelihood that the observations are temporally dependent. This issue is particular relevant in a diffusion analysis which aims to assess how policy diffuses over time (Mooney, 2001; Buckley and Westerland, 2004). In order to consider 'time seriously' (Beck, Katz and Tucker, 1998) and avoid the unrealistic assumption of a constant hazard rate, a simple precaution has been taken. Following Carter and Signorino (2009) and Buckley and Westerland (2004), I have inserted three time variables t, $t^2/10$, $t^3/100$ in the discrete EHA. This cubic polynomial requires little effort to implement and is effective in avoiding the problem of quasi-complete separation[3] caused by the use of time dummy variables. It is important to note that given the choice of considering the above mentioned new independent countries as late entries in the dataset, the polynomial cubic count variables associated with such countries have been reset, associating a value of $t = 1$ with the year of their independence.

The second issue concerns the selection of an appropriate functional form that, according to Buckley and Westerland (2004), should be guided by appropriate substantive and statistical theory. The issue here has to do with the underlying distributional assumption within a logit model that the maximum marginal effect occurs at the value $\pi = .5$. This may lead to model mis-specification when the distribution of the observed values of y is particularly skewed for the presence of few 1's (as many as the countries that have adopted the innovation) and hundreds of 0's. This is precisely the case with policy diffusion, that is indeed an analysis of 'rare events' (King and Zeng, 2001). In order to face this issue, alternative models, which control the degree of skewness in the error distribution, have been tested. Accordingly, robustness checks have been performed testing the models through the rare event model (King and Zeng, 2001) as well as by complimentary log-log regression (Buckley and Westerland, 2004). The coefficients and their statistical significance do not vary substantially, minimizing concerns that the frequency of the dependent variable

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[2]Beck, Katz, and Tucker (1998, 1274) have argued that missing data on a logit model is not a problem so long as the correct time variable(s) is retained and thus there are no missing data on the dependent variable. Both conditions are respected in the risk set used for this analysis.

[3]This is a major problem in logistic regression because the coefficients of predictors almost perfectly determine the value of the dependent variable, determining the noexistence of maximum likelihood estimates (Allison, 2008).

might skew the empirical results.

Finally, although the problems with the logit model and the discrete EHA model's assumption of temporal independence have been solved, diffusion studies are also about spatial dependency. A solution to relax the logit model's assumption of independent observations is to use '[r]obust variance estimation [that] allows for the relaxation of the assumption that the error terms are identically distributed, and clustering allows the further relaxation of the assumption of independence between observation in the data.' (Buckley and Westerland, 2004, 105). Robust standard deviations have been computed clustered by countries, not by regions, because the model already takes into account the cultural and legal proximity with the legal origin dummy variables.

7.4 Empirical results

The previous Section has specified the preference for the discrete EHA model and the issues related to the model specification and robustness checks. Table 3 presents logistic regression coefficients for the four models specified in Table 1. The maximum likelihood method was used to predict adoption of RIA from the model of internal determinants (including variables such as GDP per capita, government expenditure, EIA, FOI law) and fixed regional effects (including a set of variables featuring the legal origin).[4]

The first model fits significantly better than an empty model: the likelihood ratio chi-square is 78.405 (with 11 degrees of freedom) and the Wald Chi-square is 110.882, both at $p = .000$. The Hosmer-Lemeshow Chi-square (6.02 with a $p = .6446$) is also a good indicator that this first model fits the data well. Like the others, the model has neither collinearity problem.[5] However, the model contributes only marginally to correctly predicting the event (the percentage of adjusted correct predictions is 5.7%) because of the extremely high percentage of cases in the modal category.

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[4]In the model the set of legal origin dummy variables is the following: English LO = 1 for the English law countries; 0 otherwise, Scandinavian LO = 1 for the Scandinavian, French LO = 1 for the French legal origin countries, and German LO = 1 for the German legal origin countries. Communist countries are the reference group. This choice is justified by the fact that the formulation of the hypothesis relies on the concept of extent of transparency and judicial review, concepts that are not well developed in communist countries.

[5]Excluding two variables of the the time polynomial cubic variables ($t^2/10$ and $t^3/100$, collinearity was tested in Stata through the 'collin' command.

Two variables are statistically significant predictors of RIA adoption: French LO at the level of $p < .001$ and FOI law at the level $p < .005$. The coefficients and their levels of statistical significance are also confirmed through the alternative models: the rare event (RE) logit model, and the complementary log-log regression or gompit model. Where the alternative models differ from the logit model is in the account of government expenditure and Scandinavian legal origin. The former predictor is significant in the gompit model at the level of $p < .05$[6]; the latter is significant at the level of $p < .1$.[7] The logit regression results can also be interpreted using discrete change of predicted probabilities when these dichotomy predictors change their values from zero to one (see Table 4). With all other variables held constant at the mean, the discrete change of predicted probability associated with the prior adoption of FOI law is .0234, with an interval of confidence running from .0021 to .0448. The discrete changes of predicted probabilities related to French and Scandinavian legal origin are negative, - .0233 and - .0117 respectively.

Overall, in the first model the stronger predictors are the French legal origin of the adopting unit and the previous adoption of FOI law. These findings strongly support the hypothesis of administrative capacity and rationality: governments do not adopt RIA without previously adopting complementary and contingent innovations, in this case FOI law. It is important to note that the high level of significance of FOI law overshadows the other tested innovation, EIA.[8] Indeed, in a model without FOI law, the EIA variables would be significant at the level of $p < .001$. Although a government's tendency to be open and transparent is of significance, the national and independent pattern of adoption is partially explained by the administrative tradition. In fact, if the results confirm the English/common law countries as the greatest innovators, with the least negative predicted probability, and the French countries as the laggards with the statistically significant and higher predicted probability, then unexpectedly the German countries are closer to common law countries, and quicker to innovate than the Scandinavian. Consequently, belonging to a specific legal origin cluster, or in other words, to a fixed regional group based on common administrative tradition, explains the delay in adopting RIA.

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[6]$p = .039$, instead of $p = .076$ in the RE logit, and $p = .057$ of the logit

[7]$p = .051$ in the RE logit model; $p = .058$ in the gompit model.

[8]The null hypothesis that the effect of previous adoption of EIA is equal to the effect of the previous adoption of FOIA cannot be rejected ($W = .47$, $p = .4932$). Thus the two innovations do exert the same effect in the adoption of RIA.

Turning to the second model, two other independent variables have been added to the first model, i.e. American direct investments abroad and the extent of trade openness. Again, the overall fit is reasonable, although there is a reduction in the percentage of adjusted correct predictions to the level of 3.3%. The Hosmer-Lemeshow Chi-square is 8.82 at the significance level of $p = .3574$. Through a Wald test on the restriction that the added variable coefficients are zero, we can observe *openc* does not improve the model significantly.[9] Performing conjointly the test for both variables, we obtain $W = 3.76$, $p = .153$, signalling that we cannot reject the hypothesis that these predictors did not matter. However, *US FDI* is marginally significant at the level of $(p < .1)$ (also confirmed in the rare event logit and complementary logistic regression), marginally confirming the hypothesis of the impact of countries' interconnectedness with the United States on the adoption of RIA, the horizontal and emulative diffusion model. This result tends to confirm Lee and Strang's (2006) findings on public sector downsizing. Countries' economic cooperation with the United States (measured by Lee and Strang by the extent of trade with the United States) is positively related to administrative reform: the marginal effect, the change in the predicted probability due to an infinitesimal change in the value of this predictor is .0032.[10] Horizontal dynamics of diffusion are, however, not represented by the economic openness of a country toward the rest of the world, found by Drori and her colleagues' (2006) to be a stronger predictor of rationalised governments.

Turning to the internal determinants, the stronger predictors are FOI law, confirmed however only at the level of $p = .014$ in the RE logit model, and government expenditure, confirmed at the same level of significance $p < 0.01$ also in the alternative models.[11] On the contrary, the French legal origin variable has dropped at the level of $p < 0.1$ due to the combined effect of US FDI and openc. Indeed, excluding one of these two variables results in French LO maintaing its significance at the level of $p < .05$ (excluding openc) and $p = .001$ (excluding US FDI). The discrete changes in all three predictors are smaller than in the first model. This is due to the combination of the non-increased capacity of the model to correctly predict the events and the insertion of the two horizontal diffusion predictors.

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[9]$W = 0.92$, $p = .3368$ for openc; $W = 3.9264$, $p = .0565$ for US FDI.

[10]By marginal effect is also meant the the largest possible change in the slope of the logit function.

[11]Government expenditure has raised its significance level given the fact that this variable and US FDI exert a similar effect on the adoption of RIA: $W = 1.32$, $p = .2513$.

American direct investment is a marginally significant variable with approximately the same marginal effects of the previous model. In model 4, however, this variable raises its significance level and marginal effect, although this is not confirmed by the RE logit that keeps the significance level of this predictor at the level of $p < 0.1$. GDP per capita is marginally significant at the level of $p < .1$, confirmed also by the RE logit and gompit model, and in the expected direction.

Turning to the two comprehensive models, two variables have been added to the previous model, i.e. OECD network and OECD report. To recall, *OECD years of network* measures the time length of a given country's participation in the regulatory reform OECD networks. The counting starts in 1995 for the OECD member states and in 1996 for the SIGMA members.[12] For several countries, the membership of the OECD and SIGMA overlapped. Accordingly, an additional variable, *total years of OECD networks*, sums the participation in both networks whilst providing a hint of network intensity. The models fit the data well, especially Model 4. The Wald Chi-square and the pseudo R^2 are significantly higher than previous models. This is also reflected in the percentage of adjusted correct prediction, reaching a level of 6.7% and 10% as well as in the fourth model's Hosmer-Lemeshow Chi-square $= 8.12$, $p = .4216$. Performing a Wald test on the hypothesis that each of the coefficients are equal to zero, we can reject the null hypothesis that OECD network variables do not exert any effect on the adoption of RIA ($W = 4.67$, $p = .03$ for model 3; $W = 11.42$, $p = .00007$ for model 4). The strength of such predictors is also confirmed in the alternative models and evidenced by their marginal effects in the probability of adopting RIA. In particular, for every unit increase in OECD network variables, the predicted probabilities increase by a factor of 0.003. Among the significant predictors of model 2, FOI law drops its significant level at the level of $p < .1$, confirmed in the gombit model but not in the RE logit model. On the contrary, government expenditure is still significant at the level of $p < .01$. The statistical significant for this variable is not confirmed by the RE logit model for model 4. In model 3, American direct investment is a marginally significant variable with approximately the same marginal effects as those of the previous model. In model 4, this variable however raises its significance level and marginal effect, however this is not confirmed by the RE logit that keeps the significance

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[12]Even if the SIGMA project started in 1992, specific projects on RIA started only in 1996, as evidenced by three working papers (OECD, 1997c; OECD, 1997d; OECD, 1997e).

level of this predictor at the level of $p < 0.1$. GDP per capita is marginally significant at the level of $p < .1$—confirmed also by the RE logit and gompit model—and in the expected direction.

Overall, this comprehensive model stresses the importance of different sources of communication about and transfer of innovation. The role of the OECD is, however, limited to its mediative function. The reports on OECD member states' regulatory management capacity does not affect the probability of adopting RIA. Together with the lack of a unique model of RIA and more broadly the absence of a global paradigm of administrative reform, these results demonstrate that emulation is, in this case, driven by the extent and frequency of governments' interaction with the networks of the regulatory reform champions, the United States, and the change agent, the OECD. The latter is more a 'facilitators' of good lessons than a 'norm teacher' (Finnemore, 1993). The predicted direction of government expenditure probes the hypothesis of RIA as a tool for political control of bureaucracy driven by the rise of complexity in public administration.

7.5 Conclusions

This chapter has provided evidence for the diffusion of RIA among EU and OECD countries. The hypotheses rely on a three-fold explanatory model in order to capture the 'null hypothesis', as well as on international and trasnationally formed patterns of diffusion. Following the literature on diffusion of administrative reform, the fixed regional model was assumed to be based on administrative cultural tradition rather than on geographical proximity. Interconnectiveness has been captured through specific measures of horizontal and vertical modes of diffusion, which emerge as stronger determinants of adoption. However, communication among countries has been somehow selective, with the US commercial partners being more likely to adopt RIA. On the other hand, no empirical finding supports the hypothesis that countries more exposed to trade competition or better positioned in 'world society' also have a significant probability of adoption. The role of OECD as a promoter of administrative reform has been confirmed by countries' length of time and total number of years spent in networks of regulatory reform. However, normative pressures of peer review mechanisms for enhancing regulatory reform did not have a major

impact on (at least) the governments' choice to adopt RIA.

The MLE shows a picture which is not completely clear with regard to the results associated with the internal determinants of adoption. The relationship between administrative capacity and innovation (Mahajan and Peterson, 1985) has been a relevant explanation in the internal, the fixed regional model, and horizontal model. On the other hand, government expenditure emerges more strongly as a predictor in the last two models, partially probing the political control hypothesis. The legal origin variables set to capture the administrative tradition and the fixed regional model matter only in the first model and with unexpected predicted probabilities. Overall, the explanatory framework holds reasonably well considering the complexity, as mentioned by Sahlin-Andersson (2001), of discerning and associating each specific measure to one of the three levels of explanation.

Further analysis should improve these empirical findings, especially as regards two aspects. Firstly, a better operationalization is deemed necessary, especially at the level of the transnationally formed trend. Detailed information about the composition, activities, and engagement of each government within the OECD network could better specify what type of causal mechanism is associated to the international organization's role. Secondly, an analysis of what has been adopted and implemented, and ultimately whether and how RIA has been evaluated and whether and what governments have learned from this regulatory governance innovation could feed back the alternative explanation of diffusion.

Table 7.2: Descriptive statistics for variables employed in the Empirical Analysis

Variables	No of Obs	Mean	Std Dev.	Min	Max
ria	991	0.0353	0.185	0	1
eia	991	0.312	0.463	0	1
FOI law	991	0.269	0.444	0	1
gdp per capita / 10000	936	1.305	0.908	0.133	5.463
govexp	919	16.876	4.519	5.69	29.55
English LO	991	0.151	0.359	0	1
French LO	991	0.373	0.484	0	1
German LO	991	0.149	0.357	0	1
Scand. LO	991	0.138	0.345	0	1
Socialist LO	991	0.188	0.391	0	1
openc	976	71.77	44.065	5.4	302.52
US stock FDI / 10000	936	0.505	1.07	-0.0004	12.5146
Years of network	991	0.77	2.119	0	12
Total years of network	991	.803	2.21	0	14
OECD report	991	0.217	0.412	0	1

Table 7.3: Discrete Event History Analysis of RIA adoption.
Standardised logistic regression coefficients with robust standard errors (clustering by countries: 38 in Model 1; 37 in the others)

Variables	Model 1 (Rob. Std. Err.)	Model 2 (Rob. Std. Err.)	Model 3 (Rob. Std. Err.)	Model 4 (Rob. Std. Err.)
EIA	$0.919^\dagger$	0.868	0.653	0.593
	(0.537)	(0.584)	(0.605)	(0.610)
FOI law	1.520**	1.670**	$1.171^\dagger$	$1.146^\dagger$
	(0.519)	(0.609)	(0.682)	(0.666)
GDP per capita/10000	0.284	-0.868	$-1.104^\dagger$	$-1.123^\dagger$
	(0.288)	(0.631)	(0.604)	(0.619)
Gov't expenditure	$0.118^\dagger$	0.165**	0.189**	0.176**
	(0.062)	(0.054)	(0.057)	(0.065)
English LO	-0.541	0.408	1.403*	2.004**
	(0.611)	(0.670)	(0.671)	(0.767)
French LO	-2.294***	$-1.286^\dagger$	-0.585	-0.139
	(0.624)	(0.772)	(0.871)	(0.957)
German LO	-1.302	0.592	1.478	$2.130^\dagger$
	(1.008)	(1.023)	(0.990)	(1.149)
Scand. LO	-1.888*	-0.001	1.168	1.756
	(0.932)	(1.190)	1.172)	(1.271)
US stock FDI/10000		$0.435^\dagger$	$0.431^\dagger$	0.450*
		(0.228)	(0.226)	(0.228)
openc		0.005	0.006	0.006
		(0.006)	(0.006)	(0.006)
Years of network (OECD *OR* SIGMA)			0.364*	
			(0.148)	
Total years of network (OECD *PLUS* SIGMA)				0.475**
				(0.141)
OECD report			0.138	-0.257
			(0.662)	(0.740)
t	0.259	0.355	0.175	0.080
	(0.211)	(0.313)	(0.353)	(0.371)
$t^2/10$	-0.148	-0.168	-0.021	0.061
	(0.111)	(0.158)	(0.198)	(0.205)
$t^3/100$	0.029	0.029	-0.003	-0.021
	(0.017)	(0.024)	(0.034)	(0.035)
Intercept	-7.684***	-9.940***	-10.468***	-10.335***
	(1.565)	(2.142)	(2.184)	(2.305)
N	919	860	860	860
Log-likelihood	-109.5	-92.454	-90.387	-87.441
Wald $\chi^2_{(11)}$	110.882	93.714	185.463	257.80
Pseudo R^2	0.264	0.29	0.31	0.3281
% of adjusted correct predictions	5.7	3.3	6.7	10

Significance levels: $\dagger < 10\%$ $* < 5\%$ $** < 1\%$ $*** < 0.1\%$

Table 7.4: Differences in predicted probabilities (PP) of dummy variables, and marginal effects (ME) for continuous variables and their confidence intervals at 95% (other variables held constant at their mean)

	Model 1		Model 2		Model 3		Model 4	
Indep. var.	PP change 0→1	Confidence interval	PP change 0→1	Confidence interval	PP change 0→1	Confidence interval	PP change 0→1	Confidence interval
FOI law	0.0234	[0.0021, 0.0448]	0.0188	[0.0007, 0.0370]				
English LO					0.0164	[-0.0098, 0.0426]	0.0289	[-0.0142, 0.0721]
French LO	-0.0233	[-0.039, -0.0067]						
Scand. LO	-0.0117	[-0.021, -0.0024]						
			ME	Confidence interval	ME	Confidence interval		
Gov't expenditure			0.0012	[0.0003, 0.0021]	0.00127	[0.0003, 0.0022]	0.0011	[0.0002, 0.002]
US stock FDI			0.0032	[-0.009, 0.0073]	0.0029	[-0.0008, 0.0065]	0.0047	[-0.0009, 0.0065]
Years of OECD network					0.0032	[-0.0002, 0.0065]		
Total of OECD network years							0.003	[-0.0000, 0.006]

Chapter 8

The scope of implementation of RIA

8.1 Introduction

Policy diffusion researches tend to focus on the impact of internal and external determinants on patterns or probabilities of adoption (Collier and Messick, 1975; Clark, 1985; Berry and Berry, 2007), overlooking the *scope* of change. There are only a small group of theoretical papers promoting the study of diffusion as a dynamic process (Downs and Mohr, 1976; Downs, 1976; Lamothe, 2004; Lamothe, 2005), and, in addition, a few empirical studies on the extent of adoption (Clark, 1985; Glick and Hays, 1991; Hays, 1996*a*; Hays, 1996*b*). Furthermore, scarce attention has been paid to the link between adoption and extent of implementation of public policies because of the implicit assumption that 'all states adopt exactly the same policy' (Clark, 1985, 63).

In order to put aside such an unrealistic assumption and propose a different perspective in the study of diffusion, this chapter analyses the extent of variance in the implementation of RIA. Following Clark (1985, 61), the scope of implementation, an aggregated indicator based on OECD surveys and two additional data sources, is introduced in terms of its relationship with categories of adopters and adoption timing. Taking account of the typologies of adopters enable us to formulate specific hypotheses on institutional capacity.

Pioneer countries are assumed to have, across time, greater resources to invest in policy formulation, and, consequently, given the incrementalism effect, they tend to have the most extensive policy at any point in time (Clark, 1985, 64). On the contrary, holding true the coercion and emulation mechanisms, the assumption to test is the marginal variance among countries.

The characteristics and attributes of RIA, related to governments' capacity to adjust, adapt, and mould this administrative innovation, are also considered (Rogers, 2003). This is reflected in the different logics of adoption captured through dimensions of clarity of the regulatory policy and legal mandate to pursue regulatory reform, financial resources and the overall institutionalisation, the strategic use of RIA and its integration to other policy goal, and overall legitimacy. These dimensions are not exclusive. On the contrary, one can argue that governments with a larger extent of implementation are willing to achieve simultaneously different and sometimes contrasting goals.

This chapter is structured as follows. Section 8.2 reviews the few available studies on the scope of change and policy reinvention and, relying on theoretical insights, formulates the hypotheses to test. After a brief description of the datasets used (Section B), Section 8.3 illustrates the methodology for deriving the implementation score. Section 8.4 presents the major results and Section 8.5 concludes.

8.2 Implementation in the literature of RIA and policy diffusion

A part from probabilities and rate of adoption, policy diffusion literature tends not to consider other dependent variables. Most of the scholars have been interested in explaining or testing why countries had been waiting so long before adopting a certain policy innovation. This is an oddity since classical diffusion researches recommend us to analyse what is happening after the time of adoption (Rogers, 2003). Later stages are also relevant for understanding if and how an innovation has been reinvented (Hays, 1996a; Hays, 1996b; Hays, 1996c; Hays and Glick, 1997) and when an innovation would reach its maturation and become obsolete, preconditions for further innovations (Rogers, 2003). In short, an

analysis of the policy innovation adoption stage is patchy.

This is particularly true for administrative reforms. Scholars have evidenced that changes in public administration rest on the institutional path dependency (Melo, 2004; McGuinn, 2004) and administrative traditions (Peters, 2008, 1997), resulting in a great variance of the institutional choices for and logics of RIA (Radaelli, 2005; Radaelli, De Francesco and Troeger, 2008, See also Chapter 5 on RIA as a principle rather than an innovation model). For instance, Smith (1996, 274) emphasised the difference between the US and the European Union's approach to regulatory reform: 'Regulatory reform in Europe has been debated more in the context of competitiveness, a perennial European concern, than in the context of deregulation, cost/benefit analysis, and risk assessment'.

The relationship between scope of change and diffusion is essentially two-fold. Firstly, different logics and purposes of regulatory reform lead to different degrees of implementation. Combining each sub-component of the implementation index into a specific rationale for RIA, one can simply assume that the extent of an RIA programme is broader when governments want to achieve at the same time diverse and sometimes contrasting goals, such as political control, economic rationality, and external accountability.

Secondly, diffusion explanations can provide further useful insights on the extent of implementation. The empirical findings confirmed the soundness of the adoption model that envisages the null hypothesis of diffusion, assessing the strength of internal determinants, together with modes of interdependency. Each of those three levels of analysis can be associated to certain degrees of implementation. A strong impact of the internal determinants, such as legal origin, size of government, economic growth, and complimentary and contingent innovations, on adoption would determine a large variance in the implementation of RIA and, consequently, maintain the persistence of national features. Indeed, pioneers generally have greater resources, administrative capacity, and information, and given the usual effects of incrementalism, their policy may be more extensive than those of laggards at any point in time (Clark, 1985, 64). Turning to the transnational level of diffusion, the role and influence of the OECD can lead to two different implementation modes. It has been argued that the OECD has developed two different functions, the mediative and inquisitive functions (Mahon and McBride, 2009, See Section 3.5.2). Specifically, the imposition of a neat and precise diffusion model would require control and a much greater

use of coercion power from the OECD (Weyland, 2006, 56) towards its members, especially towards the followers and laggards, through peer-reviewed benchmarking exercises (Lodge, 2005). Yet the mediative function conducted through the provision of technical advice and expertise networks can facilitate the promotion of general principles and variety in implementation. Finally, horizontal diffusion is characterised by the extent that an adopting unit is connected to the US and open to trade. This emulative mode of diffusion has affinities with the coercion from international organisations (Weyland, 2006, 39) and, accordingly, it can lead to a lesser degree of variety in implementation. In other words, 'if laggards typically borrow the programs of leaders in order to simplify their decision-making environments, then there may be little interstate variance in program breath.' (Clark, 1985, 64).

Another expectation can be derived from the literature on 'policy reinvention', defined as a general tendency to increase the scope of a law along the diffusion process. Taking into account all amendments occurring over time, Hays (1996b) tested the relationship between comprehensiveness of policy, measured both at the time of adoption and at the current time, and the year of adoption. Positive and statistically significant correlations would represent a constant 'amendment process [that] enables the earliest adopters to increase the scope of their laws as they learn from their own experiences or from those of subsequently adopting states.' On the contrary, the persistence of diversity can be a function of the needs and circumstances of the particular countries and is unrelated to the year of adoption (Hays, 1996b, 554).

Unlike Clark and Hays' works, this chapter focuses on the extent of implementation rather than comprehensiveness in terms of legal provisions. The latter approach is not possible because a database of laws and regulations (enacted in all 38 EU and OECD member states) concerning regulatory reform as well as RIA guidances does not exist. Nevertheless, the OECD published in 2007 the results of its latest survey on the OECD member states' capacity to produce high-quality regulations (Jacobzone, Choi and Miguet, 2007; Jacobzone et al., 2007), making it possible to extrapolate measures for an index of implementation scope. For the reasons explained in the next Section, two additional data sources at the most are used in order to integrate the new EU member states that are not OECD countries.[1] They are the outcome of the previously mentioned two research projects: EVIA

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[1]These complementary databases are the OECD RIA inventory and the annual reports pre-

and ENBR. These projects have developed country fiches and databases on RIA, covering the contents of guidelines as well as broader and structural measures of implementation, such as legal mandate, financial resources, and the extent of institutionalisation. It is also important to note that as EVIA and ENBR databases are not longitudinal (for each country single observation data were collected between 2005 and 2007), only the relationship between the actual extent of implementation and the years of adoption could be assessed, in contrast to the above mentioned literature that focused also on the extent of reinvention.[2] However, since most of the EU countries adopted RIA in the last decade and assuming a limited 'reinvention' on account of the short time span, this should be enough for drawing major conclusions. Specifically, a positive relationship, meaning that later adopters implemented RIA more extensively than the first adopters, suggests that early majority and laggards learn comprehensibly or emulate the leaders. On the contrary, a negative relationship suggests a selective mode of learning based on internal and administrative features.

8.3 The implementation score

8.3.1 Theoretical insights for constructing the implementation score

Following Williams (Williams, 2002, 396-8), I have assembled the implementation score according to the following three dimensions of institutional innovation.

- The legal dimension is concerned with rules and procedures stemming from 'ministerial mandates which assign legal responsibilities and delineate those who can make authoritative policy decisions from those who cannot'. This dimension 'alters policy procedures and organizational position in ways that enhance autonomy,

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pared by the EU member states for the DG Enterprises Charter on small and medium sized enterprises (SMEs) and the Lisbon strategy for competitiveness. These documents contain specific questions on the national governments' progress on better regulation and RIA. In 2005, the European Commission presented a score-table composed of 11 elements of better regulation (European Commission, 2005*b*).

[2]Although, the OECD conducted three rounds of survey, the time span covered (1998–2006) is only a small portion of the overall diffusion period, 1971–2006. Thus the OECD is also not able to represent the extent of reinvention.

agenda control, and ability to contest alternative policy proposals. An example is a presidential decree establishing a central unit with a clear and overarching mandate for the promotion of regulatory reform.

- The organisational and decisional dimension refers to how 'technocratic appointees construct new bureaucratic entities'. Their 'decision rules ...specify who can participate in the decision-making process and how collective choice are reached when legitimate participants disagree'. This dimension of implementation 'centralizes decision making authority in single-purpose units [and] alters organizational position and enhances [the technocrats'] autonomy; [it] displaces conflict over reform initiatives' and ultimately changes the way regulators think and behave. An example is the institutional arrangement of the regulatory process: the central unit has the authority to veto a regulatory proposal or to review and, ultimately, oversee decision-making through an economic methodology such as CBA.

- The strategic dimension concerns standards to 'maximise the efficiency of resource expenditure required to secure procedural changes or create effective new policy instruments'. This dimension 'alters institutional arrangements in ways that ensure [a] future stream of preferred outcomes via most efficient expenditure of resources'. An example is the use of CBA to review existing regulations, the creation of a regulatory budget to limit the flow of new regulation, and ex-post review of regulatory reform and better regulation programmes.

In short, the first dimension is about the legal and political mandate for regulatory reform and regulatory quality management; the second refers to the central oversight unit and its independence; the third looks at the capacity of an embedded innovative framework to maximise benefits of established administrative rules and procedures.

Another theoretical modality to arrange the analysis of implementation is to consider the three rationales of RIA adoption: enhancing the empirical basis of decision-making, controlling and increasing the internal accountability of regulators, and improving regulatory legitimacy. The first two logics have been associated to each of three implementation dimensions (legal, organisational, and strategic). The latter dimension is used to draw the fourth dimension of the implementation score.

8.3.2 Elements of the implementation score

The implementation score revolves around four different dimensions of regulatory reform implementation: the legal, organisational and procedural, strategic, and legitimacy dimensions. Tables 8.1, 8.2, 8.3, and 8.4 summarise the data sources,[3] the selected items, the implementation score sub-component values (usually dichotomous values 0 and 1), maximum values of each sub-index, and the countries with missing data.

The items of the legal dimension (Table 8.1) refer to the existence of an explicit policy for better regulation, the establishment of regulatory reform objectives, principles of good regulation, ministerial responsibility for better regulation, and the degree of compulsory RIA. In several cases, data for Bulgaria and Romania are missing.

The organisational and decisional dimension (Table 8.2) is the most crucial dimension for understanding how the incentive structure within the bureaucracy has changed as a consequence of the legal mandate given by the political agent to technocrats or high-level civil servants. This dimension essentially measures the institutionalisation of a central unit, its authority to oversee the regulatory process, its autonomy (i.e., the number of staff employed), as well as more general measures of the presence of criteria to select proposals, the presence of guidelines, and the requirement to rely exclusively on CBA.

The strategic dimension (Table 8.3) refers to the magnitude of sophistication achieved in the implementation, i.e., whether RIA requirements and regulatory quality concepts can be extended to the supranational and/or regional level of governance; the presence of systematic review of existing regulations; the comprehensiveness of economic analysis to include also a competition impact, and the extent of integration with other administrative requirements of the regulatory process (such as consultation). The last column in each of those three tables indicates whether the implementation measure can be associated to the rationale of achieving economic rationality (EC) or to political control (PC). In few cases the measure can be regarded as 'Not Applicable' (N.A.), since the element of implementation cannot be related exclusively to a specific rationale of adoption.

Finally, the last dimension considered concerns the magnitude of legitimacy that regula-

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[3]Mainly the OECD surveys (including the OECD-SIGMA report on regulatory reform among the 10 new EU member states), ENBR, EVIA, and few other complementary sources such the European Commission SME Charter.

Table 8.1: Legal dimension

Indicators	Data sources			Missing data	Adoption rationale
	OECD	ENBR	EVIA		
Explicit regulatory reform or better regulation policy	Is there any explicit, published regulatory policy promoting government-wide regulatory reform or regulatory quality improvement	Is there an explicit policy (adopted by the government, cabinet or in law) promoting government-wide regulatory reform or regulatory quality improvement (i.e., a 'better regulation' policy or programme?	Key documents, law(s) and decree(s) establishing RIA framework	None	N.A.
Objectives of regulatory reform	Does the regulatory policy establish explicit objectives of reforms?	Do(es) the regulatory policy(ies) establish explicit objectives to be achieved by improving regulatory quality (e.g. reducing costs on business, improving compliance, etc)	The rationale for and the aims of RIA is: Explicit = 1; Implicit = 0	None	ER
Principles of regulatory quality	Does the regulatory policy set out explicit principles of good regulation?	Are the following principles explicitly included in the regulatory quality/reform programme(s) 0 = None; 1 = Otherwise		Bulgaria and Romania	ER
Responsibility and accountability at ministerial level	1) Does the regulatory policy establish specific responsibilities for reform at the ministerial level? 2) Is a specific minister accountable for promoting government-wide progress on regulatory reform? 1 = both are present; 0.5 = when just is present; 0 = otherwise	Is an individual minister responsible for ensuring progress on regulatory quality/reform against measurable benchmarks?		Bulgaria and Romania	PC
Mandatory RIA	Is RIA formally required by law or by a similar binding legal instrument? 1 = 'always' and 'only for major regulation'; 0 = 'in other selected cases' or 'no'	Is IA compulsory at the national level?	Mandatory or voluntary IA 1 = 'mandatory for all proposals' and 'mandatory for some proposals'; 0 = 'purely voluntary'	None	PC

ER = Economic Rationality; PC = Political Control; N.A = Not Applicable. Maximum value of this sub-index is 5.

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Table 8.2: Organisational and procedural dimension

Indicators	Data sources			Missing data	Adoption rationale
	OECD	ENBR	EVIA		
Central Unit	Is there a dedicated body (or bodies) responsible for promoting the regulatory policy and monitoring and reporting on regulatory reform and regulatory quality in the national administration form a whole perspective?	Is a specific adminsitrative body(ies) (for example a central 'regulatory quality unit' in the cabinet office) explicitly responsible for overseeing progress on regulatory quality/reform against measurable benchmarks?	Presence and role of the co-ordination unit 1 = 'present with guidance role' and 'present with guidance and control role'; 0 = 'not present'	None	PC
Control Unit as a controller	a) Is this body entrusted with the authority of reviewing and monitoring regulatory impacts conducted in individual ministries? b) Can this body conduct its own analysis of regulatory impacts? 1 = both roles; 0.5 = one of the two; 0 = none		Presence and role of the co-ordination unit 1 = 'present with guidance role and control role'; 0 = 'present with guidance role' or 'not present'	None	PC
Staff of the Central Unit	The questionnaire asked about the 'specific staffing level of this body'. 0 = 0 or no answer; 1 = 1-5; 2 = 5-25; 3 = 26 and more		Number of staff (full time equivalent). 0 = 0 or no answer; 1 = 1-5; 2 = 5-25; 3 = 26 and more	None	PC
Selection of proposals to analyse	Is there a clear "threshold" for applying RIA to new regulatory proposals? 1 = yes; 0 = no	Does the written guidance contain explicit criteria (other than the words "significant") to select those proposals deserving less and more extended IA	Coverage and selection criterial of proposals subject to IA. 0 = 'all policy initiatives including broad strategies or 'only legal proposals'; 1 = 'most important proposals' or 'only policy initiatives that can have significant burdens for firms and/or public administration'	None	N.A.
Guidance	Is general guidance on the regulatory policy and its underlying objectives published and distributed to regulatory officials	Is there written guidance on IA?	Availability and implementation of guidelines. 1 = 'guidelines are poorly implemented' and 'guidelines available and implemented'; 0 = 'guidelines do not exist'	None	N.A.
CBA as the only method	Does the RIA require regulators to demonstrate that the benefits of new regulation justify the costs? 1 = 'always' or 'only for major regulations'; 0 = 'in other selected cases' or 'no'[a]	Does the written guidance on IA mandate use of a specific methodology to select the preferred policy option? 1 = 'CBA only'; 0 = otherwise	Methods and models used for assessments. 1 = CBA; 0 = otherwise	None	E.R.

ER = Economic Rationality; PC = Political Control; N.A. = Not Applicable. Maximum value of this sub-index is 8.

[a]OECD RIA inventory which has a specific item on CBA also as data source.

Table 8.3: Strategic dimension

Indicators	Data sources			Missing data	Rationale of adoption
	OECD	ENBR	EVIA		
Multi-level regulatory policy	a) Are there formal co-ordination mechanisms between National/Federal and State/Regional government? b) Are there formal co-ordination mechanisms at the supra-national level (i.e. as a consequence of membership of international bodies, such as the EU)? 2 = both present; 1 = one of the two present; 0 = none	Does regulatory quality policy extend to the sub-national level?	Vertical integration among different decision making levels: Assessments consider input from higher or lower level. 0 = 'no/only marginally' or 'varies between IAs'; 1 = 'to some extent' or 'yes/substantially'	None	ER
Consultation and RIA	Are the views expressed in the consultation process included in the RIA?	Does the written guidance on IA prescribe that consultation should inform the assessment of different options?		Bulgaria and Romania	PC
RIA and competition	Is the RIA required to include assessment of impacts on competition?	Does the written guidance on IA analyse options in terms if their impacts on competition?		Bulgaria and Romania	ER
Review of regulations	Are there standardised evaluation techniques or criteria to be used when regulation is reviewed?	Does the written guidance on IA contain procedures for monitoring and evaluation ex-post the extent to which the regulation meets its objectives?	Monitoring and ex-post evaluation	None	ER

ER = Economic Rationality; PC = Political Control; N = Not Applicable. Maximum value of this sub-index is 5.

Table 8.4: Legitimacy dimension

Indicators	OECD	Data
Parliamentary Committee	Is there a dedicated parliamentary committee or other parliamentary body with responsibilities that relate specifically to the regulatory policy/regulatory reform policy?	Data only on OECD countries
Parliamentary Committee 2	Is this body also entrusted to review quality of subordinate regulation? (i.e. lower level rules?)	Data only on OECD countries
Parliamentary Committee 3	Is the review process, if it exists, explicitly guided by regulatory quality criteria?	Data only on OECD countries
Courts	Are elements of the regulatory policy subject to judicial review (e.g. If RIA or consultation requirements are legislatively based, can the validity of laws be challenged if these requirements are not met?)	Data only on OECD countries
Courts 2	Have these review provisions been exercised in practice? 1= often; 0.5 = rarely; 0 = no	Data only on OECD countries
Citizens	What forms of public consultation are routinely used? Public notice and comment?	Data only on OECD countries
Citizens 2	Are these (RIA) reports published?	Data only on OECD countries

Maximum value of this sub-index is 5.

tory quality policy and RIA have achieved in the institutional context. This is measured referring to activities conducted by other constitutional bodies (the Parliament and the courts) and to whether the regulatory consultation assumes the form of notice and comment as well as the public disclosure of RIA reports. The data is drawn exclusively from the OECD (2007*b*), since the other datasets overlooked this aspect of the institutionalisation.

The next section shows the main results of the implementation scores, highlighting whether countries pursue political control, rather than economic rationality or regulatory governance legitimacy. The relationships between implementation and the groups of adopters, the year of adoption, and effectiveness of administrative innovation are also provided.

8.4 Empirical results

The legal, organisational, and strategic indexes cover thirty-three out of thirty-five adopters. Because of missing data, Bulgaria and Romania are excluded in order to avoid bias. The le-

Table 8.5: Descriptive statistics of the four implementation scores and their total

	No. obs	Min.	Max.	Mean	Variance	Std deviation	Mean Std. error
Legal	33	0	5	3.42	2.56	1.60	.28
Organisational	33	0	8	3.59	6.52	2.55	.44
Strategic	33	0	5	2.39	2.12	1.46	.25
Legitimacy	29	0	7.5	1.98	4.47	2.11	.39
Total	29	0	23.5	12.10	33.74	5.81	1.08
Economic Rationality	33	0	7	3.55	3.44	1.86	.32
Political Control	33	0	8	3.8	5.3	2.3	.40

gitimacy index refers only to twenty-nine OECD member states. Table 8.5 summarises the descriptive statistics of the four dimensions and their totals. The legal and organisational are the most developed implementation dimensions, whilst the strategic and particularly the legitimacy dimension are not common among countries. The overall means of economic rationality and political control are also notable. Although the means have high values, it is only the legal dimension that does not vary so much. On the contrary, the strategic dimension is characterised by convergence towards low values, with several laggards scoring zero. There is instead a relevant variance among political control and—to a lesser extent—legitimacy, whilst economic rationality is the logic of RIA that is more uniform within the sample.

Table 8.6 summarises for each country, classified according to adopter categories (cf. Section 5.2), the total values of the implementation score. As many as sixteen countries score over 10 for the cumulative index of legal, organisational, and strategic dimensions, i.e. Australia, Belgium, Canada, the Czech Republic, Denmark, Germany, Ireland, Italy, Korea, Mexico, the Netherlands, New Zealand, Poland, Portugal, the UK, and the US. Most of these countries are pioneers. Among the pioneers only Hungary and Sweden have low scores (6 and 5.5 respectively) and among the laggards, only Portugal has a relatively high score (11). Considering the overall score, the highest scores have been achieved by the UK (23.5), the USA (23), South Korea (21.5), Canada (21), and Mexico (19), countries internationally well-known for their successful regulatory reform. Among the Continental European countries, Italy (16.5), Poland (14.5), Belgium (13.5), the Netherlands (13), and Portugal (13) have the highest scores. With the exclusion of Italy and Portugal, these results are not surprising, given the long tradition of Belgium and the Netherlands with

strategies for cutting red tape and the fast progress shown by Poland in the institutional-isation of regulatory reform and RIA. It is important to note the score of Iceland is equal to zero.

Turning to the logics of RIA, political control has progressed among the pioneers (only Germany and Hungary have relatively low scores), whilst it is not yet consolidated among the laggards (with the exception of Portugal that has a score of 5). Similarly, high economic rationality scores are common among pioneers and followers. Among the latter, Mexico and Korea have the highest scores (i.e. 7); Iceland and (surprisingly) Sweden have the lowest (i.e. 0).

Framing time according to groups of adopters, one can test whether pioneers tend to have the most extensive implementation. On the other hand, if international coercive pressure, comprehensive learning, and emulation explanations are stronger, one would expect little variation in the scope of implementation. The average of the implementation scores for the three groups of adopters is shown in the next Table (8.7). The results tend to confirm an 'incrementalism' explanation of the extent of implementation: pioneer countries have the highest scores and the followers have better scores than later adopters. The same Table represents the average of the economic rationality, political control and external legitimacy dimensions. In these cases the average of implementations is remarkably higher among pioneers; only in the case of economic rationality are the average scores of pioneers and followers similar.

A further test is to assess the relationship between years of adoption and the implementation scores (see Figures 8.1 and 8.2). A negative and significant correlation evidences the constant innovative role of the pioneers and the lack of emulation of laggards. The result confirms this expectation, since the level of significance of the correlations (r = - .4562; r = - .4113) is only $p < .05$.

Thanks to the OECD and EVIA datasets, it is possible to derive another dependent variable: the number of RIAs conducted in the EU and OECD countries per year. This variable better reflects the effectiveness of the implementation. The last column in Table 8.6 summarises the countries with an effective RIA system in place, distinguishing them from the countries with a symbolic adoption or a still to be developed policy. Through a

Table 8.6: Totals of implementation scores (grouped according to categories of adopters) and the effective implementation index

Countries	Groups of adopters	Legal	Org.nal	Strategic	Legitimacy	Gran totals	Eco. Rat.	Pol. Control	Effective impl.tion
US	Pioneer	5	8	3	7	23	6	7	1
Canada	Pioneer	5	6.5	4	5.5	21	6	6.5	1
Germany	Pioneer	4.5	3	3	0	10.5	5	3.5	0
Australia	Pioneer	4	6.5	3	3	16.5	5	5.5	1
Netherlands	Pioneer	2	5	4	2	13	3	6	1
UK	Pioneer	4	8	4	7.5	23.5	6	7	1
Hungary	Pioneer	1.5	2.5	2	1	7	2	3	0
Sweden	Pioneer	0.5	4	1	0	5.5	0	4.5	1
Denmark	Pioneer	4	4.5	2	2	12.5	3	5.5	1
France	Follower	4	2	2	0	8	5	1	0
New Zealand	Follower	2	5.5	4	2.5	14	5	3.5	1
Norway	Follower	1.5	1	3	0	5.5	3	1.5	0
Estonia	Follower	1	0	1	-	2	1	1	0
Mexico	Follower	5	8	5	1	19	7	8	1
Korea	Follower	5	8	4	4.5	21.5	7	7	1
Belgium	Follower	3	5.5.	3	2	13.5	3	6.5	0
Czech Republic	Follower	4	5.5	1	0	10.5	4	4.5	0
Finland	Follower	1.5	1	4	0	6.5	3	1.5	1
Latvia	Follower	1	1	1	-	-	1	1	0
Austria	Follower	4.5	1	3	1	9.5	4	2.5	0
Iceland	Follower	0	0	0	0	0	0	0	0
Ireland	Follower	4	5	3	1	13	4	5	1
Italy	Follower	5	4.5	4	3	16.5	5	5.5	0
Switzerland	Follower	3.5	3	3	4	13.5	4	3.5	0
Poland	Follower	5	5.5	3	1	14.5	4	6.5	1
Slovak Republic	Follower	1	2	3	0	6	2	2	1
Lithuania	Laggard	5	2	0	-	7	2	2	0
Japan	Laggard	4	0	0	1	5	2	1	0
Slovenia	Laggard	4	1	0	-	5	2	1	0
Spain	Laggard	5	1	1	3.5	10.5	3	3	0
Greece	Laggard	4.5	2	3	0	9.5	5	3.5	0
Portugal	Laggard	5	4	2	2	13	3	5	1
Turkey	Laggard	4	2	0	3	9	2	1	0

Table 8.7: Averages of the implementation score according to the adopter groups

Adopter groups	Legal, and strategic dimensions	Organ.,	Economic Rationality	Political Control	Legitimacy	Overall average
Pioneers	14.9		4	5.39	3.11	18.9
Followers[a]	9.2		3.65	3.56	1.33	11.4
	(9.8)		(3.88)	(3.78)	(1.43)	(12.25)
Laggards	7.1		2.71	2.36	1.9	8.4

[a]In parenthesis the average of majority countries excluding the deviant case of Iceland.

Figure 8.1: Correlation between years of adoption and overall implementation score
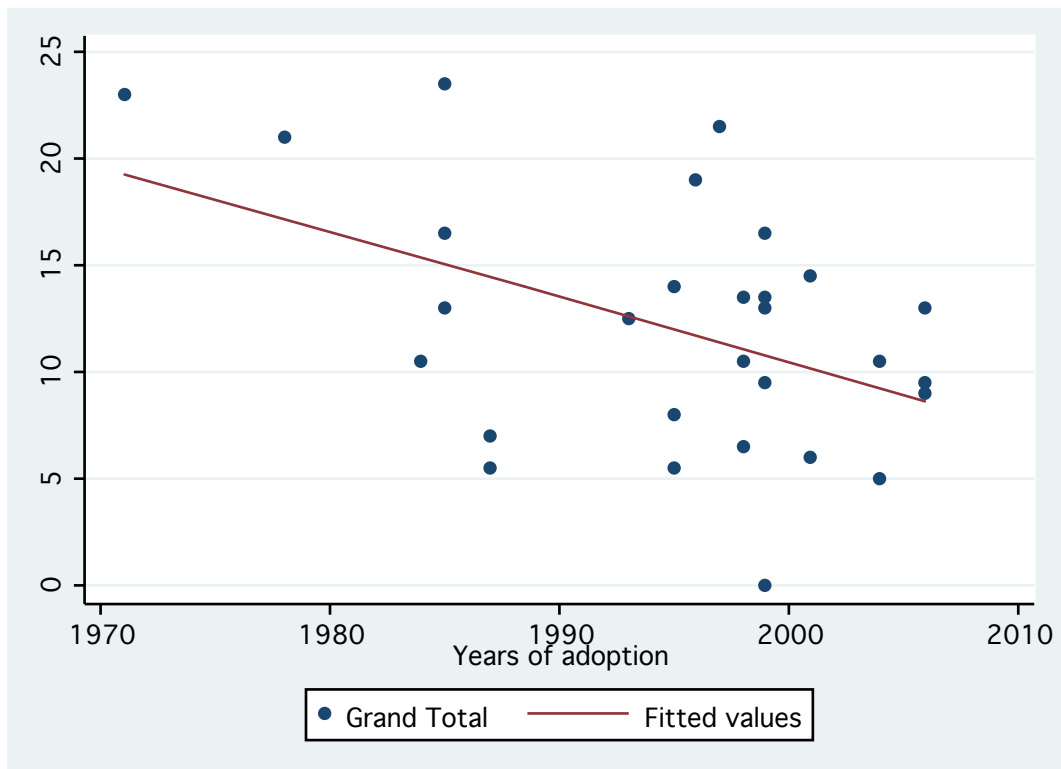

Figure 8.2: Correlation between years of adoption and total score of legal, organisational, and strategic dimensions
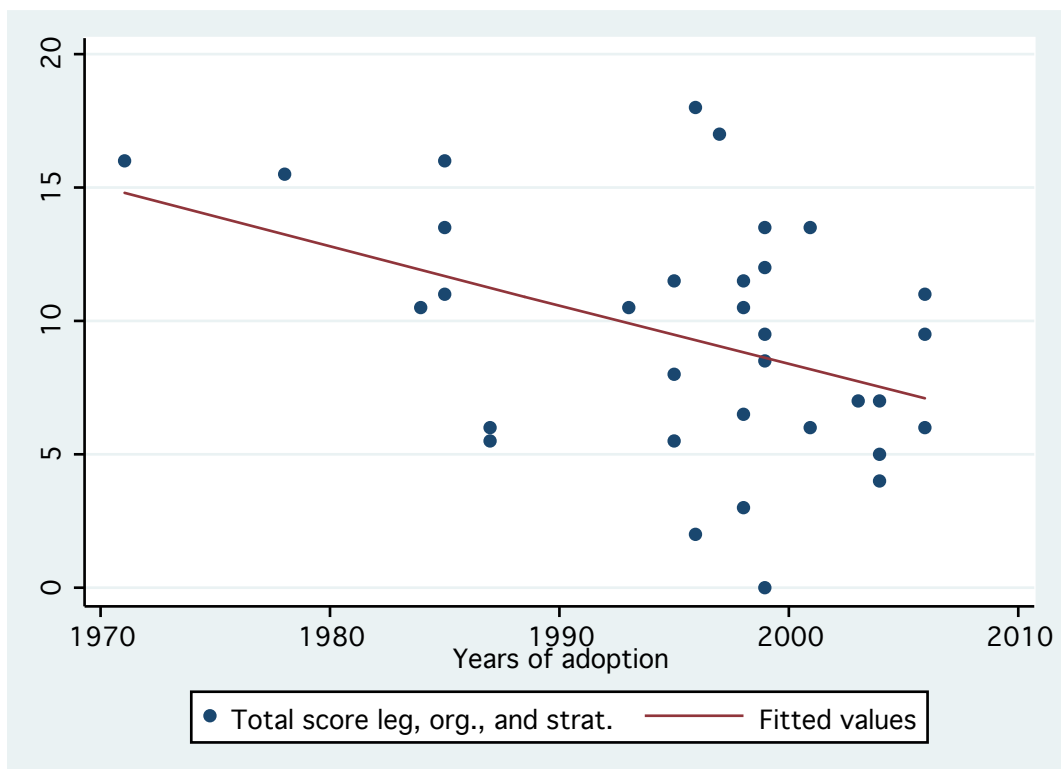
Table 8.8: Correlations between implementation index and effective implementation

	Implementation sub-index legal, org., and strat. dimensions	Overall implementation index
Effective implementation	.580**	.495**

** Correlation is significant at the level $p < .01$.

quick check, it is fair to say that most of countries with high scores are also the countries with an effective implementation, with the exception of Belgium, the Czech Republic, Germany, Italy, Spain, and Switzerland that have a relatively high score and lack of an effective adoption of RIA. Apart from Spain, a laggard, all those countries fell in the majority category. Hungary is the only country among the pioneers with an ineffective implementation. The other puzzling cases are Finland, the Slovak Republic, and Sweden that notwithstanding their low score have a relatively efficient implementation of RIA. On the other hand, Portugal represents an interesting case of fast institutionalisation, although impact analysis concerns administrative burdens.

A further statistical analysis (Table 8.8) confirms the correlation between implementation effectiveness and the implementation scores standardised by their maximum values. The output shows that an effective implementation is positively related to the standardised implementation scores with a coefficient $r = .495$ and $r = .580$. Both are also significant at $p < .01$. It is important to remark that this dimension of the effectiveness of the implementation captures only the production of RIAs, without appraising the quality of the single RIA or the overall quality of the RIA system, an aspect that is well beyond the scope of this research.

8.5   Conclusions

Whilst evaluative studies have been conducted on the quality of implementation, scoring and benchmarking, single RIA reports (Hahn, 1999; Hahn et al., 2000; Cecot et al., 2008), and more recent studies have explored the process of implementation (Radaelli, De Francesco and Troeger, 2008) within a macro-economic and political context; this chapter

has focused on the systematic meso-dimensions of implementation brought forth from theoretical insights and logics of RIA. Although not performing a dynamic analysis of policy reinvention, the creation of a set of implementation scores has allowed us to disentangle different aspects of the diffusion of administrative innovation.

Firstly, there is no comprehensive implementation among the different dimensions of RIA. Only the legal and the organisational dimension are by and large developed. In particular, the laggards have the greater legal dimension scores, indicating a symbolic adoption of overall principles of regulatory reform. Symbolic adoption is also indicated by the lowest variance of the legal score. Secondly, among the three logics of RIA, political control has the higher mean values only within the pioneers categories. This indicates political control needs the institutionalisation of the administrative innovation, a finding already evidenced in Chapter 5 on the process of institutionalisation among a sample of first adopters. Economic rationality has less variance, and the scores of pioneers and followers are close, indicating that this logic is easier to transfer. It is not surprising that, as democratic doctrines such as pluralistic and representative models have not developed beyond the US, the legitimacy score has the lowest average. Across countries, RIA has not been developed to enhance the regulatory democracy. Thirdly, the high variance in the average of implementation scores suggests the importance of internal determinants and the marginal impact of diffusion mechanisms such as coercion, synoptical learning, and emulation. An incrementalism explanation is evidenced by the higher means of the pioneers in all implementation scores; followers have higher scores than laggards. Finally, the negative correlations between time and implementation indexes imply that laggards did not emulate the leaders. Also the comprehensive learning mechanism can be excluded as a plausible diffusion mechanism.

The systematic analysis of implementation provides a four-fold concept for achieving an effective and efficient innovation: There are significant correlations between the extent of implementation and an effective performance of the innovation. Governments choose different patterns of implementation. Pioneer countries tend to have the most comprehensive implementation, while later adopters have chosen a more prudent approach. Overall, governments' interdependency seems not to affect implementation. Considering the two modes of diffusion, there is no strong evidence of horizontal communication. Furthermore,

the role of the OECD is limited to promoting homogenisation of the legal dimension.

Chapter 9

Evaluation of RIA programmes: The cross-national experience

9.1 Introduction

The principal contribution of this thesis is to pursue RIA throughout its institutionalisation. Defined as 'the attainment of long-term viability and integration of innovation within organizations' (Goodman and Steckler, 1989, 57), institutionalisation is considered to be the final stage of the diffusion process (Goodman and Steckler, 1989; Steckler et al., 1992; Lawrence, Winn and Jennings, 2001; Rogers, 2003). The empirical findings produced so far refer to the necessary conditions, patterns, and probability of adoption as well as to the extent of implementation. Considered as 'passages', the phases of adoption and implementation represent an incipient degree of institutionalisation and 'are highly symbolic events to those involved with an innovation' (Steckler et al., 1992, 220). Institutionalisation refers to the permanence of innovation within an organisation, enduring through elections and changes in governments (See Chapter 5 for a qualitative account of the extent of institutionalisation in a sample of pioneer countries). Innovation eventually becomes a routine and loses its character of novelty (Rogers, 2003, 428–9; Steckler et al., 1992, 220). Indeed, through the confirmation of previous adoption decisions, an innovation is integrated within most organisational subsystems (Steckler et al., 1992, 220), and eventually reaches the point of 'maximum feasible expansion' (Rogers, 2003, 189–90).

This chapter focuses on the confirmation stage, in which governments acquire additional information on and recognition of the benefits and costs of RIA. Granting that information and interdependency among governments also includes criticism on innovation, evaluation research, and experiences of other adopters (Mossberger, 2000; Mossberger and Wolman, 2003; Weyland, 2006; Dolowitz, 2009, 7), it presents and discusses how governments (and in some cases stakeholders) measure, monitor, and evaluate performance of RIA. Further, it gives an account of the international organisations' experience in the development and management of tools aimed at assessing regulatory quality. It also assesses whether governments learn exclusively from their direct experience or exploit other countries' information and knowledge (Levitt and March, 1988) in order to situate their experience within a broader international context.

This chapter proceeds as follows. The next section links concepts of learning, policy diffusion, and evaluation. Section 9.3 reviews the governments' experiences in evaluating regulatory policy, better regulation, and RIA. It provides the first evidence of the extent of instrumental learning among the OECD and EU member states. Looking at Australia, Belgium, Canada, Denmark, Sweden, and the UK, Section 9.4 illustrates the main typologies of institutions involved in RIA performance review. Section 9.5 resumes quantitative and qualitative measures associated with the evaluation of RIA. Section 9.6 reviews the experience of the OECD and the European Commission in promoting standards for evaluating regulatory policy. Finally, Section 9.7 concludes.

9.2 Linking learning, evaluation, and policy diffusion

Learning is one of the mechanisms of policy diffusion (See Chapter 2; Dobbin, Simmons and Garrett, 2007; Meseguer, 2009; Gilardi 2010). It is a micro process that involves interaction among policy makers on goals, values, structures, and outcomes (Zito and Schout, 2009, 1103). In addition to direct experience, governments can learn 'through the *transfer* of encoded experience in the form of technologies, codes, procedures, or similar routines.' (Levitt and March, 1988, 329, emphasis added) From the perspective of those

who formulate and design policies, '[i]nternally, they may learn about the preferences of the public, the goals of interest groups and other other politicians, and the effects of previous policy. Externally, they may learn about what policies have been successful at meeting the needs of similar governments elsewhere.' (Volden, Ting and Carpenter, 2008, 319). In other words, policy learning is about 'updating beliefs about key components of policy as the result of *analysis* and/or *social interaction*' (Radaelli, 2009, 1147–8, emphasis added).

Among the different typologies of learning, there is a clear link between instrumental policy learning and policy evaluation concepts. Instrumental learning 'entails new understandings about the viability of policy interventions or implementation designs... [and] concerns improved designs for reaching existing policy goals.' (May, 1992, 335) It results from the feasibility testing carried out through systematic policy experiments or implementation evaluations (May, 1992, 335). Although policy adaptation and redesign only constitute prima facie evidence of instrumental learning (May, 1992, 336–7), in a policy diffusion research framework it would be possible to distinguish true instrumental learning from mimicking. A large-n comparative analysis of evaluative practices has the advantages of avoiding to i) selection on the dependent variable, testing also the null hypothesis of no learning; ii) consideration of a narrow time-frame; iii) a focus restricted to a typology of learning, compounding the different concepts, mechanisms, and micro-foundations of learning (Radaelli, 2009, 1147).

Figure 9.1 summarises the set of hypotheses tested in this chapter. The first test contrasts the existence of evaluation activities and institutions, a precondition for policy learning, with the null hypothesis of governments not performing any evaluation. The absence of policy learning evidences symbolic adoption. The operationalisation would proceed through an assessment of the existence of evaluation elements such as systematic evaluation of RIA programmes, presence of active watchdogs, and quality assurance programmes and indicators.

Granted governments' capacity and efforts to evaluate the RIA system, policy transfer refers to not only ideas and policies but also modalities to measure success and the identification of what counts as evidence (Dolowitz, 2009, 318). Focusing on knowledge generated by evaluation, different typologies and degrees of learning can be distinguished. The argument here is that an analysis of policy diffusion should be completed by a careful

observation of learning from other countries' evaluative experiences and practices. This reinforces the findings on patterns of adoption and causal mechanisms of policy diffusion.

The micro-foundations of policy learning can be different (Radaelli, 2009, 1148). Following Dolowitz (2009), one can argue that actors who voluntarily engage in policy transfer are able to learn (hard) forms of knowledge updating. In contrast, coercive and mimicry mechanisms rely on little more than the accumulation of soft forms of information that occurs during the post-transfer implementation process. Therefore, a further set of hypotheses can be derived. One regards the non-existence of governments' interaction on evaluation practices (the second level hypothesis in Figure 9.1). In other words, governments design and operate their evaluation relying exclusively on their internal information and direct experience. This circumstance means that the diffusion process is essentially limited to adoption and/or implementation of policy innovation and does not pay regard to evaluation practices. Governments do not learn from each other how to evaluate RIA programmes. On the other hand, a completely rational government would conceive the design of policy evaluation relying on both internal and external information. The results and experience of evaluative practices in other countries would be fully acknowledged and adjusted to the national and administrative context.

Figure 9.1: Linking policy evaluation, policy learning, and diffusion mechanisms
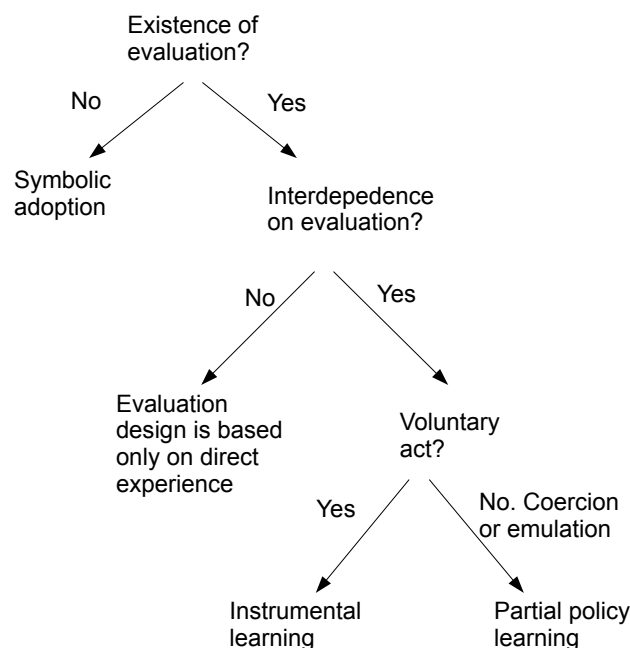
Yet, a more limited approach in learning how to evaluate and redesign policy innovation is also plausible. A hypothesis of transfer of evaluative practices through the mechanism of emulation and mimic would be tested through evidence of common indicators and targets, models of oversight bodies, and overall common evaluation practices agreed through an OECD/EU-level of networks. Furthermore, a coercive learning mechanism would be proved through the impact of stringent international organisations' recommendations, imposing a unique model of policy evaluation (Section 9.6).

The next sections provide qualitative evidence of types and extent of learning achieved in the OECD and/or EU member states. At the outset, it is useful to make a distinction between fully fledged systems of evaluation, based on the use of indicators, and simpler quality assurance mechanisms that routinely check whether RIA conforms to the government's principles and requirements. While several countries have introduced formal mechanisms to oversee and monitor the quality of RIA implementation, experience with performance measures is still limited. Another distinction concerns what is measured. Indicators of design refer to the planning and utilisation of bureaucratic capacity and resources in the appraisal system. Activities (often also referred to as 'outputs') cover two elements: i) oversight activities carried out by bodies in the executive (cabinet office and/or departments), such as training, drafting guidelines and monitoring departments; ii) 'services' produced through RIA. Finally, real-world outcome indicators are associated to the long-term and purposive impact of the programme, the betterment of regulatory environment for business and citizens.

9.3 The lack of spread of RIA evaluation activities

Recently the OECD has surveyed its member states on the composition of RIA programmes (Jacobzone, Choi and Miguet, 2007; Jacobzone et al., 2007; OECD Regulatory Policy Committee, 2009). Several items of this survey are dedicated to the governments' capacity to evaluate regulatory policy and RIA, complementing a previous and more specific survey on the ex post evaluation of RIA (OECD, 2003). Also, scholars surveyed

EU governments on their capacity to evaluate better regulation policies (Radaelli and De Francesco, 2007). This set of surveys is an excellent assessment of whether governments are engaged in evaluating their RIA programmes.

Jacobzone et al. (2007, 87) reported on the capacity of countries to assess 'compliance with key requirements of regulatory policy'. Among the OECD member states, only twelve out of thirty OECD member states[1] responded by reporting that they were engaged in assessing the compliance of regulatory policy requirement. Further, the OECD surveys distinguishes between RIA and consultation procedures in which compliance is controlled, showing that governments have usually established both.[2] The report also lists those countries who made attempts 'to measure the impact of regulatory policy on outputs or outcomes' (Jacobzone, Choi and Miguet, 2007, 87): only Finland, Hungary, Japan, Korea, and the US responded by reporting that they had established measures to assess the impact of regulatory policy.

In 2005, Radaelli and De Francesco (2007) surveyed several EU member states in order to assess how widespread the concept of regulatory quality is. They found that twelve countries out of the twenty surveyed EU member states responded by reporting that they have set quantifiable targets, a precondition for ex post evaluation via appropriate indicators (Radaelli and De Francesco, 2007, 117).[3] Radaelli and De Francesco also questioned EU governments on the linkage between better regulation policy and the overall performance management systems. Half of the respondents were required to measure the performance of better regulation policy, usually within budgetary policy and through a central RIA overseeing unit. This is an indication of the formal commitment of a given government toward performance measurement, but it does not tell whether departments actually had complied with such a requirement.

These survey results can also be compared with the 2003 OECD survey on the ex post review of regulation policy which reported that only nine countries out of twenty-two sur-

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[1]Australia, Canada, Denmark, Hungary, Japan, Korea, Mexico, New Zealand, Poland, Switzerland, the UK, and the US.

[2]With the exception of Japan, which does not perform any compliance assessment on RIA.

[3]'There were three groups of quantifiable targets. The first group covered administrative burden (four countries). The second group was composed of another five countries targeting administrative simplification through the reduction of procedures or time to get licences. The last group aimed at full compliance with the requirements of RIA; two countries had set this specific target.' (Radaelli and De Francesco, 2007, 117)

veyed member countries[4] activated explicit strategy/policy to evaluate regulatory tools and institutions and ten countries established institutions responsible for monitoring regulatory policy.

Overall, the surveys evidence a limited spread of evaluative activities within a third of the governments that have adopted RIA. This finding evidences that the majority of governments did not design RIA to include a form of evaluation and/or performance measurement. This is another indication of symbolic adoption and the lack of institutionalisation. The next sections provide further details of the evaluation actors, system, and process among those countries that institutionalised this stage of policy diffusion.

9.4 Evaluation institutions

Another manifestation of 'quality assurance culture' is the presence of a consolidated structure in charge of the systematic assessment of RIA programme. The quality assurance system typically involves bodies within the executive (often a central unit in the prime minister's office) and bodies at arm's length from the executive, as well as independent auditors reporting to parliament. The task of reviewing the delivery and accomplishment of an RIA programme is commonly performed by the same central unit in charge of overseeing regulatory departments. In several countries there are also independent auditing institutions and stakeholders reviewing the impact of RIA on regulatory governance. A further important feature is the integration of RIA and more generally of regulatory quality in governments' performance review activities.

9.4.1 Oversight units

The OECD (2009) survey shows that in fifteen OECD countries the responsible minister for better regulation is required to report to parliaments on the regulatory reform progress (OECD Regulatory Policy Committee, 2009). Specifically, in Australia (cfr. Section 9.5) there is an annual compilation and reporting by departments and agencies of 'regulatory

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[4]Australia, Belgium, Canada, the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Norway, Spain, Sweden, the United Kingdom, the United States.

performance indicators'. Further, the Productivity Commission reports annually and advises on the strategy to reduce administrative burdens.[5] The American Congress receives annually a report issued by the OIRA on the total annual regulatory costs and benefits—in aggregate, by agency and programme, and by the most relevant regulations—as well as the overall impact of regulation on the public sector.

In countries where governments pursue the reduction of administrative burdens usually through the target of 25%, an annual report on the achievement of this target is presented to parliaments. This occurs in Denmark, Italy, the Netherlands, and Sweden. A specific target for reduction of administrative burdens target facilitates monitoring and auditing. The formula to compute administrative burden (see Section 9.5) is easy to grasp, understand, and control. This type of approach facilitates the involvement of parliaments and prime ministers in the design and reorientation of better regulation policy. For instance, in Sweden a 2002 parliamentary resolution called for 'effective simplification', and required the government to review and simplify business regulations, setting the quantitative target for simplification. After the publication of an influential report on administrative burdens and regulatory enforcement,[6] the British prime minister endorsed publicly the 'Less Is More' (2005) approach that draws explicitly on the SCM,[7] recommending the setting of quantitative targets for the reduction of administrative burdens. This 'recalibration' was a consequence of a new focus on targets for simplification and burdens, creating a case of convergence with the other countries that have adopted the SCM and even the 25% administrative burdens reduction target—possibly in connection with a successful campaign by the 2004 Dutch Presidency of the EU to adopt a common method across the Member States and at the EU level.

9.4.2 Evaluation networks

What distinguishes the evaluation experience across governments is the presence of a network in which data, information, and research are generated by different actors, strengthening the analysis of regulatory quality. In the US, where the OIRA monitors the compli-

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[5]Source: www.pc.gov.au/projects/study/regulatoryburdens, accessed on May 2010. The Productivity Commission was previously the regulatory oversight unit.

[6]The so-called 'Hampton review' (HM Treasury, 2005) was flagged up by the British executive as an example for improving the business environment.

[7]One chapter of 'Less Is More' is entirely dedicated to the Dutch methodology.

ance of executive agencies with the federal regulatory policy, the institutional framework is completed by the Government Accountability Office (GAO), the auditing and investigative arm of Congress, which produces several reports on the effectiveness of regulation.[8] Although these reports do not quantitatively assess regulatory quality and performance, some evaluation activities of the GAO are innovative. For example, a report assessed the impact of information and communications technology on regulatory accessibility and transparency and the quality of RIA (General Accounting Office, 2001). Other studies focused on the economic analysis and methodologies, with reference to performance measures and procedural standards, such as peer-review mechanisms, for comparing programmes across government and enhancing the credibility of regulatory analyses (Government Accountability Office, 2005).

In a similar vein, the UK approach to the design of quality control mechanisms is based on different layers of monitoring, evaluation, and quality appraisal. The internal layer of quality assurance mechanisms based on departmental units and coordination activities conducted by the Better Regulation Executive (BRE) is supported by the National Audit Office (NAO), enhancing the openness and transparency of the assessment exercise. In particular, the role of the NAO in the quality assurance process has become more important since 2001. In that year, the NAO produced a report on good RIA practice, drawing some lessons from a review of a sample of twenty-three RIAs (National Audit Office, 2001). The NAO has also covered the quality of RIA guidance (National Audit Office, 2005).

In Canada, the Auditor General reviewed federal health and safety regulatory programmes, recommending objectivity in the appraisal of regulatory outcomes through the best available methodologies. As Canadian regulatory policy requires the balance of the protection of Canadians' health and wealth and the achievement of budgetary, economic, and trade objectives (Regulatory Affairs and Orders in Council Secretariat, 2002), another recommendation concerned the overall effectiveness of health and safety regulatory programmes, to be reported annually to parliament, and the extent to which they have the necessary financial and human resources. A similar audit of regulatory programmes is also performed

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[8]It has investigated the federal regulatory process, reviewing and reporting on: i) the whole regulatory process as designed by E.O. 12,866 (General Accounting Office, 2000); ii) more specific aspects of American rulemaking such as for instance regulatory agencies' failures to comply with the OMB's guidance (General Accounting Office, 1998); iii) the OIRA and its role in reviewing agencies' draft rules (General Accounting Office, 2003); iv) the OIRA's annual report (General Accounting Office, 1999).

by the Australian National Audit Office, evidencing a trend among common law countries in the mode of evaluating regulatory policy.

Alternatively, the Netherlands provides a peculiar experience of a specifically dedicated and independent advisory body, ACTAL, which guides departments in administrative burden assessment and proposes improvement when quality is weak, especially with reference to estimates.[9] This solution of an independent advisory body is common also in the UK, through the experience in the last two decades of various bodies at arm's length from the Cabinet Office, such as the Better Regulation Task Force, whose mission was to make the voice of stakeholders heard in the UK's regulatory process, and which was successively re-branded as the Better Regulation Commission, and more recently the Risk and Regulation Advisory Commission. The latter is a body established in 2008 with the mission to develop a better understanding of public risk and foster a more considered approach to public risk and policy-making. This model of an external and independent contribution to government better regulation policy has been adopted by thirteen OECD member states (OECD Regulatory Policy Committee, 2009, Table 24 in Annex 1).

In several countries there has been a spontaneous involvement of stakeholders in the appraisal of regulatory quality. In Sweden, stakeholders have provided fresh ideas by turning the Swedish principles of better regulation into indicators. Through a scorecard (see Section 9.5), the Board of Swedish Industry and Commerce for Better Regulation (NNR) periodically reviews how agencies, committees and commissions of enquiry,[10] as well as government offices, comply with Swedish regulatory policy. The NNR's analysis includes an account of existing problems, the aims of the proposal, alternatives to regulation and the financial impact on companies affected by the proposal (Board of Swedish Industry and Commerce for Better Regulation, 2002, 4). The British Chambers of Commerce (Ambler, Chittenden and Obodovski, 2003) collected information on aggregated costs and benefits quantified in RIAs. The report shows the total sum of costs and benefits identified by RIA in a year.[11] This analysis leads to simple measures of output, such as percentages of RIAs that present a summary of consultations, consider non-regulatory options, or

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[9]In the period September 2003—December 2004, this advisory body planned to review 150 RIAs (ACTAL, 2003, 15) and proposed thirty-five recommendations to reduce administrative costs.

[10]These bodies examine the issue or problem the regulation aims to solve. The findings of the analysis, together with consultations, are the basis of the government's proposal for new regulation.

[11]The study collected 165 of 197 RIAs performed by government departments.

quantify costs and benefits. Also in the US, the American Enterprise Institute has been assessing OIRA's activities through scorecards[12] (Hahn, 1999; Hahn et al., 2000). Section 9.5 provides more insights into this evaluative method.

9.4.3   Integration of RIA in evaluation systems

Another feature to bear in mind is the extent of integration of RIA evaluation with the overall government performance review. This provides evidence of stronger institutionalisation of RIA, since agencies and departments are reviewed and awarded for their regulatory analyses and performance. For instance, in the US, regulatory quality is embedded in 'performance budgeting', a 'government-wide initiative designed to better align spending decisions with expected budgeting' (General Accounting Office, 2004b, 1). Specifically, the OMB, whose predominant mission is to assist the president of the US in overseeing and coordinating the preparation of the federal budget, has developed a performance measurement and coordinating programme, i.e. the Program Assessment Rating Tool (PART), in order to assess competing funding demands among agencies and to set funding priorities. PART is 'a diagnostic tool meant to provide a consistent approach to evaluating federal programs as part of the executive budget formulation process' (General Accounting Office, 2004a, 2–3).

Similarly, in the UK (where better regulation policy has evolved around the principle of net benefit), appraisal systems for new regulations as well as for the simplification of existing regulations are specified in the Cabinet Office's 'Public Service Agreement' through specific quantitative targets. But governments also successfully link the strategy of reduction of administrative burdens to their budgetary policy. Through the so-called 'zero-base measurement', an inventory of all information obligations and administrative activities grouped according to the responsible ministry, the Dutch and the Danish governments encourage departments to respect ceilings of administrative burdens that 'are being created for all departments as a fixed component of the budget and accountability system' (ACTAL, 2003, 7). This integration of the strategy for cutting red tape into budget policy enhances the monitoring role of the Ministry of Finance, in the Netherlands, and the Ministry of Economic and Business Affairs, in Denmark.

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[12]Used also to compare EU and US regulatory quality (Cecot et al., 2008).

The integration of RIA with performance review does not always pursue such relevant purposes in controlling (punishing or rewarding) regulators. For instance, following specific guidelines (Regulatory Affairs and Orders in Council Secretariat, 2002; Treasury Board of Canada Secratariat, 2003), Canadian departments report annually to parliament with the aim of demonstrating 'the links between policies and programs (including regulatory initiatives) and their actual outcomes' (Argy and Jonhson, 2003, 106). For instance, a 'regulatory performance measurement' is integrated into the annual performance report of Environment Canada and takes the form of the rate of compliance with regulation.[13] Because the guidelines do not set stringent requirements in terms of measurement, the evaluation system is not systematic and among Canadian government departments the criteria used to assess the performance of regulation vary markedly.

9.5 Evaluation measures

Beyond institutions and networks, it is important to understand to what extent an adopting unit is able to evaluate an administrative innovation. A coherent evaluation process is based on a set of auditing and monitoring measures. According to their complexity, objective evaluation measures used by governments can be grouped into three types: single, set of single measures, and aggregate measures. Taking subjective measures also into account, the following subsections review the most significant international experiences with each group of measures.

9.5.1 Single measures

This category of evaluative measures is common in most countries. Governments tend to use simple measures. Usually, the most widely used measure is the yes/no format to assess the degree of compliance with regulation (as in the above-mentioned case of Environment Canada), RIA guidance, and simplification procedures. In the UK, the BRE had the target of full compliance with the RIA process by departments and agencies for every regulatory proposal that may affect business, charities or voluntary organisations (National

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[13]Available at www.ec.gc.ca/dpr/index_e.htm, retrieved on 2 February 2010.

Audit Office, 2004, 11).[14] Another quantitative target was to deliver over sixty drafts of regulatory reform orders by 2006 (House of Common, 2003). Similarly, in Australia the OBPR is now in charge of monitoring and reviewing the RISs, requiring departments and agencies to provide a list of regulations, specifying whether preliminary assessment, business cost assessment, and RIS were drafted. A further list is required to indicate whether departments and agencies went about a post-implementation reviews. In the US, the annual report on Federal regulatory benefits and costs refers also to indicators of the impact on small business (microeconomic indicators) and on wages and economic growth (macroeconomic indicators). The 25% administrative burdens reduction target is also a single measure.

9.5.2 Sets of single measures

This category of measures is distinct from the previous one for its more comprehensive presentation. Indicators, scorecards, process standards or checklists are usually employed for assessing whether appropriate guidance or generally accepted practices were followed. Their purpose is to identify possible improvements in the conduct and methodology of ex ante economic analysis.

In Australia, departments and agencies are required to compile every year a set of 'regulatory performance indicators'. The OBPR has the duty of reporting annually on performance measurement, according to a set of five indicators associated to the following five objectives of regulatory policy:

- there has been adequate analysis of significant regulatory proposals;

  Indicator: Proportion of regulations requiring a RIS for which an adequate RIS was prepared

- compliance costs have been assessed as required;

  Indicator: Proportion of regulations requiring a stand-alone assessment of compliance costs (as a Business Cost Calculator report or equivalent) for which an assessment was provided and certified by the OBPR

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[14]A Cabinet Office statement declares that in 2004 and 2005 the level of compliance was 100 per cent.

- the agency's procedures for identifying proposals that might require regulatory impact analysis worked effectively;

  Indicator: Proportion of regulations requiring a RIS or stand alone assessment of compliance costs which met the requirement to undertake a preliminary assessment and consult with the OBPR before a decision was made

- the agency has consulted appropriately on significant regulatory issues;

  Indicator: Proportion of regulations requiring a RIS for which the consultation process, as described in the RIS, was adequate

- the agency used its regulatory plan to inform stakeholders about regulatory proposals.

  Indicator: Proportion of regulatory agencies that have published a regulatory plan for the introduction and review of regulation

This is a small set of indicators that have four desirable properties: they are rich in information; they are easy to understand; they are monitored by an important government department; and they are clearly linked to the principles of regulatory governance. Notwithstanding, this model of direct and coherent relationship between principles of regulatory quality and performance measures is unique and has not been 'learned' by any other government.

Another experience with a collection of single measures can be found in Canada, where the TBS has the responsibility to review regulatory proposals and is also in charge of assuring compliance with the federal regulatory process management standards. These standards provide checklists for each stage of the regulatory process. In particular, the quality assurance process terminates with regular internal self-assessments of performance and policy compliance (Treasury Board of Canada Secratariat, 1996, 33–4). Also in this case, this mode of evaluating regulatory policy has not been a point of reference for any other government.

9.5.3 Aggregate measures

Sets of indicators have been also used to score departments and governments. In order to assess the quality of RIA programmes in the USA, the UK, and at the European level, scorecards are widely used by academics (Hahn et al., 2000; Hahn, Malik and Dudley, 2004; Opoku and Jordan, 2004; Lee and Kirkpatrick, 2004), and think tanks (Vibert, 2005; Vibert, 2004; Institute for European Environmental Policy, 2004). Scorecards are composed of a series of yes/no questions that generate simple measures, weighted and aggregated in an overall composite indicator.

The US provides an interesting example of the use of scorecard. The PART questions on regulatory programmes 'require the user to provide a brief narrative explanation of the answer, including any relevant evidence to substantiate the answer. Responses should be evidence based and not rely on impressions or generalities.' (Office for Management and Budget, 2003, 2). As a result, these performance indicators are categorical and designed to be objective, providing a consistent approach to benchmarking, rating, and scoring federal regulatory and spending programs (General Accounting Office, 2004a, 9). Indeed, the principle guiding the rating exercise is that regulatory programmes are appropriate and deserve funding when they show a clear evidence of effectiveness and are capable of maximising the benefits to society.[15]

Besides PART, the OIRA quantifies the total net benefit of the federal regulatory programmes enacted in a given year. Because an aggregate indicator such as this is a compilation of RIAs, there is the problem of drawing inferences from different methodologies used in economic analyses (Government Accountability Office, 2005). Moreover, scholars are aware of the methodological flaw of treating estimations as measures of the actual impact of regulations—given the high probability of ex ante errors in the economic analysis of regulatory impact (Parker, 2003; McGarity and Ruttenberg, 2002). Overal, the American quality assurance system combines simple indicators of real-world outcome, such as the total net benefits, with measures of the regulatory process quality.

Instead of an aggregate measure of net benefit, several European countries rely on a simpler

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[15]Yet such an evaluation system has been criticised for the degree of discretion that the questionnaire's formulation leaves (General Accounting Office, 2004b, 6), as well as the yes/no format has been judged too restrictive for the assessment of complex programmes with multiple purposes and goals (General Accounting Office, 2004a, 6).

aggregate measure of administrative burdens. A three variables formula, the SCM, multiplies the cost of an information obligation[16] by the number of times a firm has to provide specific information in a year (the so-called 'frequency') and by the number of businesses affected by the regulation. Although there is no specific evaluation system, composed of regulatory quality indicators, the total administrative burden per sector, transport regulation, and across the economy is known. As a result, in terms of communicability the Dutch experience provides an interesting approach to the total measure of administrative burden, a measure that has been easily linked to reduction targets. Thanks to its characteristics, the SCM has now become a term of reference in the better regulation policies of European countries such as Belgium, Denmark, Sweden,[17] Norway and, most recently, the UK, the EU itself, and many of the laggard countries, such as Portugal, Romania, Slovenia, Spain, and Turkey. Nineteen countries are now involved in the SCM networks promoted by the Dutch government.[18]

Belgium has a qualitative, and even simpler, approach to the measurement of administrative burdens. In 2004, the *Agence pour la Simplification Administrative (ASA)* launched the 'Kafka test', an appraisal tool that supports the decision-making process in the council of ministers by showing whether (and how) a new proposal is worsening the regulatory environment and is structured in phases (Agence pour la Simplification, 2004). First, regulators are called to identify the target group and to estimate the number of citizens, businesses and non-profit organisations affected by a regulatory proposal. Second, the type of information obligation is selected and described, referring to an inventory of the most common administrative duties. Third, regulators are called to establish who triggers the information obligation—in some cases it is the public administration that sends forms and requests data, while in others it is the target group that contacts the administration requesting a subsidy or product licence and so on. In the successive steps it is related to the frequency of the proposed obligation and the type of data and certificates required. Finally, regulators should only describe how citizens, businesses and non-profit organisations

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[16]Such cost is given by the hourly labour cost and the time spent dealing with a specific information obligation per regulation. The guidelines provide several suggestions on how the data might be gathered. For example, hourly labour costs can be determined from wage statistics, which can be validated in business interviews. Time can be estimated through business surveys. Alternatively, an objective method can be used, the so-called 'stopwatch method', in which time is actually quantified by a simulation of an administrative action (Legislative Burden Department, 2003).

[17]Sweden has developed, in cooperation with Denmark and the Netherlands, an administrative reduction methodology starting from the SCM.

[18]Source: www.administrative-burdens.com, accessed on May 2010.

would be able to send to the public administration the information required. Essentially, the Kafka test is a tool to gather qualitative information on administrative burdens.

By way of contrast, a more comprehensive and economically sound methods for estimating compliance costs has been formulated in Australia. The Business Cost Calculator is a web-based[19] procedure to develop compliance cost estimations for each proposed regulatory option. The procedure accounts also for levels (low, medium, high) of the analyst's uncertainty concerning the accuracy of information on the number of businesses that will be affected by regulation. This function overcame one of the major criticism of the SCM, that it involves the unrealistic assumption of total compliance with regulation (Radaelli and De Francesco, 2007, 91–2). The Australian method of calculating administrative burdens has been recently compared with the SCM by the New Zealand government. The comparative findings recommend the government to adopt the Australian model 'because of its potential broader coverage and more simple application' (PricewaterhouseCoopers, 2006, i). But beside the findings and recommendations, what is important to remark here is that a comprehensive comparative assessment has been conducted by a government on specific models for cutting administrative burdens.

There are only a few other comprehensive reviews of international experience with regulatory management. In 2003, the Danish Commerce and Companies Agency (Danish Commerce and Companies Agency, 2003) produced the first comprehensive review of simplification and administrative burdens reduction strategies covering dimensions such as the institutional design, regulatory process, methodology, and best practices. Argy and Johnson (2003) summarised for the Australian government the different approaches to measurement of regulatory quality adopted around the world. In similar vein, in Canada, the government commissioned a comprehensive review of 'RIA trends' in order to achieve 'a common understanding of performance measurement in order to identify potential indicators. The initiative identified existing work in pertinent domestic or international institutions, including the identification of common best practices and performance indicators and areas of marked differences (Regulatory Affairs and Orders in Council Secretariat, 2002, unpaginated document). Scott Jacobs, a leading consultant, produced a lesson-drawing report highlighting 'current trends in the process and methods of RIA

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[19]https://bcc.obpr.gov.au/, accessed on May 2010.

by Canada's peers and competitors in global markets (Jacobs, 2006). He concluded by pointing out that '[w]hereas countries such as the United States, Australia, Ireland, New Zealand, and the European Commission are actively improving the rigour and quality of RIA as an integrated framework to deal with the complexity of modern public policy, the vision in Canada is much less clear about how RIA can improve public policy.' This is also reflected in the 'weakness in the incentives and quality controls for good RIA in the [Canadian] federal government.' (Jacobs, 2006, 1) This initiative was inserted in the broader activity of the 'Smart Regulation' advisory board that was the main driver behind the 2007 change in the Canadian of regulatory analysis procedure. Taking a different approach from the previous reviews of the experience, the Italian government funded a comparative research project after the adoption of RIA (Radaelli, 2001). Because the Italian RIA system was still in its embryonic phases, such a comparative exercise did not fully reckon the differences in setting, e.g. the dissimilarity in administrative and political structures, and application, and the actual use of knowledge gathered in the decision-making (Mossberger and Wolman, 2003).

9.5.4 Subjective measures

Governments have acknowledged the impossibility of measuring—through synthetic and objective measures—the achievement of their key objective of regulatory policy. Accordingly, they turned their attention to anecdotal evidence of the quality of regulatory decisions. To illustrate, the TBS gauged whether departments internalised the new innovation through structured interviews to capture the change in regulators' perception of the usefulness of RIA (Regulatory Consulting Group and Delphi Group, 2000, 48–50). The interviews showed that all regulatory departments accepted the principle that the economic impact of proposed regulations should be examined before the formulation of rules (Regulatory Consulting Group and Delphi Group, 2000, 5–6). The Canadian experience shows a possible approach to the measurement of cultural change. Structured interviews can be usefully employed to analyse the extent of institutionalisation. Items in interview schedules can be inserted in the more comprehensive and systematic surveys of regulators and external evaluations. This evaluation approach has been followed also by the Evaluation Partnership in a more recent assessment of the EU Commission IA system (The

Evaluation Partnership, 2007).

Several countries conduct surveys of businesses and (occasionally) citizens. Before the complete endorsement of the SCM, the leading European country in the business survey field was Denmark. The so-called 'model companies', taken as a model for the European Business Test Panel, is based on a random sample of 1,000 firms which are surveyed data on the economic impact of given regulatory sectors. Relying on a representative sample of business sectors and firm sizes, it provides a quantification of the total administrative burden. Belgium is another country with a consolidated tradition of measurement of the reduction in administrative burdens through business surveys (De Vil and Kegels, 2001; Kegels, 2008). But in Belgium, e-government initiatives to reduce the formalities necessary for enterprise start-up are also measured on the basis of the World Bank's benchmarks such as the time necessary to set up a new firm.[20] Belgium represents a good example of a coherent set of regulatory measures. This gives the government greater control, since the different measurement exercises reinforce each other.

The USA provides the only example of a business survey that measures the cumulative impact of environmental regulations, that is, the Pollution Abatement Costs and Expenditures (PACE) Survey. The survey collects data on pollution abatement and prevention, capital expenditures and operating costs for air, water, solid waste, and multimedia. The survey also collects data on disposal, recycling, site cleanup, habitat protection, environmental monitoring, and testing and administrative costs as well as other payments, such as permits, fees, fines, penalties, and tradable permits bought or sold. Overall, the experiences with subjective measures are limited and only marginally transferred in other contexts.

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[20]In a press note dated 22 October 2004, the ASA emphasised the successful results of the simplification action plan, with reference to the Doing Business World Bank indicator. The latter measures the number of days it takes to set up an enterprise. In one year, this indicator had decreased from twenty-two to three to set up a small or medium-sized enterprise, and from fifty-six to thirty-three to set up a big enterprise.

9.6 International organisation experiences

This section briefly reviews the experience of international organisations in the assessment of institutional and regulatory quality, which is considered an essential factor behind economic development and growth. 'Good governance' has been measured through different sets of indicators. Each of them relies on a different theoretical foundation and methodological design, but the intention here is not to review strengths and weaknesses of each set of regulatory quality measures but to identify whether they are promoting a transnational evaluation system.

The World Bank has been active in designing global benchmarking systems of regulatory quality, the good governance indicators (Kaufmann, Kraay and Mastruzzi, 2009) and the doing business indicators (The World Bank, 2010). The former is a set of indicators covering the quality of regulatory outcomes within an overall governance framework. Based on numerous indexes of regulatory quality as perceived by stakeholders, the World Bank's indicators of governance and institutional quality provide countries with a tool for comparison and benchmarking.[21] The latter provides objective measures of business regulations and their enforcement, comparable across 181 economies. The dataset is popular for the ranking of countries according to the number of procedures, time and costs borne by a 'typical firm' to carry out activities. These are other measures of the strictness of regulation which is assumed to be associated not with safeguarding consumers' choice but with the policy makers' activities in creating and increasing the rents for their constituents. Such indicators seem to be more attractive and easy-to-understand in the measurement.

The OECD has also been particularly active in setting up a database on regulatory reform and RIA. The Product Market Regulation indicators measure the extent to which regulatory settings promote or inhibit competition. Calculated for 1998 and 2003 in order to assess the relative friendliness of regulation to the market, these economy-wide indicators summarise a wide array of different regulatory provisions across the OECD countries (including state control, barriers to entrepreneurship, international trade, and

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[21]Kaufmann et al. (2003, 39) acknowledge that their system of subjective indicators contains substantial margins of error, which should be carefully taken into account in comparing countries. However, they argue that the same margin of error exists in objective measures as well when they are used to portray broader concepts, such as regulatory quality or the efficiency of governance (Kaufmann, Kraay and Mastruzzi, 2003, 38).

investment) (Conway, Janod and Nicoletti, 2005). Although the data sources are governments' self-assessment and multiple-choice questionnaire responses, this is a database composed of objective indicators, covering both economic and administrative types of regulation. Like the Doing Business indicators, there is an explicit orientation towards policy relevant recommendations and specific suggestions for policy reform. The other OECD indicators measure the 'Government Capacity to Produce High-Quality Regulations' and have four versions (1998, 2000, 2005, 2008). Governments in this case are evaluated on the basis of their political attention and commitment in implementing policy for better regulatory governance. Although explicit benchmarking is not unanimously endorsed by OECD members, this is an obvious practical way to use this data. The OECD defined regulatory quality on the basis of the following principles: necessity, efficiency, effectiveness, transparency, and protection of public interest. The OECD approach to the regulatory process is innovative not only for fixing the principles of better regulation but also in the way these principles have been used in a more comprehensive transnational evaluation exercise. An overview of good practice provides normative hints for defining the principles that in turn are also the standards for checklists, used by the OECD in its peer review of regulatory processes and governance. Recently, the OECD has run a principal component analysis of the self-assessed indicators to derive patterns and build clusters of countries. To control for consistency with other sets of indicators, the OECD has performed a correlation analysis with Doing Business and other datasets (OECD Regulatory Policy Committee, 2009). Overall, the World Bank and the OECD have built up evaluation systems in order to compare the progress of governments in regulatory reform and governance. The popularity of such systems, however, vary. The Doing Business and OECD regulatory management indicators are the more popular among governments. However, as the previous sections showed, governments seem still to be not importing them completely into their evaluation exercises.

The European Commission is still searching for a way to evaluate its own regulatory process in a similar manner to the evaluation which takes place in individual EU member states. The Mandelkern report and the Hellenic Presidency review of the state-of-the-art of European better regulation were sporadic practices, as was the DG Enterprise project on measuring regulatory quality across Europe that has not been concretised. The more systematic comparison relies on the national reports on the implementation of

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the European Charter for Small Enterprises which now includes specific items on better regulation. The European Commission performs annually an assessment of its effort to achieve a 'better lawmaking', and since the establishment of the Impact Assessment Board a more transparent and sound impact assessment process is possible. This still emerging system of evaluation has not been a model for any of member states.

9.7 Conclusions

This chapter has illustrated how governments monitor and measure quality and the specific initiatives under way. Although the number of countries with measurement initiatives is increasing, the majority of EU and/or OECD member states has not put in place any monitoring and evaluation system of regulatory quality policy. This is an indication of incomplete rationality in the choices and design for RIA. This evidence confirms the findings that in most countries the adoption was mainly symbolic, driven by the desire to keep up with the Joneses. The OECD reports that no laggard country has up to now gone so far as to institutionalise RIA, evaluating its effectiveness and impact.

Although networks composed of independent bodies and stakeholders are emerging, evaluation systems are generally centred on the central oversight units which annually report to parliaments. Further, there are few cases of deep institutionalisation of RIA in other policy areas, specially budget control. The review of institutional design of evaluation signals cases of policy transfer. For instance, the evaluation mode through independent advisory bodies originated in the UK and the Netherlands and has been copied by other European countries engaged to reduce administrative burdens. The SCM ceiling system linked to budget policy is also now well-established among Scandinavian governments.

Turning to measures and indicators of regulatory quality, quantitative targets are a more popular option than qualitative measures and anecdotal evidence. Some countries have gone further than that, by introducing systematic reviews and monitoring tools based on quantifiable variables. The experience on evaluation, however, did not travel. Good performance measurement systems, like the Australian indicators of regulatory principles and the Canadian standards, have not been copied by any country. Scorecards and checklists are instead the most used approach not only by government but also by academics and

stakeholders. However, there is no general agreement on how regulatory quality should be observed and measured. This problem has been simplified by those governments which stripped down regulatory quality in a war on red tape. The SCM is without doubt a model which has been transferred in other European countries as well as Australia and New Zealand.

It is evident that the preference of governments is to use single measures which, however, can be potentially turned into systems of indicators. But this potential use is not exploited. Governments are still not systematising available single measures. Further, emergent transnational evaluation systems, designed by the OECD and the World Bank, are not completely exploited by the sampled countries. At the European level, the European Commission is still in search of the most appropriate mode of evaluating its regulatory process and policy. Indeed, the European Commission's evaluation system is the cumulative result of previous initiatives such as the 'better lawmaking' report and the Charter for Small Enterprises as well as the Impact Assessment Board annual report. The project for more comprehensive indicators has been abandoned. Overall, international organisations and the EU do not coerce and pressure their member states to adopt specific systems for evaluation. Neither are transnational evaluative models applied in member states. National governments have referred to international organisations in order to provide hints of how successful their policies were. Governments have not imported such models at their national level. Even the simplest indexes, comprising time and costs to comply with regulation of entry (Djankov et al., 2002), are not currently used. Considering that most EU Member States are targeting red tape and that the literature has discussed several indexes, there is considerable potential for a closer dialogue between policy-makers and social scientists.[22]

On the other hand, transfer is evident among the clusters of countries which adopted the SCM. Such simplification strategy is easy to understand and to 'pack' across countries. The model has a simple formula to achieve a specific target, the same 25% target for all the countries, that can be easily developed in an evaluation system composed of independent advisory bodies, an annual report to be tabled to the parliament, linkage to the budgetary

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[22]For example, Djankov et al. (2002) developed an index ranking all the costs of specific actions to be undertaken in order to set up a new firm (as a percentage of GDP). This index can provide policy-makers with a shortlist of administrative burdens for which simplification is more cost-effective.

policy, and also a well established network of experts. The Netherlands provides a strong pivotal centre for the promotion of this model, throughout its activities at the European Council. On the contrary, countries which rely on a more comprehensive approach toward regulatory quality and CBA tend to benefit exclusively from their direct experience. This is confirmed by the variety of methodologies for reporting to the parliament: set of indicators as in Australia, overall costs and benefits as in the US, compliance measures as in the EU and the UK. Also comparative analysis and scanning of international experience and solutions are rare and limited.

This review has covered five EU Member States, as well as Canada, Australia and the US. Following Radaelli and De Francesco (2007), these eight countries can be divided into two groups, according to two dimensions: comprehensiveness of regulatory quality and intensity of evaluative network. They highlighted that countries, such as Australia, Canada, the UK, and the USA, have a robust network of quality assurance actors and also look at RIA beyond the issue of red tape; whereas those targeting administrative burdens—Belgium, Denmark and the Netherlands—are characterised by a simpler system of monitoring (Table 9.1).

Table 9.1: Quality assurance systems, approach to regulatory quality, and policy transfer. Based on Radaelli and De Francesco (2007, 105).

	Simple quality assurance	Sophisticated quality assurance
Administrative burdens and SCM	Denmark, the Netherlands, Sweden *policy transfer*	
Net-benefit principle		Australia, Canada, the UK, the US *direct experience*

This diffusion analysis complements such analysis, revealing that within the cluster of countries targeting administrative burden there are several instances of evidence of policy transfer founded on the SCM, an innovation characterised by higher levels of compatibil-

ity,[23] observability,[24] and simplicity.[25] In contrast, an RIA system based on CBA is more complex and does not inherently develop a quantifiable target and an evaluation mode.

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[23]Defined as 'the degree to which an innovation is perceived as consistent with the existing values, past experiences, and needs of potential adopters. (Rogers, 2003, 240)

[24]Defined as 'the degree to which the results of an innovation are visible to others.' (Rogers, 2003, 258)

[25]Defined as 'the degree to which as innovation is perceived as relatively simple to understand and use.' (Rogers, 2003, 256)

Chapter 10

Conclusions

10.1   Overview of the empirical findings

This research has provided the first analysis of the extent of interdependence amongst governments undertaking regulatory reform. To explore this issue, large-n comparative analyses assess how regulatory appraisal systems have been adopted and institutionalised in EU and OECD member states. Policy appraisal is a major innovation in modern public administration and deserves an analysis which takes context, time, and interdependency seriously. This study has discerned the extent of interaction and exchange of information among governments, across the sequence of adoption, implementation, and ex post evaluation. This overcomes the major flaws of previous policy diffusion studies that isolated innovation from broader phenomena and theoretical concepts and focused on the event of adoption. In particular, a conceptual framework of the decisional process of adopting units (see Figure 1.1) has guided the systematic and comprehensive assessment of policy diffusion.

The central finding is that the horizontal and vertical modes of policy diffusion were the main influences on the decision of governments to adopt, but were marginal in the successive decisions concerning the implementation and evaluation of RIA. Such a pattern of interdependency is also confirmed by the marginal role of international organisations, the OECD and the European Commission, and pioneer countries in promoting such an

administrative innovation beyond the stage of adoption. Domestic policy-makers retained considerable autonomy in choosing if and how to implement and evaluate RIA, generally based on their direct experience and their country's institutional features.

Arguing that a cumulative exploration of adoption, implementation, and evaluation provides a better understanding of the extent of interaction of governments associated with an administrative innovation, the main challenge and contribution of this dissertation has been to consider policy diffusion as a dynamic process. Accordingly, RIA has been analysed in three ways. Firstly, its concept has been clarified as an administrative requirement to control regulators, whilst also deriving typologies of rulemaking. The qualitative analysis of the process of institutionalisation among a sample of pioneer countries specified that RIA is a general administrative requirement, rather than a specific methodological model for assessing regulatory quality. Secondly, empirical tests have evidenced a variation in diffusion patterns across time. Finally, the extent of implementation has been correlated with years of adoption, and qualitative analysis has surveyed the extent of learning in evaluative practices. In short, incorporating several aspects and elements of an administrative innovation and, consequently, relying on different dependent variables and research methods, this 'organization-centred' (Savage, 1985, see note 11 in Chapter 2) research underlines the proposition that only an integrated analysis of policy diffusion enables us to grasp the symbolic and rhetorical meanings associated with the decision to adopt a policy innovation. More importantly, empirical evidence of the innovation's prerequisites and actual applications reveals the main rationale and mechanism behind the choice to adopt an administrative reform which is largely affected by political rhetoric.

A number of other important findings were observed throughout these studies. As also shown by the theoretical and empirical literature, the first important conclusion is that RIA is about political control. Conceptually, RIA is an ongoing and hierarchical control mechanism of an executive principal. Over time and only in a few pioneers and followers, the institutional design has been strengthened in order to control regulators. This occurred through the establishment of an oversight body, empowered to control the quality of economic analysis, and the setting of quantifiable targets such as the reduction of 25% of administrative burdens. Specifically, the implementation score has indeed confirmed that political control is relevant only in the US, Canada, the Netherlands, and the UK among

the pioneers, as well as Mexico, Korea, Belgium, and Poland among the followers majority. Accordingly, political control is not immediate and requires the institutionalisation of innovation. However, the complexity of regulatory governance—as evidenced by the size of government, which has proved to be statistically highly significant in the discrete EHA— requires a system based on hierarchical supervision and control through standards.

The second remarkable item of evidence is the role of the OECD in promoting such administrative innovation. Indeed, the OECD was effective in packaging and re-branding a set of diverse appraisal methodologies as a compelling instrument for enhancing rationality and legitimacy of regulatory outcome, rather than political control of regulators. This provides a common knowledge and shared language for establishing networks of experts and high-level civil servants, facilitating the spread of such an administrative procedure. A given country's membership of OECD networks increased the probability of adoption consistently and significantly. Qualitative analyses have also shown that the OECD was effective in shifting the mode of policy transfer and constructing a social system composed of expert networks. On the other hand, the OECD is not a teacher of norms, given that the adoption of RIA is not concomitant with the publication of its regulatory reform reports. Further, the role of international organisations has up to now been marginal in the successive stages of administrative innovation. The OECD and the EU have also not been active in sharing knowledge among their better regulation networks about how to achieve an effective and efficient implementation, evaluation, and eventually, institutionalisation of the policy innovation.

Finally, this dissertation has also found that administrative traditions matter. The legal origin pattern is constant across time as evidenced by the average proportion of adopters. It is also a strong diffusion determinant. Moreover, legal origin also delineates the limited interdependency in the implementation and evaluation phases. English legal origin countries have higher implementation scores and are generally involved in evaluating their RIA programmes. Patterns are also derived from previous administrative innovations such as FOI laws and EIA, which are correlated with the adoption ranks of RIA and partially confirmed by the diffusion models.

The relationship between governments' interdependency and the policy process has been explored, having in mind three aims: i) understanding which internal determinants and

external pressures influenced the adoption; ii) ascertaining if and how knowledge about implementation and evaluation of practices has been exchanged; iii) assessing the patterns and the extent of policy change provoked by this diffused innovation. Each of these areas is discussed in more detail in the next sections, which also remark on the main contributions of this dissertation to the literature of RIA, formulating also normative claims for policy makers and stakeholders, NPM, policy diffusion, and public policy. Suggestions for further analyses on diffusion of administrative innovations are also provided, in order to tackle the limitations of this research.

10.2 Innovation adoptability

This dissertation has been developed and structured on central concepts and epistemological emphases of policy innovation which are peculiar to the politics of administrative reform and NPM. The first fundamental element added to the analytical framework concerned the definition of RIA, an ongoing control mechanism which does not assume the connotations of a well-defined model. Rather, it is a general framework, an administrative requirement to appraise foreseeable impacts of new regulations. Furthermore, P-A models have described the emergence of RIA in the American administrative state. Elman's methodological recommendations for deriving explanatory typologies were used in order to derive typologies of rulemaking. Two dimensions of rulemaking, i.e. the presence of RIA, and the institution in charge of reviewing rulemaking, were intersected. Such typologies have provided expectations about the order of adoption. Specifically, English common law countries tend to adopt RIA earlier than French and German legal origin countries.

Beyond the definitional aspects, RIA has been inserted within the broader administrative state composed of constitutional principles and institutions as well as previous administrative innovations. The argument is that an adopting unit's institutional context shapes the definition and effects of this administrative innovation. In other words, the initial part of this dissertation has refined the understanding of the adoption environment in which innovation attributes and adopting units interact, resulting in the concept of adoptability.

This concept requires a deep knowledge of the innovation context for discerning the theoretical framework which, given the lack of theorisation and large-n comparative studies of

RIA, was found in the NPM literature. Moreover, the selection of the diffusion theoretical framework was supported by the further empirical evidence of a normally distributed spread. The shape of such a curve and the main events which occurred throughout the diffusion process delineated the categories of adopters. The analysis of the extent of variance in the process of emergence and institutionalisation concluded that RIA is not a global paradigm, with strong institutional conditions for diffusion. In continental Europe, the pattern of emergence of RIA differed from the pattern seen in the common law countries, and different patterns of institutionalisation still persist. Accordingly, the theoretical framework is situated in the decision-centred concept of policy change which assumes that the types and intensity of communication matter, and excludes forms of collective rationality.

10.3   Patterns and probability of adoption

Diffusion analyses were ordered according to the degree of complexity involved in the assumption of the models. The random interaction model, modified in order to take account of the international context, proved the role of the OECD. However, random patterns are implausible for public consequence innovations which are nested inside institutional norms, values, and symbols (Wejnert, 2002, 300). Accordingly, the successive models assumed specific patterns of adoption. Contingent and complimentary innovations were useful in indicating the sequence of adoption. Ranking correlations and the fact that only a few countries adopted RIA before APA, EIA, or FOI law indicated that previous innovations were necessary conditions, especially among the laggards. Other internal determinants such as the size of government and the extent of economic growth have been tested through correlations. Overall, at the time of adoption, the pioneers have similar GDP per capita and size of government; whereas the laggards usually have lower GDP per capita.

The average proportions of adopters evidenced that fixed regional effects, considered as countries belonging to the same legal origin, were constant across time. The English legal origin countries constitute the majority among the pioneers; whereas the French legal origin countries are the most numerous among the laggards. The pioneers are also

the usual suspects among the most active NPM reformers. Looking at the sequence of adoption, the case of Hungary, the only former socialist country to have adopted RIA as a pioneer, is remarkable. Among the early majority it is possible to see the influence of the OECD on several countries such as France, Iceland, Italy, and Switzerland. But it is also present in the form of spatially inducted adoption for countries like Austria, Belgium, and Norway.

Overall, the empirical findings of separate tests and the major events which occurred throughout the diffusion process have evidenced a variation in the order of adoption. The first phase was characterised by horizontal interaction among countries, in which models of RIA were transferred especially among the Anglo-Saxon countries. Whereas in the later stages of diffusion the interaction among and interdependency of governments increased through the formation of transnational networks.

Turning to the discrete EHA results, the first stripped down model of only internal determinants has evidenced the importance of open and transparent governments as well as the legal origin. Adding the horizontal dimension of diffusion to the basic model, the results partially confirmed the extent of US direct investment as a predictor of adoption. Internal determinants still matter: FOI law and government expenditure are significant at the level of $p < 1\%$. In the final integrated models, the importance of the OECD is evident, especially with the variable which captures the intensity of participation of a given country in OECD networks. Among the internal determinants, government expenditure is highly significant. Interdependence with the US is evidenced by the US FDI and the English legal origin.

The overall conclusion of the two adoption analyses is that the institutionalised patterns of interaction between governments and the OECD have provided governments, which were already aware of the necessity to overview regulatory governance and have a bounded learning capacity, with cognitive maps for taking the decision to adopt RIA. The role of the OECD in reframing and packaging such innovation as a tool to enhance the empirical evidence of decision making overcame the uncertainty faced by governments due to a lack of information about the benefits and costs of RIA.

10.4 Diffusion process and causal mechanisms

Granting that diffusion is about decisional interdependency of governments, this study relies on the main argument that the measurement of its extent must not be limited to the punctual event of adoption. Large-n policy diffusion studies tend to oversimplify the policy process, assuming implicitly that governments adopt exactly the same innovation (Clark, 1985). In addition, determinants of adoption are supposed constantly valid across the policy process (Brooks, 2007). But adoption is a partial representation—generally the most evident and easy to observe—of policy change (Blomquist, 2007).

The extent and modes of governments' interdependency across the policy process vary according to the type of decision policy makers take. If communication amid transnational policy networks facilitated adoption in the majority of countries, there is only a marginal information interaction and influence in the choices of implementation and evaluation of RIA. In particular, such interaction has occurred during the legal design of institutions of regulatory reform. Governments tend to reinvent and adjust RIA, without exchanging information on every single organisational and operational detail of the appraisal system. Even more marginal has been the interdependency of evaluative practices: Only a small number of governments have learnt from the others how to review the performance of RIA programmes. Interestingly, this has taken place for the SCM, which relies on a precise and simple formula to compute administrative burdens for businesses. The qualitative analysis of evaluative practices has evidenced that the role of international organisations has been marginal, whereas SCM leading countries, such as the Netherlands, have been active in sharing knowledge of the institutionalisation of innovation.

Hypotheses about diffusion mechanisms have been also formulated. The analysis of implementation concluded that it is plausible to exclude diffusion explanations such as emulation and synoptic learning. Moreover, the OECD did not act as a coercing actor, given its limited role in promoting the homogenisation of the legal dimension. If these explanations were valid, the implementation scores would have marginal variations. The lowest variation has been found on the legalist dimension, implying a symbolic adoption. The implementation scores are higher in the group of pioneers; further, the followers also have higher implementation scores than those of the laggards, meaning that the incrementalist

explanation is the most plausible. In other words, followers and laggards did not tend to adopt the most comprehensive system of RIA, for instance, that developed in the US and the UK. Further evidence of marginal interdependency is provided by the negative correlations between years of adoption and implementation indexes. Overall, the implementation analyses have shown that interdependency is mainly associated with a legalistic implementation.

The evaluation study has shown that the vast majority of adopters do not appraise the performance of RIA, yet another indication of symbolic adoption. Indeed, there are few cases of complete institutionalisation with the presence of effective oversight and reporting mechanisms as well as the involvement of independent advisory bodies and stakeholders. Occurring essentially through government-to-government communication, transfers of evaluation practices were limited to the institutional design; for instance, the independent advisory bodies and ministerial ceilings of administrative burden linked with the budget policy. Although running several regulatory quality indicators, the OECD, the World Bank, and the EU were not so effective in creating a transnational evaluation system. International organisations' regulatory quality measures are not systematically used by governments which were not involved in their conception and design. Furthermore, for its simplicity, observability, and compatibility, the SCM was a more easily transferable model. Governments who were engaged with more complex economic methodologies, such as CBA and risk analysis, tended to benefit from their own direct experience. In this cluster, transfer—if it occurred—was constrained by the complexity of the regulatory appraisal system and adjusted to the institutional actors and administrative context.

Overall, the implementation and evaluation analyses confirmed a limited interdependency. The role of the OECD, a strong determinant of adoption, was marginal and targeted at the decision to adopt RIA. Also, the US was not a model for implementing and evaluating regulatory reform. Other countries, such as the Netherlands, emerged as more successful change agents. The cumulative evidence of the three decisional stages excludes coercion, emulation from the leaders, and quest for legitimacy as causal mechanisms. There is no evidence of instrumental and comprehensive learning and, consequently, of convergence, rather the operation of a selective or clustered modality of learning generally founded on the adopters' direct experience and institutional features is more plausible. The over-

all diffusion process of RIA is characterised by administrative features and functionalist needs—to govern the regulatory state—which have been emphasised and channeled through institutionalised patterns of transnational networks set up by the OECD. Such networks, however, focused mainly on the legalistic dimension of implementation.

10.5   Contributions to the literature

Through a systematic review of different administrative innovation elements, this study makes an important contribution to the literature of RIA. Political control of bureaucracy is the central concept of such administrative innovation. This is also a useful element for deriving typologies of rulemaking and adoptability of RIA. Moreover, the innovation framework allows us to conceive of administrative reform through a process of institutionalisation which is dynamic and composed of preconditions and prerequisites such as previous innovations which impact on the readiness-to-adopt.

Normative claims can be drawn from acknowledgement of the long time necessary to implement and institutionalise RIA. An effective implementation can be achieved through administrative institutions for ensuring access to information and reasoned decisions. Further, empirical evidence shows us that followers and laggards do not tend to exploit all the experience available around the globe. With the exclusion of the SCM, neither is there extensive interdependency and communication among governments about how to go about RIA. In addition, the OECD and the EU are not promoting effectiveness in the post-adoption stages. Indeed, there are only a few projects on ex post evaluation of RIA programmes. Thus, governments should be aware that the the returns from the necessary long-term investments for implementing and evaluating RIA and the other necessary and complementary innovations are slow and uncertain. The risk is to get to the stage of frustration with the innovation, which may lead to rejection of a totally foreign innovation.

The contribution of this study to the NPM literature, in which diffusion studies are sparse, is also evident. Previous diffusion studies of administrative innovation tended to test only spatial pattern, through the insertion of an additional diffusion variable into a set of internal determinants. This research, however, through a theoretical model of governments' interaction, tested diverse hypotheses of diffusion. The role of the OECD is assessed

jointly with horizontal communication channels. In order to avoid the risk of considering the internal logics of RIA as a source of nuisance, political control, economic rationality, and legitimacy have been reproduced across the process of diffusion. This allows us to understand whether and how functionalist logics are transformed by interdependency. The model should be further tested by analysing other administrative reform and NPM tools. Overall, administrative reform can be conceived as an innovation which has to be analysed along with administrative attributes, in order to derive adoptability and sustainability.

The main contribution of this thesis is to consider policy diffusion dynamically, overcoming the methodological flaw of selecting only an event of the policy process, and acknowledging the multiple dimensions of policy change. In addition, this thesis has assisted the development of a deep understanding of the theoretical foundations of what has spread, distinguishing different elements such as adoptability, normally distributed rate of adoption, and diffusion patterns and causal mechanisms. Further, the multiple methods employed in this study were unique to diffusion studies. The challenge is to devise effective measures for appreciating the actual impact of policy diffusion on public administrations. Through two datasets on adoption and implementation, as well as a qualitative recognition of the most relevant evaluation practices, this dissertation validated the findings on adoption.

The contribution to the overall literature of public policy is four-fold. Firstly, it has been argued that implementation and evaluation studies should take account of governments' interdependency, obtaining the same methodological improvements as those obtained by policy adoption scholars. Analysing the implementation and evaluation of an administrative innovation that has spread around the globe and has been experienced in many other countries is rather different from the analysis of a novel and emergent policy idea. The amount of available information is hugely diverse, impacting on the theoretical assumptions and normative claims. Secondly, through the categories of adopters, implementation has been linked to the main expectations of policy diffusion. This was the first step towards taking time into serious consideration. A further dynamic analysis was conducted using the necessary steps of institutionalisation, from the extent of legal implementation to the strategic use of the innovation. Overall, implementation studies have so far been deficient in failing to take full account of the role of the external actors, not going beyond the interaction between national bureaucrats and politicians. International organisations

and transnational networks may have a huge impact on the extent and the process of institutionalisation. Thirdly, evaluation has been linked to policy diffusion, providing causal paths leading to different typologies of learning. With this in mind, policy diffusion can be a perspective for better explaining the causal mechanisms of learning, and provides a framework which can be utilised in further researches on administrative reform. The final contribution refers to comparative analysis, showing that political control, an institution-centred model, is most effective because institutions guaranteeing the constitutional checks and balances are stable and common in all democracies. Alternative administrative doctrines, such as pluralistic and deliberative doctrine models, are not well developed beyond the US.

10.6 Acknowledging limitations and further researches

Due to the scope and aims of analysis as well as the levels of the theoretical explanations, there are several limitations in this organisation-centred analysis of policy diffusion. Firstly, the agenda setting phases have been overlooked. For instance, the role of policy entrepreneurs and stakeholders may be relevant determinants of the adoption of administrative reforms. This would have demanded a micro-analysis of the decision-making through either process tracing (Mossberger, 2000; Weyland, 2006) or a survey of policy-makers (Garrett, 2002). Qualitative case studies of agenda-setting and policy transfer could be conducted on countries which—according to the derived adoptability—adopted RIA unexpectedly. For instance, among the pioneers an interesting case is Hungary, which adopted RIA well before the collapse of its communist regime and, consequently, with no existing interaction with the other pioneers. Because of its peculiar tradition of open and transparent administrative governance, composed also of autonomous regulatory agencies, Sweden is another pioneer—with, however, low implementation and marginal institutionalisation of RIA—which deserves in-depth analysis.

Having in mind the second aim of this research, i.e. the investigation of interdependency across the policy process, the other limitation of this study refers to the post-adoption

phases, implementation and evaluation. Although a thorough analysis of empirical findings has been made, this research relies on explanations of the policy diffusion literature which does not provide for precise measures of the extent of interdependency of the actual practices. A better understanding of the administrative capacity to appraise direct and indirect experiences as well as prerequisites for and constraints on the institutionalisation is essential. This would enable us to include specific determinants. Moreover, the analysis should be broader by focusing on the demand and supply sides of institutional change. In other words, implementation and evaluation could be assessed in a similar fashion to that used for policy adoption, using the EHA for measuring the probability of having an effective implementation, on the one hand, and policy evaluation and learning on the other hand, and, consequently, discerning and distinguishing administrative capacity and diffusion explanations.

The third aim of this research, i.e. the extent of policy change given the diffusion of an administrative innovation, is the most challenging. This research has provided an effective overview of the overall patterns of implementation and modes of evaluation across thirty-eight countries. However, a comprehensive measure of policy output is still lacking. Future researches should address the question of policy interdependency, elucidating how profound the impact of a diffused innovation can be on national policy and institutions. Theories of policy process and decision-making must be further developed in order to take into account the external influences and information exchanges. Reforms are not only induced by poor institutional performance, but also by the perceived potential of feasible policy alternatives (Weyland, 2006). Furthermore, another limitation of this research, and generally of policy diffusion study, is neglect of the counterfactual scenario: Would regulators also achieve the same regulatory outcome without control mechanisms? Obviously, this question is applicable only to those countries which went beyond the legal adoption of RIA and for which the conduction of regulatory appraisals has become a routine. To answer this question, a micro level analysis of knowledge production is required, assessing the extent of the behavioural changes on the part of the regulators which occurred as a result of the innovation. Observations should be collected on the impact of possible previous innovations with similar goals and scopes. The necessary multi-innovation perspective goes well beyond the scope of this research.

Appendix A

Selection of the year of adoption: A methodological clarification

Constructing a database on the adoption years of a policy innovation may seem a simple task. For each country the researcher has 'only' to look at the first legislative source that has enacted the RIA programme in a given country.[1] However, the adoption of RIA does not always stem from a legal source, as in the case of the UK. Often the legislative basis is embedded in a much wider legislation, as in the case of the Italian government that adopted RIA via the annual simplification law. In other cases, a government's rule on the lawmaking process is the legal framework containing RIA. This is the case with Canada, the Czech Republic, the Netherlands, Denmark and several other countries. In Korea, RIA has been adopted within the context of the administrative procedure act (Baum, 2007; OECD, 2000). Due to this variation, it is complex to identify the year of enactment of the administrative requirement to perform an RIA. To avoid such an impasse, priority has been given to the OECD reviews on regulatory reform, even when other primary and secondary sources report different information. Two elements justify this choice. Firstly, the OECD has defined functions and purposes of RIA (OECD, 1997a; OECD, 1997b). Its definition has been broadly accepted also by scholars (Kirkpatrick and Parker, 2004; Radaelli, 2004; Radaelli et al., 2006). Secondly, the OECD's reviews on regulatory reform

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[1]But also in this case the task can be complex: Two academic papers on the diffusion of FOI legislation, for which data are more consolidated than RIA (an online database also exists at www.freedominfo.org), have reported for few cases different years of adoption (cfr. Bennett (1997, 218) and Ackerman and Sandoval-Ballesteros (2006, 97–8)).

constitute the only systematic running count of the adoption of RIA, since a member state's efforts in reforming regulatory governance are peer-reviewed on the basis of a set of recommendations composing the evaluation benchmark (OECD, 1997*b*; The APEC-OECD Co-operative Initiative on Regulatory Reform, 2005).

Unfortunately, the OECD has still not reviewed all of its member states. Moreover, not all the EU member states are part of the OECD. Consequently, in several occasions alternative sources, such as the annual reports prepared by the EU member states for the DG Enterprises charter for small enterprises and the Lisbon strategy for growth and jobs, have been used. Both of these examples involve a report on RIA produced via a self-assessed questionnaire. In a few other cases, sources from governments and the United Nation Development Programme (UNDP) have been employed.[2] Table A.1 shows the year of adoption for each of the thirty-five out of thirty-eight countries of the sample (Cyprus, Luxembourg, and Malta did not adopt RIA within the time frame of the analysis 1968–2006). It also points out the differences with the OECD dataset (Jacobzone, Choi and Miguet, 2007).

Before turning to each difference in the two datasets, it is essential to clarify that the focus here is on the innovation, the new idea (Rogers, 2003; Mossberger, 2000, 1) that regulators have to systematically assesses—through the drafting of a dedicated report—the economic effects of their proposals. As mentioned in Section 3.2, RIA is not exclusively CBA applied to the regulatory process. It can also be a simple checklist demanding that regulators balance advantages and disadvantages of new regulatory provisions, using whatever economic methodology they prefer. Section 5.3 shows that the innovation under analysis is a principle, a general lesson transferred from other countries' experience (Mossberger, 1999, 35), rather than a precise methodological model of regulatory governance. Further, the year of adoption is taken here to mean the year when the law, regulation, or policy concerning RIA was approved and not the year when the provision was effectively enacted.

Bearing in mind these specifications, Austria, Denmark, Greece, Finland, and Spain are considered to occur too early in the OECD dataset. Austria adopted in 1979 a Fiscal Impact Analysis, which focuses on the direct consequences of new regulations on the public budget. The adoption of the Danish RIA in the mid-1960s is implausible, given

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[2]http://europeandcis.undp.org/pia, accessed on September 2008

Table A.1: Years of adoption of RIA in EU and OECD member states

Country	Adoption years	Source	Difference with the OECD database
Australia	1985	OECD report	
Austria	1999	National report on European Charter for SME	1979
Belgium	1998	OECD report	No adoption
Bulgaria	2003	OECD Sigma	Not available
Canada	1978	OECD	
Cyprus	-	OECD Sigma	Not available
Czech Republic	1998	UNDP	
Denmark	1993	OECD report	1966
Estonia	1996	OECD Sigma	Not available
Finland	1998	OECD report	Mid-1970s
France	1995	OECD report and National report on European Charter for SME	1996
Germany	1984	OECD report	
Greece	2006	National report on Lisbon strategy for growth and jobs	Developed since 2001
Hungary	1987	OECD report	
Iceland	1999	OECD indicators of product market	
Ireland	1999	OECD report	
Italy	1999	OECD report	
Japan	2004	OECD report	
Korea	1997	OECD report	1998
Latvia	1998	OECD Sigma, National report on European Charter for SME, and UNDP	Not available
Lithuania	2003	National report on Lisbon strategy on growth and jobs	
Luxembourg	-		Missing data
Malta	-		Not available
Mexico	1996	OECD report	
Netherlands	1985	OECD report	
New Zealand	1995	Government guidelines	1998
Norway	1995	OECD report	
Poland	2001	Government guidelines	
Portugal	2006	National report on Lisbon strategy on growth and jobs	Missing data
Romania	2005	UNDP	Not available
Slovak Republic	2001	National report on European Charter for SME, and UNDP	Missing data
Slovenia	2004	National report on European Charter for SME, and OECD Sigma	Not available
Spain	2004	National report on European Charter for SME	1997
Sweden	1987	OECD report	1998
Switzerland	1999	OECD report	2000
Turkey	2006	Government web site	2007
UK	1985	OECD report	
US	1971	Government primary sources	1974

that the idea was conceived in the US in 1971.[3] What the OECD considers here is general instructions for drafting regulations. The same consideration is valid for Finland where the 'Instructions on the Drafting of Government Proposals' date back to mid-1970s. The adoption of the 'Instructions for Assessing the Economic Impacts of Legislation' and of the checklist based on the OECD's recommendations on regulatory reform and RIA occurred in 1998.[4] Whereas the cases of Denmark and Finland highlight a situation where adoption of RIA is confused by the previous adoption of administrative requirements of the rulemaking process, in the case of Greece and Spain the differences between the two datasets is related to the OECD's consideration of earlier steps toward a formal RIA adoption. Indeed, the governments reported a later adoption of RIA in their reports on the Lisbon strategy on growth and jobs and in the European SME charter .

There are also cases in which the OECD considered the late adoption of RIA. In several cases (France, Korea, Switzerland, and Turkey) this is due to the fact that the OECD reports the year when the law was enacted. The differences are indeed marginal of one year. On other cases, New Zealand, Sweden, and the US, the differences are relevant. In the case of New Zealand, the so-called Compliance Cost Statement, adopted since 1995, is similar to the British CCA which has been reckoned as RIA by the OECD. Similarly, 1971 is the year of adoption of RIA in the US. Indeed, in 1974 there was a strengthening of the Nixon administration's 'Quality of Life' review, already established RIA in 1971. Finally, it is the OECD itself to report that in Sweden '[i]n 1987, the first Government Agencies and Institutes Ordinance was adopted, under which agencies are obliged to investigate and analyse the consequences of new regulations and compile this investigation into an impact assessment.' (OECD, 2007a, 12) Having specified these differences in the consideration of years of adoption, the next section turns to the analysis of the trend of diffusion, highlighting the major events which occurred in more than three decades and remarking the major clusters of adopting units.

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[3]In the same paper Jacobzone et al. (2007, 35) confirm that the first country to adopt RIA was the US.

[4]This interpretation is confirmed also by the first Finnish report on the European Charter for Small Enterprises (Finnish Ministry of Trade and Industry, 2001, 5).

Appendix B

Data sources of the implementation score

This appendix provides details on the data sources, highlighting the problems in integrating them in the implementation index.

B.1 OECD database on Government Capacity to Produce High-Quality Regulations

This database on regulatory reform and RIA relies on the pioneering and pivotal surveys conducted by the OECD. The database is originated from the 1995 OECD recommendations signed by the Ministers for public administration on regulatory reform (OECD, 1995) and the 1997 OECD benchmarks for implementing RIA (OECD, 1997*b*). Through a set of recommendations,[1] its main purpose is to benchmark OECD countries' initiatives for producing high-quality regulations. The detailed 2005 self-assessed questionnaire (sent to the formal group of directors and experts for better regulation and RIA programmes) is composed of 80 items, grouped in 5 sections:

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[1]They concern the institutional design of regulatory reform and RIA and have recently been updated in 2005 (OECD, 2005; The APEC-OECD Co-operative Initiative on Regulatory Reform, 2005).

- Content of regulatory policies;

- Regulatory quality tools;

- Institutional arrangements to promote regulatory quality;

- Dynamic aspects of regulatory quality;

- Performance/outcome indicators.

The last two sections clearly derive from the recent evolution of the OECD in its benchmarking exercise.

B.2 ENBR and DIADEM database

This database was developed by a project coordinated by CEPS, a Brussels based think tank. The main aim of this project was to disseminate knowledge on RIA and to systematise in a database all information available both at the macro and micro levels. In particular, the 'country fact sheets' are composed of three parts: constitutional structure, horizontal regulatory policy, the impact assessment system, and other better regulation tools (consultation, simplification and access to regulation). The constitutional structure contains information on the regulators, the role of the judiciary in the regulatory process, and the integration of IA provisions with administrative law. The second level of analysis focuses on the principles, design, targets, and measures of better regulation. Finally, the last part of the fact sheet focuses on the extent of provisions required for the four tools of better regulation. The variables are generally expressed in a Yes/No format.

B.3 EVIA's country fiches

The EVIA project was led by the Environmental Policy Research Centre at Frei University in Berlin. The main goal of this project was to disentangle the concept of quality in regulatory appraisal. A theoretical framework was drawn for evaluating RIA and ultimately formulating policy recommendations. The project was mainly comparative, and

brief countries reports were drafted for the 27 EU member states and the European Commission. Information gathering methodologies varied, i.e. face-to-face interview, phone interview, informal communication with experts, evaluation reports, academic literature, review of guidelines, and review of RIAs. The country reports are essentially composed of two parts: i) design of the impact assessment system, containing factual data on adoption, legal provisions, institutional design, and financial resources; and ii) overall RIA framework referring to both objective and subjective data on the quality of implementation. The advantage of this database is its comprehensiveness both in terms of variables and countries observed. The major flaw is related to the variability of methodologies used in data gathering and the lack of a more theoretically structured definition of the quality of implementation.

B.4 Problems in integrating the existing datasets

Notwithstanding the number of datasets available, the integration of their data is not straightforward. This is essentially due to the lack of a common data-gathering template. For instance, the OECD has conducted an additional government survey, the RIA Inventory,[2] that does not take into account the existence of the previous surveys, nor specifies how to integrate the different data. In the same vein, the two 6FP research projects have different survey designs and methodologies. ENBR relied on the knowledge of national experts present in the country under observation; the EVIA project, by contrast, involved data collection by a small number of researchers using different methods (primary and secondary sources, interviews, and personal communication with experts). The datasets have also different purposes: ENBR was aimed at delivering an on-line database (composed of a series of factual sentences) and a series of papers on the politics and features of RIA in each country; EVIA produced a series of streamlined country reports drafted by researchers, successively peer-reviewed by national high-level civil servants in charge of better regulation and RIA. In EVIA, the design used and the variables generated are innovative; however, sometimes the researchers' discretion was too broad. ENBR used instead

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[2]Drafted in 2004,the OECD RIA inventory is a compilation of 10 items, such as scope of coverage, public disclosure, quality control mechanisms, CBA, risk assessment and discount rate, on the modes of and choices for RIA and relies on governments' survey (OECD, 2004*a*). Since the limited range of items and the fact that this survey has been conducted only once, this database has been used only to complement information not available from the previous source of information.

an approach similar to the OECD survey but relying on national experts (from academia and think tanks) rather than governments' officials and the peer-review mechanisms.

To summarise, the following are the main critical issues faced in constructing the RIA implementation index. Several EU member states are not OECD countries, thus the three waves of the OECD survey cannot be used for such countries. Although the OECD and the EU with their co-joint SIGMA project on regulatory quality funded reviews of the 10 new EU member states (OECD, 2007c), the data collection is not systematised according to the survey. It assumes instead the form of a peer-review document relying on the 1997 OECD's benchmarks for implementing RIA. Furthermore, several items have been conducted among the OECD countries, without being replicated among EU member states. For instance, an essential question on the training of regulators on RIA and CBA was not asked by ENBR and EVIA, and a significant number of items refer to similar concepts whilst using different question formulations (see Tables 1–4). Finally, some databases rely on governments' surveys; others on experts' data gathering. This leads to the assignment of different scores to identical or similar items, particularly among ENBR and EVIA items, notwithstanding the exchange of information between the two projects. For all these reasons, in cases of contrasting data, the most recent OECD survey has been given precedence; the other data sources have been used only in case of missing data.

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