Scope of implementation of a diffused policy innovation: Regulatory Impact Analysis in EU and OECD member states

Fabrizio De Francesco[1]
Research Fellow and PhD Candidate
Department of Politics
University of Exeter
F.De-Francesco@exeter.ac.uk

Working in progress: Please do not cite without permission.

Regulatory Impact Analysis (RIA) has been adopted widely in Europe: 24 out of 27 EU member states have adopted a systematic ex-ante appraisal of the predictable regulatory effects. Among OECD member states only Luxembourg has not yet adopted RIA. Diffusion studies, however, tend to focus on the process of adoption, assessing the causality of internal and external determinants (Berry and Berry, 2007). Notwithstanding the Downs and Mohr's recommendations to operationalise diffusion as a dynamic process, the scope of change is somehow overlooked by scholars. In other words, there is an implicit assumption that 'all states adopt exactly the same policy' (Clark, 1985: 63). Following Clark (1985), this paper attempts to measure the extent of variance in the implementation of diffused innovation administrative and regulatory governance. Relying on databases generated by OECD surveys and two 6FP research projects (European Network on Better Regulation and Evaluating Integrated Impact Assessment), it will provide an aggregated indicator of the rate of policy change. Moreover, drawing from the concepts of stages of policy diffusion and consequently the typology of adopters (i.e. leaders, early majority, later adopters), specific hypotheses will be tested. Indeed, it is possible to predict 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 rational learning the assumption to test is the existence of a marginal interstate variance. The characteristics and attributes of the policy innovation are also taken into account (Rogers, 2003).

INTRODUCTION

Since the emergence of diffusion literature in political science almost forty years ago, scarce attention has been paid to the link between adoption and extent of implementation of public policies. There are only a bunch of theoretical papers promoting the study of diffusion as a dynamic process (Downs and Mohr, 1976), as well as few empirical studies on the later stages of diffusion (Clark, 1985; Glick and Hays, 1991; Hays, 1996).

The literature on diffusion has tended to focus on the rate of diffusion or 'earliness of adoption' as dependent variable, while the independent variables have been changing over time. The first generation of studies have used as independent variable the characteristics of innovators (Walkers, 1969). Later, Gray (1973) has focuses on the typologies of innovation, and since then scholars have started combining characteristics of innovators and innovations for explaining diffusion (for an overview see Savage, 1985). The second generation of diffusion studies have explored and tested the external determinants, essentially the spatial and cultural proximity as determinants of diffusion. This methodological change has been possible through the application of sophisticated statistical methodologies such as Event History Analysis (EHA). This led to the emergence of a series of studies on policy diffusion among the American states. Finally, the latest generation has embedded in integrated model different causal mechanisms (including isomorphism and international coercion) of diffusion and applied EHA for explaining the global diffusion of policy innovations (see Simmons *et al.*, 2008 for a compilation of quantitative studies on the global diffusion of democracy and economic reforms).

Following Clark (1985: 61), this paper instead proposes a different perspective in the study of diffusion. The dependent variable is the scope of change or, in other words, the extent of implementation. The main independent variable is the time of adoption, measured by three categories of adopters: pioneers, early majority, and later adopters. The unit of analysis is Regulatory Impact Analysis (RIA), an

administrative requirement affecting regulators who are demanded by their political agents to appraise the impact of future regulatory proposals on economic, environmental and social conditions. This 'policy strategy' (as defined by Bartelett, 1999) is diffused in almost all EU and OECD member states. Only Cyprus, Luxembourg and Malta have not yet adopted RIA. It is inserted in the broader movement of 'better regulation' (Baldwin, 2005), which in turn, has become one of the pillars of the Lisbon strategy for the European competitiveness (Radaelli, 2007). Although a flat start, since the 1990s its diffusion follows the usual pattern of the S-Shaped cumulative frequency of adoption curve (De Francesco, 2008; Jacobzone *et al.*, 2007).

INSERT FIGURE 1 AROUND HERE

Another feature of RIA is related to governments' capacity to adjust, adapt and mould this administrative innovation. This is reflected in the different methodological models that RIA can assume (i.e. Cost-benefit analysis, Compliance Cost Assessment, Standard Cost Model, and Checklist) and the extent of embeddedness with other procedural requirements. Indeed, RIA can be integrated in a general (regulatory) administrative procedure act, as in the USA and in Korea, in the government regulatory policy and Citizens' charter of rights, as in Canada, or it can be only an internal bureaucratic protocol with no impact on the external world, as in the Netherlands). Other dimensions related to the implementation within public organisations are also important, such as clarity of the regulatory policy and its mandate to technocrats in charge, financial resources, and the overall institutionalisation.

This paper is structured as follow. Section 1 reviews the few studies on the scope of change and policy reinvention and, relying on theoretical insights, formulate the hypotheses to test. After a brief description of the datasets used (Section 2), Section 3 illustrates the methodology for deriving the implementation score. Section 4 presents the major results and section 5 concludes.

1   IMPLEMENTATION ON DIFFUSION LITERATURE

A part from the probability and earliness of adoption, diffusion literature tends not to consider other dependent variables. Almost the totality of scholars has been focusing on patterns of diffusion, explaining or testing why countries had been waiting so long before adopting a certain policy innovations. This is an oddity since classical diffusion researches recommend to analyse what is happening after the time of adoption (Rogers, 2003). These later stages are relevant also for understanding if and how an innovation has been reinvented (Hays, 1996a; 1996b; 1996c; Hays and Glick, 1997) and when an innovation would reach its maturation and get obsolete, preconditions for further innovations (Rogers, 2003). In other words, it is implausible to consider only the adoption stage and to analyse an innovation in isolation.

This is particularly true for administrative reforms. Scholars have evidenced why, how and to what extent changes in public administration rest on the institutional path dependency (Melo, 2004; McGuinn, 2004) and administrative tradition (Peters, 2008; 1997). Accordingly, it is necessary to understand the content of new policies and their consequent administrative changes. This necessity stems from the naïve 'underlying assumption … that all states adopt exactly the same policy' (Clark, 1985: 63)

An assumption that, as other scholars have observed, is unreal for this specific administrative innovation. Indeed, there is a great variance in the institutional choices for RIA (Radaelli, 2005, Radaelli *et al.*, 2008). This is essentially due to the different rationales for adoption. For instance, since the mid-1990s, Smith (1996: 274) emphasised the difference between the US and the European Union in their goals to achieve with 'better regulation': '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.' Consequently, the American RIA is not a diffusion model but a principle, a standard to adopt. Weyland (2006) distinguishes between model and

principle in diffusion process: The former implies the diffusion of 'a neat, concrete, well-defined blueprint' (Weyland, 2006: 17); the latter instead is 'a general guideline for designing programs or institutions' (Weyland, 2006: 18). It is fair to say that in the case of RIA diffusion has been driven by a regulatory management standard that is to set up an ex-ante assessment system within the regulatory process. However, the reasons behind this choice can be different. Indeed, there are three alternative rationales for adopting RIA: strengthening the political control of bureaucracy, improving economic efficiency, and achieving legitimacy.

Administrative change is theoretically based on two contrasting rationales: the democratic polity concept of aggregation of preferences vs the rational choice and New Public Management concept of efficiency. The first is about the procedural due process and protection of rights; the second concerns the application of private managerial techniques into the public sector (Kelly, 1996). Majone (1999) proposes an institutional design for a legitimated and effective regulatory state composed also of rules that specify the procedural framework and ex-post mechanisms for reviewing regulation.

Political control is the main function and one of theoretical mainstream of administrative law (Harlow, 1998). Indeed, administrative law attempts to balance two contrasting ends: efficiency and democracy. This is a typical discretion/legitimacy trade-off in principal-agent relationship. '[a]ll representative democracies face a similar need to balance democratic accountability against the competent implementation of complex statutes.' (Rose-Ackerman, 2007: xiii)

Thus RIA can be considered as an instrument to enhance the economic empirical basis of decision making, as a control tool, able to reduce the information asymmetry between the principal and the agent and, ultimately, as a process to legitimate regulatory decisions and increase the external accountability. Comprehensive rationality is achieved when the three contrasting

goals are kept in a perfect balance. A concept close to the perfect contract in the principal agent model applied in economics. Some authors are skeptical in the achievement of such ultimate concept of rationality (West, 1983).

According to this theoretical framework, a possible research question linked to implementation studies would be the following: Does implementation vary according to the institutional modes and purpose of regulatory reform governance? In this paper, I attempt to combine each sub-component of the implementation index to a specific rationale for RIA. One can simply assume that the extent of a RIA programme is broader when governments want to achieve at the same time as diverse and sometimes contrasting goals as political control of regulators, economic rationality and ultimately legitimated regulatory outcomes.

The main independent variable is the time dimension, framed accordingly to three different groups of adopters: pioneers, followers, and later adopters. One can easily hypothesise that leaders tend to have the most extensive RIA policy strategy, since the effects of incrementalism on the implementation. On the other hand, if international coercive pressure as well as isomorphism and taken-for-granted explanations are stronger, one would expect little variation in the scope of implementation or even that laggards' policy would be more extensive than leaders and followers' ones (Clark, 1985: 64).

Differently from Clark and Hays' works, this paper focuses on the extent of implementation rather than its comprehensiveness in terms of legal provisions. The latter approach would be possible if a database of laws and regulations concerning regulatory reform as well as RIA guidance of the 38 EU and OECD member states existed. However, the DG Research 6FP has funded two research projects on RIA: Evaluating Integrated Impact Assessment (EVIA) and the European Network on Better Regulation (ENBR). These projects have developed country fiches and database on RIA systems. In particular, ENBR has created a database (named DIADEM) which, using a set of measures/questions,

assesses the contents of RIA guidelines in European countries. The choice of focusing on such technical and methodological requirements on how to conduct the impact analysis is another approach to consider in assessing the extent of implementation. In this paper, however, I have chosen to focus on broader and structural measures, such as legal mandate, financial resources and the extent of institutionalisation. This preference is justified by two considerations. Firstly, the systemic measures of implementation are better determinants of an effective adoption. Secondly, so far the OECD datasets do not contain as many information as the one gathered by ENBR. Indeed, such analysis would be focused only on the 20 EU member states covered by DIADEM so far. When this project will terminate, gathering as many data as possible, future research are necessary to consider this specific aspect of implementation.

In addition to ENBR and EVIA research outcomes, in 2007 the OECD published the results of latest survey on the OECD member states' government to produce high-quality regulation (Jacobzone *et al.*, 2007). Through this self-assessed survey, it is possible to extrapolate further variables on the extent of implementation of the RIA programme. For the reasons I will explain in the next section, I prefer to rely mostly on the OECD database; the other two data sources are essentially used to complete missing data in the OECD survey, especially for the new EU member states that are not OECD countries.

It is also important to note that since the database are constructed at the specific time of observation (that is the years – 2005-7 – when the research projects were conducted) and the datasets are not longitudinal; this paper is not able to show the correlation between the extent of implementation at the time of adoption (differently from most of the above-mentioned literature). However, since most of the EU countries adopted RIA in the last decade and assuming a limited 'reinvention' since the short time span, this should be enough for drawing major conclusions.

2 THE IMPLEMENTATION SCORE: ITS DATA SOURCES AND METHODOLOGY

2.1 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 the public administration on regulatory reform (OECD, 1995) and the 1997 OECD benchmarks for implementing RIA (OECD, 1997). There are three panels of data in this database (1998, 2000, and 2005-6). Its main purpose is to benchmark OECD countries' measures in delivering high-quality regulations. According to the OECD, countries that comply with its regulatory reform recommendations – recently updated in autumn 2008 (OECD, 2008) – and by strengthening the institutional design of RIA policy governments have more chances to enhance their regulatory environment.

The detailed 2005 self-assessed questionnaire (sent to the formal group of directors and experts for better regulation and RIA programmes) is composed of 5 sections:

- 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. The database is composed of around 80 items.

2.2 ENBR and DIADEM database

The second database is developed by a project coordinated by CEPS, a Brussels based think tank. The main aim of this project is to disseminate

knowledge on RIA and to systematise in a database all information available both at the macro and micro levels. Here I look at the 'country fact sheets' that are composed of three parts: constitutional structure, horizontal regulatory policy, and the impact assessment system and other better regulation tool (consultation, simplification and access to regulation).

In particular, the constitutional structure contains information on the regulators (what are the institutions enabled to regulate), 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 policy of better regulation, its principles, design, targets and measures. Finally, the last part of the fact sheet focuses on the extents of provisions required for the four tools of better regulation. The variables are generally expressed in a Yes/No format.

2.3   EVIA project's country fiches

The EVIA project was led by the Environmental Policy Research Centre at the Frei University in Berlin. The main goal of this project was to disentangle the concept of quality in regulatory appraisal system. A theoretical framework was drawn for appraising RIA policy and ultimately formulating policy recommendations. The project was mainly comparative and synthetic countries fiches were drafted for the 27 EU member states and the European Commission. Information gathering methodologies varies, e.g. face-to-face interview, phone interview, informal communication with experts, evaluation reports, academic literature, review of guidelines, and review of RIAs. The country fiches are essentially composed of two parts:

- Design of the impact assessment system, containing factual data on adoption (year, rationale), legal provisions (mandatory requirements, comprehensiveness and selection criteria), institutional design (central unit in charge of coordinating the strategy, RIA unit within ministries/departments), and financial resources (number of staff and budget in € for 2005)

9

- IA framework in practice that sometimes contains several subjective data on the quality of implementation of RIA. Indeed, in some cases the researchers were asked to select a certain outcome of implementation.
  - Objective data: Number of IA carried out, comprehensiveness of the guidelines and reference to sustainable development; publicity of RIA (systematic publication of the entire RIA report or summary of report results); Methods and models for assessment; guidelines, monitoring and evaluation of the policy strategy.
  - Subjective data: comprehensiveness of impact considered in actual RIAs and sustainability test; integration of RIA with different governance levels; whether RIA is used in inter-ministerial co-operation or in autonomy; actual start timing of the assessment; stakeholder involvement in RIA;

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 in data gathering and the lack of a more theoretical structured definition of quality in implementing RIA.

2.4   Other data sources: OECD RIA Inventory and EU SMEs' charter

The OECD RIA inventory is a compilation of information on RIA among the OECD countries. Drafted in 2004, this document presents 10 explanatory 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). 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.

Another complementary database is the score table derived from the annual reports prepared by the EU member states for the DG Enterprise's Charter on small medium enterprises (SMEs) and the Lisbon strategy for competitiveness.

These documents contain specific questions on the national governments' progress on better regulation and RIA. The European Commission presented in 2005 such score table composed of 11 elements of better regulation (European Commission, 2005).

3   THE IMPLEMENTATION SCORE

3.1   Theoretical insights for constructing the implementation score

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

- the legal dimension goes about 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, agenda control, and ability to contest alternative policy proposals'. An example is a presidential decree that establishes a central unit with a clear and overarching mandate for promoting 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 change 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 economic methodology such as CBA.

- the strategic dimension concerns standards to 'maximise the efficiency of resource expenditure required to secure procedural changes or create

11

effective new policy instruments'. This dimension 'alters institutional arrangements in ways that ensure 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 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 the creation of an oversight central unit and its authority to design the economic analysis methodology; the third loos at the capacity of an embedded innovative framework to maximise benefits of established administrative rules and procedures.

As already mentioned, another theoretical modality to arrange the analysis of implementation is to consider the three main micro-level choices for adoption. RIA is a tool for enhancing the empirical and empirical basis of decision-making. Alternatively, taking into account a political economic framework, it is a tool for the political control of bureaucracy, enhancing the internal accountability of regulators. Finally, when a coherent balance of the previous goals is established, RIA can ultimately improve the legitimacy of regulators, their external accountability. The first two rationales of adoption have been associated to each of three implementation dimension. The latter dimension (legitimacy) is used to draw the forth dimension of the implementation score.

3.2   Problems in integrating the existing datasets

Notwithstanding, the number of datasets available on RIA at the OECD and European Union level, the integration of data is not straight forward. This is essentially due to the lack of replicability of a common and baseline template. For instance, the OECD has conducted an additional survey, the RIA Inventory, different from the usual 'governments capacity to assure high-quality of regulation' surveys. The former does not take into account the existence of the

12

previous surveys neither specifies how to integrate the different data. In the same vein, the two 6FP research projects have different survey design and methodology. ENBR relies on the knowledge of national experts present in the country under observation; EVIA, instead, few researchers collected data using different methods (primary and secondary sources, interviews, and personal communication with experts). The datasets have also different purposes. ENBR is 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 system in each country. On the other hand, EVIA produces a series of streamlined country fiches drafted by researchers, successively peer-reviewed by national high-level civil servants in charge of better regulation and RIA. The design used and the variables generated are innovative and original, however, sometimes the researchers' discretion is too broad. ENBR uses instead an approach similar to the OECD survey but relies on national experts (from academia and think tanks) rather than governments' officials and the peer-review mechanisms.

What are the practical difficulties in constructing the RIA implementation database? The following are the main critical issues that I have faced in integrating datasets with such different purpose, scope and methodological concepts.

Countries: Several EU member states are not OECD countries. Thus the three waves of surveys 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-SIGMA, 2007), 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.

Items: Some items have been conducted at the OECD level without being replicated at the EU level. For instance, an essential question such as the training of regulators on RIA and CBA is not being asked by ENBR and EVIA.

13

Moreover, a relevant number of items are referring to similar concepts but using different formulation (see Tables 1-4). This complicates the integration of the integration of different sources of available information.

Methodology: Some databases rely on governments' surveys; others on experts data gathering.

Different scores to identical or similar items: This is particularly relevant in the cases of ENBR and EVIA, notwithstanding their attempts to exchange information between the two projects. There are also differences between the OECD survey and the other databases. This difference can be due to the different years of observation. To enhance the transparency of this research, I aim to draft in the next future a detailed codebook and take detailed notes of my choices to attribute a specific value to variables. Together with the dataset excel file, they will be available upon request.

For all these reasons, I have chosen to privilege data from the OECD survey (conducted in 2005-6) on government capacity to assure high quality of regulation. This is a three-wave survey, based on high-level civil officers, and their answers have been peer-reviewed by high-level officer from other OECD member states.

3.3   Elements of the implementation score

As already mentioned, the implementation score reflects four different dimensions: legal, organisational and procedural, strategic and legitimacy dimensions.

The following tables summarise the data sources and the selected items, the implementation score sub-component values (usually dichotomous values 0 and 1) and maximum values, as well as the countries left out for missing data.

LEGAL DIMENSION

The first item of the legal dimension refers to the existence of an *explicit* policy for 'better regulation' (defined as a published regulatory policy promoting government-wide regulatory reform). This question has been asked by the OECD survey (including the OECD-SIGMA report on regulatory reform among the 10 new EU member states), the European Commission SME charter (European Commission), and by ENBR. The database has been complemented by the EVIA country fiches.

INSERT TABLE 1 AROUND HERE

The second component is about the establishment of regulatory reform or better regulation objectives. In this case the EVIA researchers were asked to choose whether the aim of and the rational for the introduction and current orientation of the IA framework is explicit (=1) or implicit (=0). The third component is related to the principles of good regulation. The sources used are only two the OECD survey and ENBR/DIADEM. Turning to more practical and institutional arrangements the fourth and fifth component of the legal dimension are related to the presence of ministerial responsibility for better regulation and the degree of compulsory of RIA. Here again, data for Bulgaria and Romania are missing since the data relies only on the OECD survey and ENBR/DIADEM. The ministerial sub-index is composed of two items of the OECD survey (Specific responsibilities for regulatory reform and quality at the ministerial level and the presence of a specific minister accountable for promoting government-wide progress on regulatory reform) and a specific item of DIADEM.

ORGANISATIONAL AND DECISIONAL DIMENSION
This 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 includes measures representing the creation of a central unit and their autonomy.

INSERT TABLE 2 AROUND HERE

Consequently the first measure is about the presence of a central unit in charge of assuring the implementation of RIA programme. Another measure is related to the central unit's authority to oversee regulators and their decision process. Those measures assume value 0 or 1 and is essentially derived from the OECD survey (central unit's authority of reviewing and monitoring regulatory impacts conducted in individual ministries and central unit conducts its own analysis of regulatory impacts) as well as EVIA and ENBR database. The other measures considered in this dimension refer to the number of staff employed in the central unit; whether there are criteria to select regulatory proposal to analyse, the presence of a RIA guidelines; and the requirement to rely exclusively on CBA.

STRATEGIC DIMENSION

This dimension refers to the magnitude of sophistication achieved in the implementation of RIA: how such procedural administrative 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 regulatory process (such as consultation).

INSERT TABLE 3 AROUND HERE

In each table, the last column indicates whether I consider the measure of the implementation an instrument for achieving economic rationality (EC) or political control (PC). In few cases the measure can be regarded as 'neutral' (N), 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 regulatory quality policy and RIA has achieved in the institutional context. This is measured referring to activities conducted by other constitutional bodies (the Parliament and the courts) and whether the regulatory consultation assumes the form of notice and comment as well as the public disclosure of RIA reports. The data are drawn exclusively from the OECD (2007), since the other datasets overlooked this aspect of the institutionalisation.

INSERT TABLE 4 AROUND HERE

Next section shows the main results of the implementation scores and their relation with the sub-component of implementation, the groups of adopters, and the correlation with the effectiveness of administrative innovation. Due to time and space constraints, future researches aim to show which countries pursue political control, rather than economic rationality rather than regulatory governance legitimacy.

4   EMPIRICAL RESULTS

I was able to score the implementation of 33 countries, considering three (legal, organisational and strategic) of the four dimensions. Indeed, three countries have not adopted RIA in the year of observation (2006): Cyprus, Luxembourg and Malta. Moreover, Bulgaria and Romania are excluded from the sample since several data are missing and the overall implementation would have been biased. The legitimacy dimension score has been possible only for the 29 OECD member states that adopted RIA. The following table summarise the descriptive statistics of the fours dimensions and their totals.

INSERT TABLE 5 FIVE HERE

The descriptive statistics show us that the legal and the strategic dimensions do not vary as much as the organisational and (in the less extent) legitimacy dimensions.

The next table summarises for each country the total of the four dimensions and the year of RIA adoption. The table shows also the year of adoption. Each country has been group according to three groups of adopters: pioneers, early majority, and later adopters. The first group is composed of those countries who have adopted RIA before 1995, when the OECD agreement on regulatory reform was signed by the ministers for public administration. The second group is formed by those countries that adopted RIA between 1995 and 2001, before that the European Commission set up the new integrated impact assessment (in 2002). Finally the third group is composed of the remaining countries, adopting RIA from 2002.

INSERT TABLE 6 AROUND HERE

As many as 16 countries have a score over 10 for the three dimensions of legal mandate, organisation and procedure, and strategic measures. They are Australia, Belgium, Canada, 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). Among the later adopter countries, Poland and Portugal have relatively high scores. It is important to note the score of Iceland is equal to zero. On the other hand, 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). The latter are 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

18

Belgium and the Netherlands with cutting red tape strategy and the fast progresses shown by Poland in the institutionalisation of regulatory reform and RIA.

The average of the implementation scores for the three groups of adopters is shows in the next table.

INSERT TABLE 7 AROUND HERE

The results tend to confirm an 'incrementalism' explanation of the extent of implementation: pioneer countries have always highest score and the early majority has better scores than the later adopters.

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 in the implementation. The last column in table 6 summarises the countries with an effective RIA system in place, distinguishing them from the countries with a symbolic adoption or a still to developed policy. Through a quick reading of the table it is fair to say that most of countries with high scores are also the countries with an effective implementation. There are however some exceptions to this trend. Countries – such as Belgium, Czech Republic, Germany, Italy, Spain and Switzerland – with a relatively high score do not have still achieved an effective adoption of RIA. Apart from Spain, a later adopter, all those countries are early majority adopters. The other puzzling cases are Finland, the Slovak Republic and Sweden that notwithstanding their low score have a relatively efficient implementation of RIA. Only the Slovak Republic is a later adopter country with a quick institutionalisation of regulatory reform. In the same vein, Poland and Portugal represent interesting case of a fast institutionalisation of RIA. Both countries are later adopter and produces impact analysis, although not a full CBA. In Poland regulators can use different methods to appraise regulatory

impacts; in Portugal most of the analyses are essentially focused on administrative burdens. On the other hand, Hungary is the only country among the pioneers with an ineffective implementation.

It is important to remark however that this dimension of the effectiveness of the implementation captures only the production of RIA reports drafted by regulators. This dimension does not appraise the quality of the single RIA or the overall quality of the RIA system. This question is well beyond the scope of this paper.

Finally the last statistical analysis is about the correlation of the effectiveness of implementation with the standardised implementation scores: the latter has been divided for the maximum index values. The output shows that effective implementation is positively related to the standardised implementation score with a coefficient $r = .495$ and $r = .580$, both are also significant at $p < .001$.

5   CONCLUSIONS

Through the creation of an implementation score, this paper has disentangled different aspects of implementation. I have shown that there are different concepts of implementation. A possible research could look at the contents of guidelines and economic methodology requirements. Alternatively, several scholars have chosen to focus on the quality of implementation, scoring and benchmarking single RIA reports (Cecot et al., 2007). In this paper, I rather focus on the systematic meso-dimensions of implementation. Theoretical insights have guided the systematisation of the score. Indeed, four dimensions (legal, organisation, strategic, and legitimacy) are identified and collected through several sub-indexes. Moreover, future research will show which rationale of adoption is predominant in each country.

This systematic approach (that required organised data) to the analysis of implementation provides useful hints to civil servants and practitioners involved in regulatory reform. It sets a four-stage concept for achieving an effective and

efficient innovation. Following Moynihan (2004) and with different research design and methodology, the concept of stages in implementation process of RIA has been explored in a previous study (Radaelli et. al., 2008) that takes into account however essentially macro-economic variables. Also this research shows how stages are relevant for our analytical understanding. The results show that the organisational and legitimacy dimensions are the components with greater variance. In other words, notwithstanding the global diffusion and international organisations promotion of RIA, governments are still choosing different modes of implementation. Pioneer countries tend to have the most comprehensive implementation, while later adopters have chosen a more prudent approach.

There are also significant correlations between the extent of implementation and an effective innovation. However, further statistical analysis is necessary to control for alternative determinants such as the size and the efficiency of government as well as the present of contingent and complementary innovations and to determine the causality direction. Further efforts are also necessary to improve the reliability of database. A codebook and notes related to the scoring decisions will be drafted and will circulate among the directors of better regulation in order to correct possible misjudged values. This paper overlooks the particular phenomena of policy reinvention: throughout the diffusion process governments tend to change the contents of their policies. Specific case studies on the evolution of regulatory reform in pioneer countries could frame the casual mechanisms of policy reinvention, a research field that it is still unexplored.

REFERENCES

Baldwin, R. (2005) 'Is better regulation smarter regulation?' *Public Law*, (Autumn), 485-511.

Bartlett, R.V. (ed.) (1989) *Policy Through Impact Assessment: Institutionalized Analysis as a Policy Strategy*, New York: Greenwood Press.

Berry, F.S. and W.D. Berry (2007) 'Innovation and diffusion models in policy research', in Paul A. Sabatier (ed.), *Theories of the Policy Process*, Boulder, Colorado: Westview Press.

Cecot, C., R.W.Hahn, A. Renda, L. Schrefler (2007) 'An Evaluation of the Quality of Impact Assessment in the European Union with Lessons for the U.S. and the EU' *AEI-Brookgs Jot Center Workg Paper No. 07-09,* Available at SSRN: http://ssrn.com/abstract=984473

Clark, J. (1985) 'Policy diffusion and program scope: Research directions' Publius, 15: 4, 61-70.

De Francesco, F. (2008) 'Prerequisites of adoption and patterns of diffusion: the Case of regulatory impact analysis in European Union and OECD member states', Paper presented at the 58th Political Studies Association Annual Conference Democracy, Governance and Conflict: Dilemmas of Theory and Practice, Panel on EU External Relations and Regional Development, 1-3 April, Swansea University.

European Commission (2005) *Commission Working Paper*, SEC(2005) 167.

Gray, V. (1973) Innovation in the States: A Diffusion Study, *American Political Science Review*, 67, 4, 1174-85.

Hays, S.P. (1996a) "The States and Policy Innovation Research" *Policy Studies Journal*, 24:2, 321-326.

Hays, S.P. (1996b) "Patterns of Reinvention" *Policy Studies Journal* 24: 4, 551-566.

Hays, S.P. (1996c) "Influences on Reinvention during the Diffusion of Innovations" *Political Research Quarterly* 49:3, 631-650.

Hays, S.P. and H.R. Glick, (1997) "The Role of Agenda Setting in Policy Innovation: An Event History Analysis of Living-Will Laws" *American Politics Research* 25: 4, 497-516.

Harlow, C. (1998) *European administrative law and the global challenge*. In EUI Working Paper. Badia Fiesolana, San Domenico, Firenze: European University Institute - Robert Schuman Centre.

Jacobzone, S., C. Choi and C. Miguet (2007) 'Indicators of regulatory management systems', *OECD Working Papers on Public Governance*, 2007/4, Paris: OECD Publishing.

Kelly, R.M. (1998) 'An Inclusive Democratic Polity, Representative Bureaucracies, and the New Public Management' *Public Administration Review*, 58:3: 201-208.

Majone, G.D. (1999) 'The regulatory state and its legitimacy problems' *West European Politics*, 22:1, 1-24.

McGuinn, P. (2004) 'Path Dependency, Punctuated Equilibria, and the Politics of Policy Change', *Paper presented at the annual meeting of the American Political Science Association, Hilton Chicago and the Palmer House Hilton, Chicago, IL*, Sep 02.

Melo, M.A. (2004) 'Institutional choice and the diffusion of policy paradigms: Brazil and the second wave of pension reform' *International Political Science Review / Revue internationale de science politique* 25:3, 320-341.

Moynihan, D.P. 2005. "Why and How Do State Governments Adopt and Implement "Managing for Results" Reforms?" *Journal of Public Administration Research and Theory* 15 (2):219-43.

OECD (2008) *Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policy Makers Version 1.1*, Paris: OECD Publishing

OECD-SIGMA (2007) '*Regulatory Management Capacities of Member States of the European Union that Joined the Union on 1 May 2004'* (Paris: OECD publishing, 6 June.

OECD (2004) 'Regulatory Impact Analysis (RIA) Inventory – Note by the Secretariat' Presented at the 29th Session of the Committee 15-16 April 2004 International Energy Agency, Paris: OECD Publishing.

OECD (1997) *Regulatory Impact Analysis: Best Practices in OECD Countries*, Paris: Organisation for Economic Co-operation and Development.

OECD (1995) *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*, Paris: OECD Publishing. Retrieved from http://www.olis.oecd.org/olis/1995doc.nsf/LinkTo/OCDE-GD(95)95

Peters, B. G. (1997) 'Policy transfers between governments: The case of administrative reforms' *West European Politics* 20: 4, 71-88.

Peters, B. G. (2008) 'The Napoleonic tradition' *International Journal of Public Sector Management* 21:2, 118-132.

Radaelli, C.M. (2005) 'Diffusion without convergence: How political context shapes the adoption of regulatory impact assessment', *Journal of European Public Policy*, 12:5, 924-43.

Radaelli, C.M. (2007) 'Whither better regulation for the Lisbon agenda?' *Journal of European Public Policy,* 14:2, 190-207.

Radaelli, C.M., F. De Francesco and V.E. Troeger (2008) 'The implementation of Regulatory Impact Assessment in Europe', *Paper presented at the European Network for Better Regulation, Workshop on Regulatory Quality: Developing tools, approaches and sources for research on impact assessment*, University of Exeter, Exeter 27 and 28 March.

Rogers, E.M. (2003) *Diffusion of Innovations*, New York: Free Press.

Rose-Ackerman, S. (ed.) (2007) *Economics of Administrative Law*, Cheltenham: Edward Elgar Publishing Ltd.

Savage, R.L (1985) 'Diffusion Research Traditions and the Spread of Policy Innovations in a Federal System' *Publius,* 15:4, 1-27.

Simmons, B.A., F. Dobbin and G. Garrett (2008) *The Global Diffusion of Markets and Democracy*, Cambridge: Cambridge University Press.

Smith, T.T.Jr. (1996) 'Regulatory reform in the USA and Europe', *Journal of Environmental Law*, 8:2, 257-82.

Walker, J.L. (1969) The Diffusion of Innovations among the American States, *American Political Science Review*, 63, 3, 880-99.

West, W.F. (1983) 'Institutionalizing rationality in regulatory administration', *Public Administration Review*, 43, n4, 326-34.

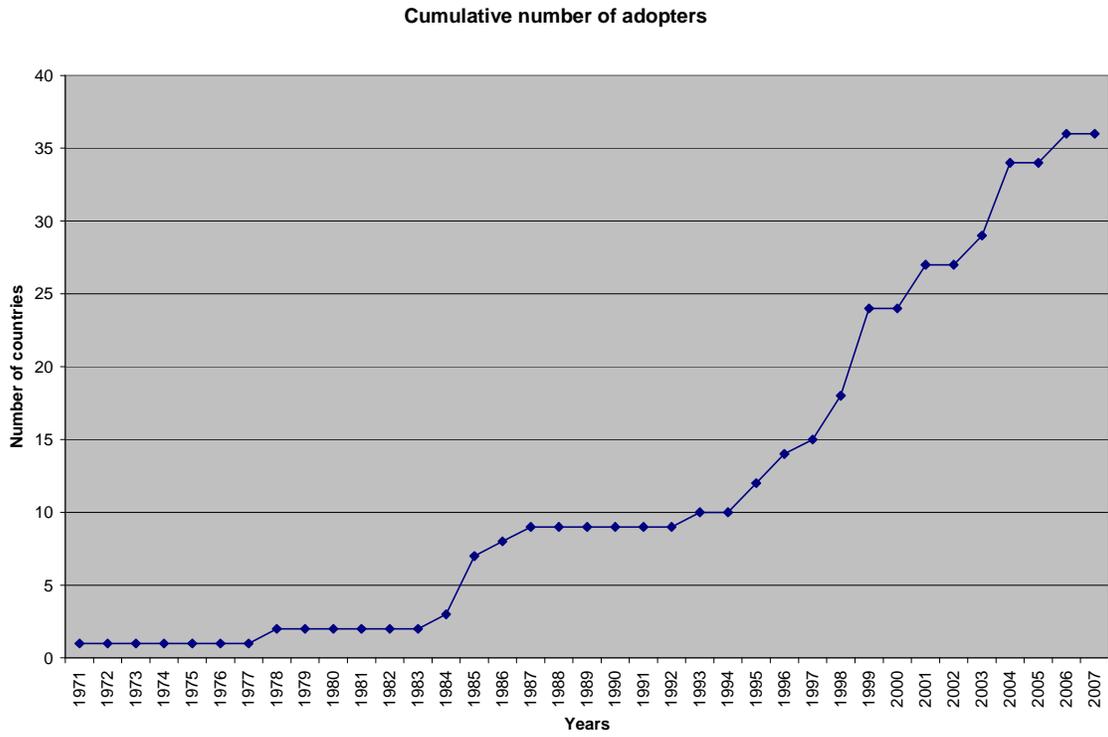Williams, M.E. (2002) 'Market reforms, technocrats, and institutional innovation', *World Development*, 30:3, 395-412.

Cumulative number of adopters

Figure 1: Trend in adoption of RIA in OECD and EU member states

Table 1: Legal dimension (values: 0 or 1)

Measures	Data sources			Missing data	Rationale of adoption
	OECD	ENBR DIADEM	EVIA		Political control VS Rationality
Explicit regulatory reform or better regulation policy	Is there an 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 the RIA framework	None	N
Objectives of regulatory policy	Does the regulatory policy establish explicit objectives of reform?	Do(es) the regulatory policy(ies) establish explicit objectives to be achieved by improving regulatory quality (e.g reducing costs on businesses, 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 responsibility and accountability are present 0.5 = when just one is	Is an individual minister responsible for ensuring progress on regulatory quality/reform against measurable benchmarks?		Bulgaria and Romania	PC

Measures	OECD	ENBR DIADEM	EVIA	Missing data	Political control VS Rationality
	present 0=none				
Mandatory RIA	Is RIA formally required by law or by a similarly 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

Maximum value of the sub-index is 5:

Table 2: Organisational and procedural dimension

Measures	OECD	ENBR DIADEM	EVIA	Missing data	Political control VS Rationality
Central unit for RIA	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 from a whole of government perspective?	Is a specific administrative 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
Central 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 and control role' 0 = 'present with guidance role' and 'not present'	None	PC

				None	PC / N
Staff of the central unit	The questionnaire asked about the 'specify staffing level of this body' Values: 0=0 and no answer 1= 1-5 2= 5-25 3= >25		Number of staff (full time equivalent) 0=0 and no answer 1= 1-5 2= 5-25 3= >25	None	PC
Selection of proposal to analyse	Is there a clear "threshold" for applying RIA to new regulatory proposals? 1=yes 0=no	Does the written guidance on impact assessment contain explicit criteria (other that the words "significant") to select those proposals deserving less and more extended impact assessment? 1=yes 0=no	Coverage and selection criteria of proposals subject to IA 0= 'all policy initiative including broad strategies' and 'only legal proposals' 1= 'most important proposals' and 'only policy initiative that can have significant burdens for firms and/or public administration'	None	N
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
Cost-benefit analysis	Does the RIA require	Does the written guidance on	Methods and		ER

as the only method	regulators to demonstrate that the benefits of new regulation justify the costs? 1 = 'always' and 'only for major regulation' 0 = 'in other selected cases' and 'no' I considered also the OECD RIA Inventory, in which a specific item is dedicated to CBA.	impact assessment mandate use of a specific methodology to select the preferred policy option? 1= CBA only 0= otherwise	models used for assessments 1=CBA 0=otherwise

Maximum value of the sub-index is 8			

Table 3: Strategic dimension

Measures	OECD	ENBR DIADEM	EVIA	Missing data	Political control VS Rationality
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 European Union) *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 level: Assessments consider input from higher and lower level 0= 'no/only marginally' and 'varies between IAs) 1= 'to some extent' and 'yes/substantially'	None	ER
Consultation and RIA	Are the views expressed in the consultation process included in the regulatory impact analysis?	Does the written guidance on impact assessment prescribe that consultation should inform the assessment of different options?		Bulgaria and Romania	PC

Measure	OECD survey			Bulgaria and Romania	ER
RIA and competition	Is the RIA required to include assessment of impacts on competition?	Does the written guidance on impact assessment analyse options in terms of their impacts on competition?			ER
Review of regulations	Are there standardised evaluation techniques or criteria to be used when regulation is reviewed?	Does the written guidance on impact assessment contain procedures for monitoring and evaluating ex-post the extent to which the regulation meets its objectives?	Monitoring and ex-post evaluation	None	ER
Maximum value of the sub-index is 5					

Table 4: Legitimacy dimension

Measures	OECD survey				Missing 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?	Is this body also entrusted to review the quality of subordinate regulation? (i.e. lower level rules)?	Is the review process, if it exists, explicitly guided by regulatory quality criteria?	Does this body review and report on progress on regulatory policy/regulatory reform across the administration?	OECD countries only
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?)	Have these review provisions been exercised in practice? 1=often 0.5=rarely No=no			OECD countries only
Citizens	What forms of public consultation are routinely used? Public notice and comment?	Are these (RIA) report published?			OECD countries only
Maximum value of the sub-index: 8					

Table 5: Descriptive statistics of the four implementation scores and their totals

	N	Minimum	Maximum	Mean	Mean Std. Error	Std. Deviation	Variance
Legal_dimension	33	.00	5.00	3.4242	.27876	1.60137	2.564
Organisational_dimension	33	.00	8.00	3.5909	.44459	2.55396	6.523
Strategic_dimension	33	.00	5.00	2.3939	.25353	1.45644	2.121
Legitimacy_dimension	29	.00	7.50	1.9828	.39273	2.11492	4.473
Total_leg_org_strat	33	.00	18.00	9.4091	.78530	4.51119	20.351
Grantotal	29	.00	23.50	12.1034	1.07862	5.80852	33.739
Valid N (listwise)	29						

Table 6: Results of implementation score grouped according the four dimensions, group of adopters, and countries with an effective implementation

COUNTRIES	Year of adoption	Groups of adopters	TOTAL LEGAL	TOTAL ORG	TOTAL STRAT	GRAN TOTAL	TOT LEG	GRANTOT	Effective Implement.
Australia	1985	Pioneer	4	6.5	3	13.5	3	16.5	1
Austria	1999	E. majority	4.5	1	3	8.5	1	9.5	0
Belgium	1998	E. majority	3	5.5	3	11.5	2	13.5	0
Canada	1978	Pioneer	5	6.5	4	15.5	5.5	21	1
Czech Republic	2001	E. majority	4	5.5	1	10.5	0	10.5	0
Denmark	1993	Pioneer	4	4.5	2	10.5	2	12.5	1
Estonia	1996	E. majority	1	0	1	2			0
Finland	1998	E. majority	1.5	1	4	6.5	0	6.5	1
France	1995	E. majority	4	2	2	8	0	8	0
Germany	1984	Pioneer	4.5	3	3	10.5	0	10.5	0
	2006	Later adopter							0
Greece			4.5	2	3	9.5	0	9.5	0
Hungary	1987	Pioneer	1.5	2.5	2	6	1	7	0

Country	Year	Type								
Iceland	1999	E. majority	0	0	0	0	0	0		0
Ireland	1999	E. majority	4	5	3	12	1	13		1
Italy	1999	E. majority	5	4.5	4	13.5	3	16.5		0
Japan	2004	Later adopter	4	0	0	4	1	5		0
Korea	1997	E. majority	5	8	4	17	4.5	21.5		1
Latvia	1998	E. majority	1	1	1	3			0	
Lithuania	2003	Later adopter	5	2	0	7			0	
Mexico	1996	E. majority	5	8	5	18	1	19		1
Netherlands	1985	Pioneer	2	5	4	11	2	13		1
New Zealand	1995	E. majority	2	5.5	4	11.5	2.5	14		1
Norway	1995	E. majority	1.5	1	3	5.5	0	5.5		0
Poland	2002	Later adopter	5	5.5	3	13.5	1	14.5		1
Portugal	2006	L. Majority	5	4	2	11	2	13		1
Slovak Republic	2001	E. majority	1	2	3	6	0	6		1
Slovenia	2004	Later adopter	4	1	0	5			0	
Spain	2004	Later adopter	5	1	1	7	3.5	10.5		0
Sweden	1985	Pioneer	0.5	4	1	5.5	0	5.5		1
Switzerland	1999	E. majority	3.5	3	3	9.5	4	13.5		0
Turkey	2006	Later adopter	4	2	0	6	3	9		0
UK	1986	Pioneer	4	8	4	16	7.5	23.5		1
United States	1971	Pioneer	5	8	3	16	7	23		1

32

Table 7: Average of the implementation scores according to the three groups of adopters

	Average score (legal, organisational and strategic dimension)	Average score (legitimacy dimension)
Pioneers	11.6	14.7
Early majority	8.9 (9.5)	11.2 (12)
Later adopter	7.875	10.25

N.B.: In parenthesis the average of the early majority countries excluding the deviant case of Iceland

Table 8: Correlations between effective implementation and implementation scores

Correlations

		eff_adoption	stand_tot_all_four_dim	stand_tot_leg_org_str
eff_adoption	Pearson Correlation	1	.495**	.580**
	Sig. (2-tailed)		.006	.000
	N	33	29	33
stand_tot_all_four_dim	Pearson Correlation	.495**	1	.957**
	Sig. (2-tailed)	.006		.000
	N	29	29	29
stand_tot_leg_org_str	Pearson Correlation	.580**	.957**	1
	Sig. (2-tailed)	.000	.000	
	N	33	29	33

**. Correlation is significant at the 0.01 level (2-tailed).