The Regulatory Agencies Dataset
Codebook and Data description[*]

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1 Introduction

The Regulatory Agencies Dataset records the establishment of regulatory agencies in 15 sectors and 48 countries during the period 1966–2007. It also indicates all agencies already in existence as 1965. The dataset has been prepared to identify the process of regulatory agencification in recent decades.

The first caveat to be introduced here is that this dataset does not represent a definitive inventory of the regulatory agencies existing in the countries or sectors considered, nor is it a map of organizations in the public administration. It only identifies the presence or absence of a regulatory agency in a particular sector and country.

Regulatory agencification refers to a major transformation of states during recent decades. It represents the intersection of two interrelated institutional and political dynamics, agencification and regulatory expansion. Agencification represents the establishment of an agency as a "structurally disaggregated body, formally separated from the ministry, which carries out public tasks at a national level on a permanent basis, is staffed by public servants, is financed mainly by the state budget, and is subject to public legal procedures" (Christensen & Lægreid 2006, 12), refering also to previous work by Pollitt (2004) on public agencies. On the other side, regulatory expansion represents the world-wide increase in the use of regulatory policies and instruments during recent decades as modes of governance. Multiple regulatory reforms in a large number of sectors, often related to market liberalization, but also beyond the logic of economic regulation, in the social and risk prevention areas, have contributed to the expansion of the so-called regulatory state (Jordana & Levi-Faur 2004).

Not all regulatory expansion is produced as a result of the establishment of a regulatory agency; many agencies established do not have a regulatory nature. However, the organizational model of the regulatory agency has become standard. Identifying its establishment allows us to capture some basic trends in the development of the regulatory state. In doing this, we have elaborated a proxy variable that allows us to track, over a large number of countries and sectors, the spreading out of the regulatory state that has occurred over the world in recent decades.

2 General dataset information

2.1 Unit of analysis

The unit of analysis is the 'country–sector' case, which may or may not be governed by a regulatory agency (e.g. Argentinean-telecoms). Using this unit of analysis facilitates comparisons across countries and sectors in spite of different institutional designs and diverse scopes of responsibility that may exist in any country.

The regulatory agencies included all have a national scope, covering the whole territory of a country. However, in federal states which have regulatory agencies at the state level but not at the national level, we have relaxed these criteria for some particular sectors (water, securities).

When several regulatory agencies exist within a 'country–sector' case, we selected for inclusion in

our dataset the oldest establishment that fulfils all the criteria we have stipulated.

When a regulatory institution has responsibility for more than one sector, the same regulatory authority is considered as often as is applicable. Accordingly, the number of actual regulatory institutions might be smaller than the total number of 'country–sector' cases covered by regulatory authorities for each country in the dataset.

When a regulatory agency has expanded its scope of responsibility to another sector, years after its establishment, we have counted that as a new agency dated according to when the legislative decision to add the responsibility to the agency was made.

2.2 Criteria for inclusion

A regulatory agency has to meet three criteria to be included in the dataset:

1. It must have a public nature. It should be part of the state organization (with a public budget, public legal statues, and clearly defined role).

2. It must have its own institutional identity formally separated from any ministerial department or other government branch; and have its own organizational structure and denomination.

3. Its major function should be mainly regulatory (e.g. supervision, inspection, standard setting, rule interpretation, ability to sanction tasks).

Regulatory boards which do not have a separate organizational structure are not recognized here as regulatory agencies.

2.3 Changes in the scope and status of agencies

Regulatory institutions are often changing: each year a number of new institutions may be created or occasionally disappear. More commonly, there are agency mergers and separations.

We consider these changes insofar as our conditions for inclusion still apply, which allows us to elaborate on the agency's scope in the dataset.

However we do not identify cases of devolution of regulatory responsibilities to the Ministry (since this was a very rare phenomenon during the period considered).

3 Coverage of the dataset

3.1 The territorial coverage of the dataset

The dataset includes 19 Latin American countries and all 30 OECD countries, for the period 1966–2007.

Mexico is a member of both groups; making 48 countries in total. Czechoslovakian data end in 1992 and is continued by the Czech Republic. The Slovak Republics enters the scene in 1993. The Federal Republic of Germany and the German Democratic Republic were unified in 1990. Data before 1991 concern only former West Germany (FRG), later data include both.

3.2 The sectoral coverage of the dataset

Sectors selected represent a wide diversity of public controls over economic and social spheres. The notion of sector rests on discursive conventions.

We include 10 sectors of "economic regulation", that is where regulation and control activities are designed, wholly or in part, to improve the working of markets, making them more competitive, for the ultimate purpose of improving consumer satisfaction and the global efficiency of the productive system (competition, telecoms, electricity, gas, water, post, securities and exchange, financial services, insurance and pensions). In addition we include five "social regulation" sectors, which are intended to mediate the social effects of the working of markets (health provision, food safety, pharmaceuticals, work safety and environment).

The distinction between the social and the economic is not clear cut and could be contested. Pensions and the Utilities can also be defined as social sectors for some purposes. Much of the securities and exchange regulation is intended to protect "widows & orphans", meaning that it has been drawn up with fairness and social justice in mind.

3.3 Establishment date

The dataset includes 48 countries, for the period 1966–2007. Agencies established before 1966, are all dated 1965, indicating that they already existed before the beginning of the period considered.

We take for the establishment date in our dataset the legal date of creation as recorded in the executive or legislative official register rather than the initial operation of the agency or the date when the law was enacted. The time gaps between these three dates are usually narrow and amount to a few months (sometimes the year changes only because the law is enacted very late (e.g. at the end of December). In other cases there was no delay at all because the organization already existed (being formerly part of a Ministry, for example). Sometimes, the law also indicated the date for the establishment of the agency, defining the exact date the agency would have opened.

4 Information sources

The main source for the construction of the dataset was information posted on the websites of the regulatory authorities. To identify the exact year of creation, the information was usually drawn directly from the legal provisions for those institutions (laws, decrees, regulations, statutes, etc.).

This information was meticulously scrutinized, and also complemented by other sources, to avoid a bias in favour of those agencies that have websites. Other sources included countries' legal repositories, multilateral and international organizations of regulatory agencies, communication with regulators and professionals, and case-oriented secondary literature.

5 Additional sectoral clarification

5.1 Competition

This is a sector with a diverse organizational structure. In identifying an agency we excluded three types: a) Boards and tribunals which usually rely on ministerial units that prepare and investigate cases. b) Organizations that do not have any power to take decisions or impose sanctions regarding competition issues. This was usually the case for investigating units that were established within or beside ministries. c) Agencies or boards that exclusively focus on price controls and price regulation. Such agencies emerged during the first part of the 20th century, and in some cases (Denmark, Norway) were the starting point for the establishment of competition (anti-trust) agencies decades later. In other cases, the agency started purely to provide information to a ministry, but later evolved into an agency with sanctioning capabilities and quasi-judicial powers (France).

5.2 Water

This sector presents a large variety of institutional models. We included in the dataset agencies having regulatory powers in this area to the extent that they have a relation with the economic and social dimension of water. Some of them concentrate only on water and its supply; others have a much broader scope.

We excluded agencies that focus only on the quality of water (clean water, risk regulation) or promote public water infrastructures (construction, management). An exception is made for the cases where economic regulation remains at the state level (Argentina, United States, Brazil, etc.), and where we also include coordinating bodies or national agencies regulating technical aspects.

5.3 Electricity

In general, we do not include in the dataset Price Boards or Committees whose task is to make decisions regarding the prices in regulated markets, unless they have a clear organizational identity separate from the ministry, with their own resources to carry on supervisory and/or regulatory tasks.

Most electricity boards used to be arbitral units concerned with price, or corporatist bodies in which sector representatives were involved in making agreements about prices. Price Boards for electricity have been quite common since the fifties for many countries, but in most cases they did not have autonomous regulatory structures.

5.4 Telecommunications

We include regulatory agencies having responsibility for regulating different communications markets, not only content or technical characteristics.

5.5 Postal services

We include only regulatory agencies that are separate from postal operators, either public or private.

5.6 Gas

In the dataset we include agencies regulating consumers, transportation (intermediate) and production. Cases limited to exploration licences are not included within our scope of regulation for this sector. In some countries, responsibilities for regulating gas were added to already existing agencies, often electricity regulatory agencies (in many cases, they changed their name and took the name of an energy regulatory agency). The data indicate the year when gas regulation was attached to a regulatory agency, either a new one or one already in existence.

5.7 Environment

We document agencies having different types of regulatory responsibilities for this sector, including those with only enforcement responsibilities (while rule-making remains in the ministry); however, we did not include agencies focused only on environmental assessment (e.g. Canada).

5.8 Work safety

Again we document the creation of agencies with regulatory powers (inspection, sanctioning, supervision, standard setting), but not agencies focused only on research and dissemination of information. In addition, Labour Inspectorates (Austria, Netherlands, etc.) or General Directorates (Greece...) as ministerial units that have not been transformed into separate organizations, are not included (they explicitly show their link to the ministry, in spite of having some specific identity).

5.9 Pharmaceutics

We consider only organizational units with their own identity, not boards (nor partial regulatory bodies focusing only on economic regulation or ethical issues). For example, we include National Boards of Heath, which in several cases have their roots in the early nineteenth century (e.g., Peru, Finland). These agencies were usually administrators or service-providers and controlled public health services and research.

When the agency is related to a ministry or to a large implementation organization, we include them only if they are very clearly separated from the hierarchical structure of the Ministry of the National Health Board (see Sweden and Germany as example of a regulatory unit created within the NBH during the 1970s).

5.10 Food safety

Again, we do not include in the dataset boards composed of producers and governmental officials, who concentrate on establishing food prices or who regulate production. We focus only on regulatory agencies concerned, in the main, with food safety. In many countries, we find in the sector two different types of agency: those focussed on risk assessment, and those focussed on risk management. Considering those countries where both exist, we selected the agency in charge of risk management, because of its regulatory capabilities. However, in those cases where only a risk assessment agency exists (being risk management responsibilities within the ministry), we took into account the risk assessment agency.

5.11 Health Services

We identify a regulatory agency in this sector when there is an autonomous organization that focuses on service quality supervision, audit and regulation (standards), including economic and risk regulation. Again we look at the regulatory task, not at agencies that deal with the provision of health services or the prevention of health risks.

We do not distinguish between quality regulations of private and public service health delivery. We also include some cases of agencies which concentrate on the economic regulation of health

services (insurance, contracts, secondary markets) or licensing medical professions and practices, but these are not the key criteria for being included in this sector. We include them because they take into account standards of quality as well.

The regulation of health professionals and advisory units having care of quality and information, without regulatory capabilities, are not covered.

5.12 Financial services

Financial agencies that are included here are agencies with supervisory power in the banking sector. In those cases where Central Banks have major responsibilities for banking regulation and supervision, we have included them in the dataset from the moment in which the central bank assumed responsibilities for banking supervision.

5.13 Pensions

Regulatory agencies in the area of pensions are entrusted with the supervision and rule-making of private or semi-private pension plans, either voluntary or compulsory. We include agencies dealing with private systems of social security, as well as cases of countries in which the private offering of pensions complements a public compulsory system for employees. We did not include agencies operating or supervising public systems of social security.

5.14 Insurance

We document agencies that deal with insurance but not pensions. The main tasks of the agencies here is the supervision of the financial stability of corporations.

5.15 Security and exchange

We included in the dataset regulatory agencies that were separate from the ministry, as in other cases but we do not include agencies that operate as extensions of stock exchanges.

6 Data

6.1 Structure of the dataset

The dataset contains four variables:

country The name of the country according to the ISO-3166-1 specification.

sector The name of the sector.

year Year of the establishment of the agency in the sector. It is missing (NA) when there is not an agency at the end of the period.

cr A binary variable that accounts for the establishment of the agency (1) or not (0) at the year.

The country and sector variables form together the case identifier.

Notice that when cr is 0, year must be not available, since the observation country-sector does not have a regulatory agency.

6.2 How to use the data

The dataset is presented in CSV format, which can easily be imported to any spreadsheet or software package. In addition to that, there is an R workspace ready to be used.

7 How to cite the dataset

When citing this dataset, please use the following:

Jordana, Jacint, Levi-Faur, David & Fernández-i-Marín, Xavier (2011): The Global Diffusion of Regulatory Agencies: Channels of Transfer and Stages of Diffusion, *Comparative Political Studies* 44(10). Data and codebook available at http://globalreg-project.net/cps-2011.

References

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