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INDICATORS FOR AN EFFECTIVE IMPLEMENTATION OF
REGULATORY IMPACT ANALYSIS:
AN APPLICATION TO THE ITALIAN CASE

Abstract

Literature on indicators of regulatory quality is now abundant. Given its global diffusion, among the better regulation tools regulatory impact analysis (RIA) has gained the attention of scholars who have attempted to measure the quality of regulatory appraisal system. This literature tends however to overlooks theoretical insights and specific context features. Relying on theoretical and empirical literature on administrative and regulatory reforms, this paper proposes a process for selecting sets of indicators in order to achieve an effective implementation of programmes for enhancing the quality of regulation. Furthermore, based on previous works a proposal of indicators is derived having in mind the case of the Italian better regulation policy. Among the several tools for improving regulatory quality, RIA has been chosen given its relevance and pivotal role. This paper concludes remarking the lack of attention given by scholars to rational choice, organisation and policy diffusion theories.

1. Introduction: Diffusion of RIA and its definition

Throughout the 1970s and 1980s, several pioneering governments among the OECD countries have started managing regulation through a set of standards and rules requiring ex ante analysis and appraisal of the future impacts on the economy, environment and society. Addressed to regulators, these administrative standards are now common among almost the entire population of the OECD and EU member states. There is evidence that the diffusion process has accelerated since 1995, when the OECD paid particular attention to regulatory management and RIA (De Francesco 2008a). Although the process of diffusion, governments have tended to shape and mould the available international experience, adopting different policy appraisal methodologies. Indeed, the first phase of diffusion is characterised by two clusters of pioneer countries. Among the Anglo-Saxon countries (such as Australia, Canada and the US) RIA emerged as a comprehensive economic analysis of regulatory costs and benefits, while in European countries (such as Germany and the Netherlands) it assumed the form of regulators' checklist. In the later stages of diffusion and notwithstanding the role of international organisations such as the OECD and more recently the EU in recommending and promoting standards for regulatory management, recent empirical researches show that there is still variation in the extent and characteristics of implementation of RIA (De Francesco 2008b; Radaelli 2008). In other words, an administrative principle has been diffused, not a specific model.

It follows that a definition of RIA is necessarily broader:

[Regulatory] Impact Assessment is:

- A systematic, mandatory, and consistent assessment of aspects of social, economic, or environmental impacts such as benefits and/or costs;
- affecting interests external to the government;

- of proposed regulations and other kinds of legal and policy instruments;
- to i) inform policy decisions before a regulation, legal instrument, or policy is adopted; or ii) assess external impacts of regulatory and administrative practices; or iii) assess the accuracy of an earlier assessment. (ENBR 2006)

The variance is also common in the quality of implementation. Recent OECD surveys of national directors for better regulation (Jacobzone, Choi and Miguet 2007) and a research project database (EVIA database see Jacob et al. 2008) show that only 15 countries out of 33 of OECD and EU member states are able to systematically produce regulatory analysis. Recent evaluation reports appraise the overall quality of RIA programmes (NAO 2001; 2004; 2005; 2007; TEP 2007; GAO 2000). Furthermore, given its diffusion, RIA has gained the attention of scholars who have assessed the evolution, extent and quality of this particular policy appraisal (see Radaelli and De Francesco 2009 and Turnpenny et al. 2009 for a review of the art of the research on RIA). In particular, there is a strand of literature that assesses the quality of the overall regulatory environment and regulatory appraisal system (see De Francesco and Radaelli 2008; De Francesco and Radaelli 2007; Radaelli and De Francesco 2007 chapter 3 and 4 for a review). In particular, measures have been designed to assess the overall quality of regulatory governance (Kaufmann 2005; World Bank 2004; Conway et al. 2005), the specific quality of a sample of regulatory analysis (Cecot et al. 2008) and outcome (Hammit 2000), as well as and the quality of regulatory quality programmes (Radaelli and De Francesco 2007) and institutional design (Jacobzone, Choi and Miguet 2007). However, the current literature fails to propose a system of indicators designed for the different stages of the policy innovation cycle, taking into account preconditions and prerequisites, contingent and complimentary innovations, policy formulation and adoption, effective implementation, and evaluation and monitoring.

Focusing on the so far unsuccessful experience of the Italian governments in implementing RIA (Bassanini, Paparo and Tiberi 2005, Natalini 2008, Natalini 2006, Natalini and Sarpi in this volume), this paper proposes a set of indicators and related recommendations for their design. The main goal of this paper is to design indicators relying on different theoretical approaches, a daunting enterprise for more than one better regulation tool (see Radaelli and De Francesco 2007 for a comprehensive proposal of indicators related to different regulatory quality tools). Considering RIA as an administrative reform, the next section introduces theoretical concepts of political control of regulators and organisation. Section 3 introduces the concepts of institutional innovation, as well as complimentary and contingent innovations. Section 4 focuses on stages between the formal adoption and the effective implementation of an administrative innovation such as RIA, attempting to explain the conditions for an effective implementation. Section 5 proposes a series of recommendations for designing indicators and selects four different levels of measures for the quality of regulatory reform and RIA. Finally section 6 concludes identifying further researches but also proposing recommendations for achieving an effective regulatory management in Italy.

2. RIA as an administrative reform: Deriving theoretical frameworks

Relying on theoretical literature, this section puts RIA in conceptual frameworks. Several empirical studies (Radaelli 2005; De Francesco 2008b; Jacobzone, Choi and

Miguet 2007) have shown that RIA assumes different connotations with different degrees of implementation. Notwithstanding, there is a common minimum denominator: RIA is a reform of administrative procedure that changes the way regulators (generally governmental regulators) make their proposals.

Administrative reform 'indicates a series of interventions that are promoted by political or administrative bodies and introduced to adapt public administrations to economic and social change' (Cassese 2003 128). Its size and its regulatory and hierarchical structure make public administration a stable organisation which is not easily permeated by environmental pressures (Cassese 2003 128). However, since the 1970s administrative reforms have become a constant, planned and autonomous policy that, minimising the dimensional, structural and hierarchical constraints, allows public organisations to adjust themselves to the modified environmental conditions (Cassese and Savino 2005: 3).

Within a hierarchical and regulatory framework, reforms assume the form of a change of administrative law. Administrative change is theoretically based on two contrasting rationales: the democratic polity concept of aggregation of preferences vs. the rational 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). This is a typical discretion/legitimacy trade-off in principal-agent relationship and common feature of administrative law in all democracies: '[a]ll representative democracies face a similar need to balance democratic accountability against the competent implementation of complex statutes.' (Rose-Ackerman 2007: xiii) And this can be done through administrative procedures in order to promote rationality and consequently avoid arbitrariness (Moral Soriano 2002: 122). In every democracy, procedures are essential mechanisms on hand of the political principal to control the bureaucratic agent that is the main function and one of theoretical mainstream of administrative law (Harlow 1998).

Political principal has several ways of obtaining information from an agent designing several institutions to control agents' behaviour (Lupia and McCubbings 1998; Moe 1987). Following the literature on principal-agent model and the political control of bureaucracy, RIA is an *ongoing* control mechanism (Pierce, Shapiro and Verkuil 2004: 1) within the public administration *hierarchy* (Ginsburg 2002: 248). Indeed, among the systems implemented so far in the OECD and EU countries, RIA is placed in between the bureaucrats/politicians relationship and cannot be considered as a judicially-enforceable procedural right.¹ Politicians directly influence the agency's incentive structure forcing 'the agency to promulgate internal rules that constrain discretion' (Ginsburg 2002: 249).

It is however obvious that the political principal cannot control directly all regulatory activities. The emergence of any additional control mechanism is necessarily embedded within the hierarchical and administrative entity supporting the principal. In other words, since the lack of evidence of use of third parties in the regulatory appraisal process, an additional administrative function and structure is necessary in order to

¹ There are no cases of judicial review of RIA. Accordingly, RIA cannot be considered as a proper fire alarm mechanism that is characterised by the presence and participation of courts and citizens. 'By creating a judicially-enforceable procedural right, politicians decentralize the monitoring function to their constituents, who can bring suits to inform politicians of bureaucratic failure to follow instruction.' (Ginsburg 2002: 250) However, RIA is a hierarchical mechanism that can strengthen fire alarm mechanisms where they exist by altering the incentive structure of stakeholders' participation in the rulemaking.

facilitate the political principal in controlling, monitoring and overseeing regulatory activities. Similarly to the delegation theory and principal-agent model and within the organisation theory framework, public entities are instrumental for political principals. Administrative agents are not a complete actor² since 'the principal is supposed, at least indirectly, to control the action and to be responsible for it' (Brunsson and Sahlin-Andersson 2000: 732). For instance, agent's resources and employment are controlled by the higher hierarchical level through budget process and appointment system (Brunsson and Sahlin-Andersson 2000: 731-2).

Even though referring to public services, administrative reforms have been interpreted as attempts at constructing organisations by introducing their constitutive features of identity, hierarchy and rationality (Brunsson and Sahlin-Andersson 2000). Accordingly, organisation theory is another theoretical framework to explain the origins of administrative reforms. As Brunsson and Sahlin-Andersson (2000: 736) put it, '[t]here is nothing intrinsically problematic about being an agent that is perceived as modern, rationalised institution, well embedded in established systems such as the state or the various professions. It is only when such entities are measured against organisation concepts that its weakness as regards identity, hierarchy and rationality emerges as a problem, stimulating a desire for reforms.

Brunsson and Sahlin-Andersson (2000: 723-8) define identity, hierarchy and rationality as follows: Identity is related to concepts such as autonomy that enables the agents to have special characteristics and be or tend to be and organisation itself. Hierarchy is associated with concepts such as coordination, control and management. Finally, rationality refers to setting objectives, measuring results and allocating responsibility. Accordingly, setting objectives is a necessary condition and a way to control organisational actions.

In a (perceived) rational organisation, objectives and actions are assumed to be connected in a systematic way. This leads to the necessity to systematically measuring organisational results and performance in order to achieve efficacy and efficiency. Monitoring, accounting and auditing of policy outcome are a manifestation of such necessity. These are relevant dimensions that will be exploited in section 5 in order to propose a methodology to select measures for the quality of RIA programme.

3. Explaining institutional innovation and effective implementation

If Brunsson and Sahlin-Andersson (2000: 722) focus on the origins and reception of administrative reforms, providing 'some clues as to why the reforms occurred at all, why they acquired their particular content, and how they were received', Williams (2002) uses the concept of 'institutional innovation' for explaining how the Mexican government successfully implemented regulatory reform and RIA and highlighting the pivotal role of technocrats in changing and innovating institutional arrangements. Determinants of successful institutional innovations are broader, complex and context-bound,³ taking into account 'a web of politically consequential institutions and institutional relationships

² By a complete actor is meant 'an entity possessing independence and sovereignty, with autonomous or self-interested goals, with rational means and qualities, commanding independent resources and having clear boundaries', while an agent has an unclear or weak identity and unclear boundaries (Brunsson and Sahlin-Andersson 2000: 731).

³ For the implications of this point to RIA see Radaelli (2005), who draws on historical institutionalism.

inside the state' (Williams 2002: 397).⁴ In other words, what is still lacking in the current literature is the consideration and analysis of institutions, bureaucratic behaviour, and the role of the technocrats in implementing market-oriented reforms. Using an organisational and institutional approach, Williams (2002: 398, emphasis in original) argues that 'technocrats functioned both as executive agents *and* actors' in achieving an effective regulatory reform and RIA system.

Considering institutional innovation as the manipulation of institutional variables to one's advantage, Williams (2002: 396-8) identifies three dimensions:

- 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';
- the organisational and decisional dimension refers to how 'technocratic appointees construct new bureaucratic entities'. 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 effective new policy instruments'.

Innovation can also be analysed from a technological perspective. In diffusion research, innovation is defined as 'an idea, practice, or object that is perceived as new by an individual or other unit of adoption' (Rogers 2003: 12). As explored in section 2, public administration tends to change in order to adjust environmental conditions and constraints as well as responding to emerging functional needs. A vast literature on cross-national adoption of policy innovations has identified prerequisites or necessary conditions for adoption (Collier and Messick 1975; Bennett 1997). No administrative mechanism (such as the requirement to appraise the economic impact of regulation) can function properly without a broader administrative regime. In the USA, RIA is a component of the broader 1947 administrative procedure act (APA). Crucial in the design of APA are the giving-reasons requirements for proposed regulations and the notice-and-comment obligations. External access to government documents (via the Freedom of Information Act) seems to be another essential condition for the adoption of RIA. Finally, a large number of OECD countries has experienced with Environmental Impact Assessment (EIA) long before RIA was introduced. Thus, the hypothesis can be made that EIA creates some administrative capacity and attitudes towards economic analysis and CBA that can be exploited when RIA is introduced. To sum up, RIA as a 'technological innovation' can be more or less successful depending on the presence or absence of factors such as the regulation of the administrative process (an APA), the

⁴ By institutions relationships is meant 'formal and informal patterns of governance, decision rules, standard operating procedures and ministerial mandates'; by institutional relationships is meant 'the arrangements based on institutions that constrain state actors, and structure their relations with one another' (Williams 2002: 397).

existence of statutory rights to information and access to regulation (FOIA-type documents) and EIA-type innovations.⁵

Recent empirical analysis has shown evidence of the relationship between RIA and environmental impact assessment, general administrative procedure act, and freedom information act (De Francesco 2008b). This finding shows us that RIA is not a plug-and-play innovation. The nature of the institutional terrain in which RIA projects are ‘planted’ matters, especially in terms of previous adoptions of environmental impact assessment obligations and freedom of information acts. The presence of US-style APAs (e.g., broader or softer versions) and framework rules such as giving reasons and due process is a logical pre-condition for RIA, although our data on this dimension come with several caveats given the different nature of APAs across nations. Having established that technocratic and institutional dimensions matter and should be reflected in the design of indicators of regulatory quality, we have not said much on how RIA is (successfully) implemented and what are the actors and dynamics of implementation.

4. *Different stages in between the adoption-implementation gap*

Why do some countries go for a more sophisticated approach to RIA and others prefer a leaner option, based on formal adoption without much implementation? Most datasets measure the adoption of RIA, but there are very few measures of implementation. A recent paper by Jacob *et al.* (2008) provides some evidence that even in the European Union (EU) the degree of implementation varies to a large extent – so much so that they speak of an adoption-implementation gap.

To get to grips (conceptually, if not empirically)⁶ with implementation, one must derive some hypotheses about the political costs and benefits along the continuum that goes from formal adoption to ‘deep’ implementation. Here it is useful to focus on the political economy of this process from adoption to implementation – following Moynihan (2005) – looking at the preferences of politicians in office and the bureaucracy.

Concerning adoption of a RIA system, the politicians (and their top advisors/technocrats as Williams put it) are often the main characters, whilst regulatory bureaucrats play a minor role. To adopt (formally) RIA creates benefits to elected politicians. They can show to international organisations that they are following the bandwagon of modernisation. Domestically, they send to the business community a signal that they are doing something to improve on the regulatory environment. The economic and political benefit of saying YES to the OECD 1995 ministerial declaration on regulatory quality – to illustrate with an example – is high, the cost is low.

If politicians are the main characters in adoption, implementation revolves around both politicians and bureaucracies. Once formally adopted, RIA goes through different degrees of implementation. The next step is to produce guidelines on RIA. This comes at moderate administrative cost (the senior civil service has to coordinate views and ‘model’ impact assessment as a process with specific steps, such as problem definition, consultation, economic analysis, choice of options, and monitoring). Politically, the core executive sends a signal to departments that their regulatory activity may be watched closely. In coalition and/or minority governments, this has political costs – some

⁵ Literature on diffusion of innovation refers to this concept using the terminology of contingent and complimentary innovation (Mahajan and Peterson 1985).

⁶ See Radaelli, De Francesco and Troeger (2008) for a preliminary empirical test.

members of the coalition may object to this, especially if they have the regulating departments in their portfolios.

Next comes the stage of putting money on the enterprise. Guidelines do not work without proper investment. The core executive, therefore, has to invest in resources, such as training, hiring specialists in the economic analysis of regulation, and staffing departments with economists. This has a clear economic cost. In departments calibrated around lawyers and generalists, the addition of economists can also create cultural friction and therefore some political costs. The benefits, of course, are all in terms of having more chances of controlling from the centre the regulatory activity. The most evident sign of commitment is the establishment of a central unit with its own staff and budget. At this stage one has to bear in mind all the consideration about the identity, hierarchy and rationality of the new administrative and organisational entity set up for overseeing the regulatory governance.

Then, implementation reaches the stage of actually carrying out proper regulatory impact analyses. This has high economic costs – some major RIAs are quite sophisticated, they take time and require different types of models and analysis. There is also a political cost – the core executive has to exercise pressure on departments that are not so keen on RIAs. The political benefit is that only if RIAs are systematically produced, can the core executive control the regulators.

Finally, there is the step of publishing the RIAs widely, including the analytic documents (such as quantitative economic analysis) on which the final RIA was based. This increases transparency in the regulatory process. This step may not cost much in terms of economic resources – depending if publication is limited to the internet or includes the official Journal or Gazette. But clearly it has a political cost, since all affected interests (not just the ones that are within the constituency for support of the incumbent) can use the RIA as information-device and organise their pressure on the regulators. So the cost is about the overall uncertainty in terms of who will get what out of the RIA.

Accordingly, the design of indicators should take into account the different stages (formal adoption and institutional design, guidance and support, production of RIA and its publication). The next section brings together all the theoretical insights in the discussion of the design of indicators and the conceptualisation of an evaluation system, overcoming the evident flaws in the actual discussion with measures of regulatory quality and evaluation of RIA programmes.

5. A proposal and recommendation for regulatory quality measures

From previous review of international organisations and governments' experience with indicators of regulatory quality (Radaelli and De Francesco 2007; Radaelli and Meuwese 2009, De Francesco and Radaelli 2007; 2008; 2009), it is clear that theoretical approaches and perspectives did not feed the discussion of regulatory quality and the methodologies for measurement. Designers face the issue of situating indicators within a problem-definition of the politics of regulatory reform that are non-canonical practices (see Noordegraaf and Abma 2003 for a definition of non-canonical practices). Better regulation policy and regulatory reforms are indeed characterised by complexity, inconsistencies and dilemmas, leading to high degree of ambiguity. In such non-canonical scenario, because objectives are vague and difficult to measure, indicators rely on indirect measures. Consequently, one has to establish and agrees the rules and routines

of the performance measurement system, taking into account the multiple stakeholders' perspective (Noordegraaf and Abma 2003: 867). Level of conflict, uncertainty, shared diagnosis of the regulatory failures or lack thereof, are all variables that affect how indicators are 'processed' by actors (see also Radaelli and Dente 1996).

Accordingly, the design of indicators is not limited to technical properties. The establishment of a system of indicators provides an opportunity to reduce some of the uncertainties of better regulation policy. Indicators dissolve ambiguity, create commitments to processes of knowledge utilisation, and are a mechanism for revealing the preferences of the major actors. However, in a non-canonical scenario – this is the big caveat – these steps must involve stakeholders through the establishment of open processes of consultation and deliberation. Without these learning processes, there will be no ownership of indicators. The design of indicators needs to balance arguments and facilitate learning.

Moreover, as previous sections have evidenced horizontal regulatory reform and policies to increase the regulatory quality are imbedded in administrative law and have clear consequences in the administrative trade off of efficiency and political control of bureaucracy. The political principal requires an instrumental function within the hierarchical structure to govern the control mechanism and recent administrative reforms, within the so-called New Public Management movement, tend to consider administrative entities and agents as organisation, enhancing the constitutional feature of identity, hierarchy and rationality. Successful implementation is explained by highlighting the role of technocrats as the political principal's agent as well as a complete actor.

There is also the issue that one cannot 'plug-and-play' impact assessment or other regulatory innovations onto an administrative rule-making system without considering other institutional innovations, such as administrative procedure acts and the presence or absence of EIA and FOIA-type requirements. Finally, the politics of adoption is very different from the politics of implementation. Being aware of the different and specific political-administrative interactions, efforts, and costs behind each of the adoption-implementation stages provides useful insights on the reality of the development of the better regulation policy and RIA. This argument is reflected in our understanding of the policy and its evaluation. In other words, how does one design indicators that are sensitive to contexts?

Given the complexity of the issue and the lack of a single normative standard on how to conduct an evaluation of better regulation programs, it is useful to distinguish indicators according to the following dimensions:

- (1) Stages of policy process (indicators for input, output and outcome).
- (2) The source of perception (objective vs. subjective indicators).
- (3) The type of evaluator, distinguishing between 'internal evaluation' and a system for 'external evaluation'.
- (4) Complimentary and contingent innovations
- (5) Stages of adoption-implementation
- (6) Features of organisation (Identity and external communication, hierarchy and internal accountability, and economic rationality)

The design of indicators has to rely on the specific experience and detailed observations of a country with the adoption and implementation of better regulation and RIA programme. This task goes well beyond the purpose of this paper. However, there is

an emerging empirical literature on the Italian RIA system (Bassanini, Paparo and Tiberi 2005, Raveraira 2007, Natalini, 2008, 2007, Natalini and Sarpi in this volume). Although RIA has been adopted in 1999, Italian scholars tend to agree that the phase of implementation seems to still in the embryonic phase. Only recently the Italian government has ended the experimental trial with RIA. Accordingly, the measurement system should be composed of indicators that focus on the design of better regulation policy in order to analyse templates and procedures as well as administrative preconditions (see Radaelli and De Francesco 2007, chapter 7 for a complete discussion of different systems of indicators according to the different phases of adoption/implementation). This simplified measurement system should consider the organisational dimension and consider the interaction and integration with other administrative innovations and better regulation tools. Consequently, among the different dimensions of indicators, it is appropriate that measures should focus on the followings: measures of input, objective measures, internal evaluation, complimentary and contingent administrative innovations, and the initial stage of adoption and implementation, focusing on its organisational dimension composed of the technocratic agent and incentives for regulators. Relying on previous works (Radaelli and De Francesco 2007, De Francesco and Radaelli 2008), a proposal would be to start from a range of simple indicators, without attempting to perform any kind of ex-ante aggregation.⁷

'To achieve learning one has to reduce the emphasis on targets – perhaps even dispose of them altogether *during the early stages* – and design a process in which the actors have incentives to re-elaborate their preferences and to re-define their priorities as their joint experience 'outpaces their initial understanding' (Sabel 1994: 155–6). In this experimental approach to indicators and priorities for better regulation, learning and monitoring become compatible and mutually reinforcing. Each government should use the selection of common indicators to reveal its preferences for regulatory quality (including preferences for the key target actions in regulatory reform) and discuss openly what will be monitored, how and why.' (De Francesco and Radaelli 2008: 25)

This basic system of indicators should promote a discussion in order to achieve a broader agreement on the principles and definition of regulatory quality.⁸ It is composed of (design and activity) measures that have the scope to analyse templates and procedures of better regulation and RIA as well as administrative preconditions. The data would be collected by the central unit every year.

The following tables specifies the main purpose of the indicator according to essential three dimensions of administrative reform: (a) hierarchy and internal accountability; (b) systematic communication and external accountability; and (c) economic analysis supporting organisational rationality. This is a consistent way to approach the organisational and institutional innovation dimensions.

⁷ Other scholars have attempted to aggregate measures for RIA (Visaggio 2007; and for a discussion on composite measures derived from surveys of governments see Jacobzone 2007).

⁸ Moving away from the peril of non-canonical scenarios.

Table 1: Level 1 - Indicators of the political-administrative context

Indicators	Purposes of			What is measured	Interpretation
	Hierarchy and internal accountability	Communication and external	Economic analysis		
Requirement to justify regulation	X			The existence of an administrative requirement for justifying the regulatory intervention, supplemented by explanatory notes published in the official gazette	The presence of such administrative requirement is essential in assuring the dialogue on regulatory proposals. This requirement incentivises the government in setting clear goals for each proposal.
Mandatory administrative standards for rulemaking process	X			The existence of a mandatory governmental policy or standards that discipline how regulators make new regulations	The presence of such administrative framework facilitates the institutionalization of new administrative innovations/requirements
Obligation to publish the preliminary analysis of proposed regulation for public comment		X		The existence of an administrative requirement/government policy to publish an economic analysis report on regulatory proposal allowing stakeholders to comment and send feedback on regulation	It enhances the consultation process and the legitimisation of regulatory process
Existence of an official “green book” on sound policy analysis			X	The existence of a government handbook on economic appraisal of policy	Knowing the existence, the content and the degree of sophistication of the handbook provides information on the expectations of the government about the economic analysis of regulation
Presence of appraisal tools in administrative law and policy procedures			X	The existence of policy appraisal tool such as environmental impact assessment (EIA), sustainability appraisal, trade analysis, health impact assessment, sectoral risk analysis, (evaluation as general principle assessment)	Knowing the existence, the content and the degree of sophistication of appraisal tool inserted in broader administrative process as well as the familiarity of the civil service with such tool provides information about the capacity of conducting economic analysis



F. DE FRANCESCO - INDICATORS FOR AN EFFECTIVE IMPLEMENTATION OF
REGULATORY IMPACT ANALYSIS:
AN APPLICATION TO THE ITALIAN CASE

Table 2: LEVEL 2 - Regulatory Reform Policy Indicators

Indicators	Purposes of indicator			What is measured	Interpretation
	Hierarchy and internal accountability	Communication and external accountability	Economic rationality		
Regulatory reform objectives	X			Explicit objective of regulatory reform embedded in the highest-level official documents (legislative programme or coalition agreement) of the executive	The existence of regulatory reform objective within highest-level official documents of the objectives against which executive it will be evaluated later.
Principles of regulatory quality		X		The existence of principles of regulatory quality. They should be set after having received an opinion from Parliament and open consultation with	The establishment of regulatory quality principles allow an open and wide discussion with the political and societal arenas
Objectives of regulatory reform	X	X		Explicit objectives of quality	In order to be measured, programmes must contain clear objectives. This indicator makes the notion of regulatory quality explicit
Mandatory and unique mandate for the oversight of the major steps in the life-cycle of regulation	X			The existence of a mandatory oversight of regulatory formulation, consultation, production, ex-ante analysis, access, enforcement, ex-post review, codification, simplification, and elimination. This requires the establishment of a central unit in charge of the overall control of regulatory	This indicator measures the control capacity of the executive
Minister accountability		X		The existence of an individual minister responsible for ensuring progress on better regulation against measurable benchmarks.	Having a minister accountable for delivery is a clear sign of political commitment and accountability

Annual regulatory agenda debated in parliament		X		The existence of an annual regulatory agenda that is debated in parliament and is available on-line	The programme establish an annual regulatory agenda through an open and wide discussion within parliament.
Regulatory reform principle of max. collective welfare			X	The existence of a principle that anchors regulatory reform to collective welfare	The presence of wide governance principles increases legitimacy of reform
Regulatory policy states that decisions be based on risk-risk analysis			X	The existence of a principle that anchors decisions to risk-risk analysis	The presence of risk-risk principles encourages explicit comparison between risks
Quantifiable targets and measurable benchmarks			X	The existence of quantifiable targets and benchmark in better regulation	Quantifiable targets facilitate the implementation, management and evaluation of better regulation
Department of economic analysis within core executive			X	The existence of a department for economic analysis within the core executive	The presence of economists among high-level civil servants creates capacity for economic analysis of regulation

Table 3: LEVEL 3 - Indicators for organizational design of the project

Indicators	Purposes of indicator			What is measured	Interpretation
	Hierarchy and internal accounts	Communication and external accountability	Economic rationality		
Central (quality assurance) unit Sub-indexes: a) authority to oversee regulatory process b) number of staff c) number of staff in departmental or agency-level regulatory reform unit d) Resource - trend	X			The existence of a body (typically in the cabinet office) in charge of monitoring and quality assurance Trend in expenditure for better regulation	Administrative body/bodies overseeing better regulation are necessary for efficient implementation, management and evaluation
Board-level champions of regulatory reform in departments and/or agencies	X			Promotion of champions (top-level civil servant and experts) of regulatory reform	Top level civil servants and experts of regulatory reform legitimate the better regulation policy
Public service performance management	X			The inclusion of better regulation activities in the overall performance management system used in the public sector	Evidence of the importance of better regulation. Better regulation is embedded in the overall management system used in the public sector. Individuals achieving results are rewarded.
Independent monitoring/evaluation of regulatory reform	X			The existence of a monitoring programme and dedicated independent body	The establishment of an administrative body (different from the central unit) in charge of monitoring the progress and result of better regulation fastens the consolidation and institutionalization of a culture of monitoring and evaluation

Public annual report of the CU		X		The existence of a commitment to produce a report on progress	Reporting enhances the accountability and transparency of the central unit. Additionally, it is useful for evaluating the policy.
Public official documentation on strategy to involve citizens and stakeholders		X		The existence of an official document explaining the strategy to involve citizens and stakeholders	A strategy to involve citizens increases the legitimacy of better regulation programmes
RIA is available through a single easily accessible webpage		X		The existence of a website where all consultation documents and RIA are collected.	Websites facilitate the access to and transparency of, regulatory consultation, process and decision
Resources trend	X			Increasing trend in expenditure for better regulation	Budget provides financial resources for implementing tools
Peer review of the analysis contained in RIA			X	The existence of a requirement to expose major RIAs to independent peer-review	Peer-review increases the credibility of economic analysis contained in RIA
Ex-post evaluation of regulations in term of their capacity to meet objectives			X	The existence in the guidance of procedures to set up monitoring and ex-post evaluation of regulations based in their capacity to meet their stated objectives	Clearly defined procedures may facilitate the ex-post evaluation of regulations. The latter is necessary in order to have an efficient regulatory environment.

Empirical researches also alert us on the role of complementary innovations and the problems of ‘plugging’ a RIA system onto a system that is not as yet receptive. For this reason the tables present a proposal of 4 sets of indicators considering different levels, specifically the political administrative context, regulatory reform (or better regulation) policy, the organisational design (of RIA) level, and the quality of guidance and support activities for RIA.⁹

⁹ These levels are similar to the dimensions of system 1 indicators proposed by Radaelli and De Francesco (2007, chapter 7 and appendix 2).

6. Conclusion

This paper reviewed the theoretical explanations of the origin of RIA. Recent empirical literature has provided useful insights for ensuring a successful and effective implementation of regulatory reform innovations. These researches identified the importance of administrative prerequisites and complimentary innovations (De Francesco 2008a) as well as different stages in the adoption-implementation gap (Radaelli et al. 2008). These findings have fed into the suggested systems of indicators – originally developed with the EU context in mind (Radaelli and De Francesco 2007). The proposed systems of indicators can assist policy makers along the initial stages of adoption and implementation. Moreover, the conceptualisation of the three dimensions of the purpose of better regulation policy is a useful approach to coordinate the selection of indicators with the political goal of the incumbent government. It is important to note that the choice of regulatory quality measures is left to policy makers, since the contested nature of better regulation and regulatory reform. Indeed, policy makers who are willing to enhance the responsiveness of regulators to political agents (such as the prime minister, the parliament, or the president) should expand the type of indicators identified in the first row. On the other hand, governments more inclined to prioritise the maximisation of citizens' wealth, economic growth, or competitiveness may be better off focusing on the indicators of the 'economic analysis' row, choosing the most appropriate principles and methods. It is clear that the more political investments are made in better regulation and RIA, the more comprehensive the approach becomes.¹⁰

This concluding section draws attention to two important points and the forward-looking implications of this paper. The first lesson to draw arises out of the analysis of the connectedness of administrative innovations and reforms. Since individual projects are strongly connected to pre-conditions and complementary innovations, it would be wrong to plan the implementation and evaluation of a RIA system without taking a broader view inclusive of administrative procedure acts, judicial review, freedom of information, environmental policy appraisal and, in particular for the Italian case, the other regulatory appraisal (the so-called Technical regulatory analysis, '*Analisi tecnica normativa*'). It is a kind of forest and trees argument that highlights the limitations of thinking of plug and play RIA systems, knowing that they plug and play much better if the pre-conditions in administrative law are there. Furthermore there is also an argument about wise resource allocation. Instead of investing, say, 100% of resources in RIA, it is more useful to invest, for example, 50% in RIA and 50% in administrative innovations that complement RIA.

Secondly, the proposed system of indicators has focused only on the 4 basic and initial levels of the adoption and implementation stages. Since the still lack of implementation of the RIA system in Italy, we have overlooked the outcome and impact indicators. These are important systems of indicators that require a professional and external community of evaluators. It is fair to say also that since the institutionalisation of better regulation at the EU level specific macro measures of outcome and impact may be given, such as the target of reducing administrative burdens of 25% by 2020.

¹⁰ This is to say that with institutionalisation, policy makers may wish to achieve more than one political goal. Indeed, in countries such as the US and the UK, RIA is a multi-function instrument for controlling the regulators, communicating with stakeholders, and enhancing the conditions for economic growth (Radaelli 2008).

Finally, further researches are necessary in order to understand which type of mechanisms of institutionalisation are more effective in accelerating the diffusion among the department of the RIA practice and enhancing the legitimisation and stability of the administrative innovation. Within a rational agency perspective a range of influence-based mechanisms are available in order to institutionalise a new practice, persuading regulators for whom the incentives outweigh the costs of adoption (Lawrence, Winn and Jennings 2001: 633). On the other hand, from a more systematic perspective one may argue for the use of disciplinary practices, i.e. surveillance, normalising judgment, and examination) targeting the regulator's identity and culture (Lawrence, Winn and Jennings 2001: 636). Indeed, although the design of theoretically and methodologically sound measures, the exclusive reliance on a system of indicators for the institutionalisation of RIA may be not enough. Complimentary and contingent mechanisms of institutionalisation may be necessary.

REFERENCES

- Bassanini, F., S. Paparo, G. Tiberi (2005) 'Qualità della regolazione una risorsa per competere. Metodologie, tecniche e strumenti per la semplificazione burocratica e la qualità della regolazione' *Astrid-Rassegna*, n.11, giugno.
- Bennett, C.J. (1997) 'Understanding the ripple effects: The cross-national adoption of policy instruments for bureaucratic accountability', *Governance*, 10:3, 213-33.
- Bowker, G.C. and S.L. Star (1999) *Sorting things out*, Cambridge, MA: MIT Press.
- Brunsson, N. and K. Sahlin-Andersson, (2000) 'Constructing Organizations: The Example of Public Sector Reform' *Organization Studies*, 21: 4, 721, doi:Article.
- Cassese, S. (2003) 'The age of administrative reform', in *Governing Europe*, ed. Jack Hayward and Anand Menon: Oxford: Oxford University Press, 128-138.
- Cassese, S. and M. Savino (2005) 'The global economy accountable governance, and administrative reform' *Paper presented at the Global Forum on Reinventing Government Towards Participatory and Transparent Governance*, Seoul, Republic of Korea.
- Collier, D., and R.E. Messick (1975) 'Prerequisites Versus Diffusion: Testing Alternative Explanations of Social Security Adoption' *The American Political Science Review*, 69:4, 1299-315.
- Conway, P., V. Janod, and G. Nicoletti (2005) 'Product market regulation in OECD countries: 1998 to 2003', Economic Department Working Papers, No. 419, ECO/WKP(2005)6, April, Paris: OECD.
- De Francesco, F. (2008a) '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, , 1-3 April, Swansea University.
- De Francesco, F. (2008b) 'Scope of implementation of a diffused policy innovation: Regulatory Impact Analysis in EU and OECD member states' Paper presented at the 23rd Conference of the Società Italiana di Scienza Politica', Panel on Implementation, Pavia, 4-6 Sept. 2008, Università di Pavia, Facoltà di Scienze Politiche.

De Francesco, F. and C.M. Radaelli (2007) 'Indicators of Regulatory Quality', in C. Kirkpatrick and D. Parker (eds), *Regulatory Impact Assessment: Towards Better Regulation?*, Cheltenham: Edward Elgar.

ENBR (2006) *DIADEM Handbook*, Brussels: Centre for European Policy Studies, European Consortium for Better Regulation.

Epstein, D. and O'Halloran, S. (1999) *Delegating Powers: A Transaction Cost Politics Approach to Policy Making Under Separate Powers* Cambridge, U.K: Cambridge University Press.

GAO (General Accounting Office) (2000) *Regulatory Reform – Procedural and Analytical Requirements in Federal Rulemaking*, Washington, DC: US General Accounting Office.

Ginsburg, T. (2002) Comparative administrative procedure: Evidence from Northeast Asia. *Constitutional Political Economy*, 13(3), 247-64.

Hammit, J. K. (2000) 'Are the costs of proposed environmental regulations overestimated? Evidence from the CFC phaseout' *Environmental and Resource Economics*, 16:3, 281-301.

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.

Huber, J.D. (2002). Delegation to civil servants in parliamentary democracies. *European Journal of Political Research*, 37(3), 18-33.

Huber, J.D. & Shipan, C.R. (2002). *Deliberate Discretion: The Institutional Foundations of Bureaucratic Autonomy*. Cambridge, UK: Cambridge University Press.

Jacob, K.; Hertin, J.; Hjerp, P.; Radaelli, C.; Meuwese, A.; Wolf, O.; Pacchi, C. and Rennings, K. (2008) *Improving the Practice of Impact Assessment*, EVIA (Evaluating Integrated Impact Assessments) project report. Project No. 028889, European Commission 6th Framework Programme.

Jacobzone, S., C. Choi and C. Miguet (2007) 'Regulatory Management Systems across OECD Countries: Indicators of Recent Achievements and Challenges', *OECD Working Papers on Public Governance*, 2007/7, OECD Publishing.

Kaufmann, D., A. Kraay, and M. Mastruzzi (2005) 'Governance matters IV: Governance indicators for 1996-2004', World Bank Policy Research Working Paper, No. 3630, May 9, www.worldbank.org/wbi/governance/govdata.

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

Lupia, A. & McCubbins, M. D. (1994) "Learning from Oversight: Fire Alarms and Police Patrols Reconstructed". *Journal of Law, Economics, & Organization* 10(1): 96-125.

Mahajan, V., & Peterson, R. A. (1985) *Models for Innovation Diffusion*, Beverly Hills: Sage Publications.

McCubbins, M.D., Noll, R.G., & Weingast, B.R. (1987). "Administrative procedures as instruments of political control. (Conference on the Law and Economics of Procedure)," *Journal of Law, Economics, & Organization*. 3(2): 243-277.

McCubbins, M.D., Noll, R.G., & Weingast, B.R. (1999). The political origins of the administrative procedure act. *Journal of Law, Economics and Organization*, 15(1), 180-217.

Moe, T. M. (1987) "An Assessment of the Positive Theory of 'Congressional Dominance'". *Legislative Studies Quarterly* 12(4): 475-520.

Moral Soriano, L. (2002). *A theoretical approach to the tension between form and substance in English judicial reasoning*. In *The Europeanisation of Administrative Law Transforming National Decision-making Procedures*. Aldershot, England: Ashgate (Pp. 122-34).

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.

NAO (National Audit Office) (2001) *Better Regulation: Making Good Use of References 249 Regulatory Impact Assessments*, report by the Comptroller and Auditor General, HC 329, session 2001-02, London: The Stationery Office.

NAO (2004) *Evaluation of Regulatory Impact Assessments Compendium. Report 2003-04*, report by the Comptroller and Auditor General, HC 358, session 2003-2004, 4 March 2004, London: The Stationery Office, www.nao.org.uk/publications/nao_reports/03-04/0304358.pdf.

NAO (2005) *Evaluation of Regulatory Impact Assessments Compendium Report 2004-05*, report by the Comptroller and Auditor General, HC 341, session 2004-05, London: The Stationery Office.

NAO (2007) *Reducing the cost of complying with regulations: The delivery of the administrative burdens reduction programme 2007*, Report by the Comptroller and Auditor general, HC 615 Session 2206-2007, 25 July 2007.

Natalini, A. (2006) *Il Tempo delle Riforme Amministrative*, Bologna: Il Mulino.

Natalini, A. (2008) 'The Europeanization of Better Regulation Policy in Italy', Manuscript.

Noordegraaf, M. and T. Abma (2003) 'Management by Measurement? Public Management Practices Amidst Ambiguity.' *Public Administration* 81:4, 853-71.

OECD (1997) *Report on Regulatory Reform – Thematic Studies*, Paris: OECD.

OECD (2002) *Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance*, Paris: OECD.

OECD (2005) *Taking Stock of Regulatory Reform: A Multidisciplinary Synthesis*. Paris: OECD.

OECD-SIGMA (2006) 'Assessment of Regulatory Management Capacities of the Slovak Republic', Paper prepared by SIGMA, Paris: OECD.

Peters, B.G. (1988). *Comparing Public Bureaucracies: Problems of Theory and Method*. Tuscaloosa: University of Alabama Press.

Pierce, R.J., Shapiro, S.A., & Verkuil, P.R. (2004). *Administrative Law and Process*. New York, N.Y: Foundation Press.

Radaelli, C.M. (2005) 'Diffusion without convergence: How political context shapes the adoption of regulatory impact assessment', *Journal of European Public Policy* 12: 924-943.

Radaelli, C.M. (2008) What do governments get out of regulatory reform?, *Paper delivered to the 15th conference of the Nordic Political Science Association*, University of Tromsø, 6-9 August.

Radaelli, C.M. and B. Dente (1996) 'Evaluation strategies and analysis of the policy process', *Evaluation*, 2:1, 51-66.

Radaelli, C.M. and F. De Francesco (2007) *Regulatory Quality in Europe: Concepts, Measures and Policy Processes*, Manchester, Manchester University Press.

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

Radaelli, C.M. and F. De Francesco (2009) 'Regulatory Impact Assessment' in M. Cave, R. Baldwin and M. Lodge (eds), *Oxford Handbook on Regulation*, Oxford: Oxford University Press, 2009 (forthcoming)

Radaelli C.M. & Anne C.M. Meuwese (2009) 'Impact assessment indicators. Measuring the quality of impact assessment', in K. Jacob (ed.), *Evaluating Integrated Impact Assessments (EVIA) Handbook*, Springer (forthcoming).

Radaelli, C.M. and F. De Francesco (2008) 'Overview of Regulatory Quality Indicators', Paper presented at the World Bank experts meeting at the Hague, November.

Raveraira M. (ed.) (2007) *"Buone" regole e democrazia*, Soveria Mannelli: Rubbettino Editore.

Rose-Ackerman, S. (2007) 'Public choice, public law and public policy' Paper presented at the First World Meeting of the Public Choice Society, Amsterdam, March 31.

Tavistock Institute (2003) *Evaluation of Socio-Economic Development – The Guide*, London: Tavistock Institute, www.evaled.info/frame_guide_intro.asp.

TEP [The Evaluation Partnership] (2007) *Evaluation of the Commission's Impact Assessment System*. Final Report Submitted to Secretariat-General of the European Commission (Contract Number SG-02/2006). April 2007.

Turnpenny, J.; Radaelli, C.; Jordan, A.; Jacob, K. (2009) 'The policy and politics of policy appraisal: Emerging trends and new directions', *Journal of European Public Policy* 16:4.

Sabel, C.F. (1994) 'Learning by monitoring: the institutions of economic development', in N. Smelser and R. Swedberg (eds), *Handbook of Economic Sociology*, Princeton, NJ: Princeton University Press and Russell Sage Foundation, pp. 137–65.

Visaggio, M. (2007) 'A conceptual framework toward composite indicators for evaluating RIA program quality', *Paper presented at the European Network for Better Regulation Workshop*, available at www.enbr.org/public/ENBR%20WP%20082007.pdf

Williams, M.E. (2002) 'Market Reforms, Technocrats, and Institutional Innovation,' *World Development*, 30:3, 395-412.

World Bank (2004) *Doing Business in 2004 Understanding Regulation*, Washington D.C.: The World Bank and Oxford University Press.