

Codebook for “Agency proliferation and the globalization of the regulatory state: Introducing a data set on the institutional features of regulatory agencies”

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Introduction

The GlobalReg Agencies Dataset records the institutional features of 799 agencies in 115 countries and 17 policy sectors, and which were operative on 31 December 2010. The dataset contains variables from their institutional profiles, covering a broad range of formal characteristics of agencies.

In this respect, it is worth mentioning that the dataset is not intended to provide an exact and detailed mapping of regulatory agencies over the world. Rather, it works on a sample of policy sectors in which regulatory agencies are quite common, to explore their extension and institutional diversity.

The database was built on a non-nested structure or two-way cross-classification (Hee Park and Jensen 2007, Jordana and Levi-Faur 2005). Thus, we can observe regulatory agencies in two overlapping categories of attributes: countries and sectors.

General dataset information

Unit of analysis and criteria for inclusion

The unit of analysis is the ‘regulatory agency’ as a public organization. More specifically, to be selected and included in the dataset, agencies should fulfill the criteria detailed below.

- Agencies should have a focus on regulatory tasks, including rule supervision, rule enhancement, and rule definition;
- These should be stable entities created by public legal acts and which perform public tasks;
- They should constitute organizational units formally separated from larger departmental and ministerial structures or from public bureaucratic frameworks;
- They should include public servants—whether tenured or not—and their budgets should be subject to public control;
- Agencies should be of national scope, thus covering the whole territory of a country. Subnational agencies were excluded.

When several regulatory agencies exist within a ‘country–sector’ case, we selected for inclusion in our dataset the oldest establishment that fulfils all the criteria we have stipulated, we did not include all regulatory agencies existing in a particular country-sector case.

In all, the GlobalReg dataset offers a complete picture of the selected regulatory agencies at a given moment in time: 31 December 2010.

Coverage of the dataset

The territorial coverage of the dataset

The dataset includes information of agencies in all countries with a population of more than 10 million inhabitants and/or a GDP level above current \$US 100 billion.

In addition, some other countries were included in the database to allow the study to cover specific regional integration initiatives: the European Union (EU), the Association of Southeast Asian Nations (ASEAN), the Andean Community (CAN), the Common Market of the South (MERCOSUR) and the Dominican Republic–Central America–United States Free Trade Agreement (DR-CAFTA).

The sectoral coverage of the dataset

The dataset includes regulatory agencies in 17 sectors to cover a wide range of policy areas where regulation is relevant. Sectors selected represent a wide diversity of public controls over economic and social spheres. The notion of sector rests on discursive conventions.

Sectors include central banking, competition, electricity, environment, financial services, food security, gas, health services, insurance, nuclear safety, pensions, pharmaceuticals, postal services, securities and exchange, telecommunications, water, and work safety. Thus, the database covers sectors of ‘economic regulation,’ that is where regulation and control activities are designed, wholly or in part, to improve the working of markets, making them more competitive, for the ultimate purpose of improving consumer satisfaction and the global efficiency of the productive system -but also protecting consumers against market externalities (competition, telecoms, electricity, gas, water, post, securities and exchange, financial services, insurance and pensions). It also includes several ‘social regulation’ and ‘risk prevention’ sectors, which are intended to mediate the social effects of the working of markets and human activities more in general (health provision, nuclear safety, food safety, pharmaceuticals, work safety and environment).

Information sources

The dataset gathers information on the formal dimension of the different institutional variables. The main source for the construction of the database and for gathering observations for all variables, included laws, decrees and other legal documents available through national legal repositories, and ordinances and statutes available on agencies’ websites. Where information was missing, we contacted the agencies directly. Moreover, the collected

information was meticulously scrutinized, and also complemented with other sources, i.e. countries' legal repositories, information and reports by multilateral and international organizations, communication with regulators and professionals, and case-oriented secondary literature.

At least three different coders analyzed the information for all agencies, and scores for all variables without missing information were agreed on by consensus. Similarly, discrepancies among coders (in a relatively small number of occasions) were resolved by research team discussions led by the principal investigator in order to reach consensual agreements. This process ensures that data collection is an integral part of theory building and reflects the variation found in the cases, not only the a-priori theoretical variation. This approach of iterative consensus building has been used, for example, to measure democracy (Bowman et al. 2005) and regional authority (Hooghe et al. 2016). Finally, and to be able to analyze and assess documents in the different languages, coders were knowledgeable in various languages, including Arab, Castilian, English, French, and Hindi. When needed, we also resorted to available translator toolkits.

The reason is that iterative consensus building allows overcoming disagreements in coding that reflect "either a limitation in the measure or a limitation in an author's knowledge of the facts". The idea is to move back and forth between the case data and the development of the measures and the concrete questions and categories employed. The result is that the data collection process is an integral part of theory building and is especially suited to reflect the variation found in the analysed cases, not the a-priori expected variation from the theory.

Additional sectoral clarification

Central banking

Central banking agencies include those institutions responsible for a country's currency, money supply and interest rates. Additionally, central banking institutions, i.e. central banks, are responsible for overseeing the private or commercial banking systems in many countries. Central Bank identity is very clear and we did not find relevant problems when identifying them.

Competition

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

Electricity

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

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

Environment

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

Financial services

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

Food security

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

Gas

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

Health Services

We identify a regulatory agency in this sector when there is an autonomous

organization that focuses on service quality supervision, audit and regulation (standards), including economic and risk regulation. Again we look at the regulatory task, not at agencies that deal with the provision of health services or the prevention of health risks.

We do not distinguish between quality regulations of private and public service health delivery. We also include some cases of agencies which concentrate on the economic regulation of health services (insurance, contracts, secondary markets) or licensing medical professions and practices, but these are not the key criteria for being included in this sector. We include them because they take into account standards of quality as well.

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

Insurance

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

Nuclear safety

Within this sector, the database collects information on those agencies responsible for regulating and ensuring high standards of safety in the use of nuclear energy, including the regulations affecting nuclear installations and those related to health.

Pensions

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

Pharmaceuticals

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

When the agency is related to a ministry or to a large implementation organization, we include them only if they are very clearly separated from the hierarchical structure of the Ministry of the National Health Board.

Postal services

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

Securities and exchange

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

Telecommunications

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

Water

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

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

Work safety

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

Data

The dataset contains 43 institutional variables, plus some control variables.

(control-1) Year of legal creation

This variable identifies the year a particular agency was constituted as stated in the legal document establishing its creation.

(control-2) Operative on December 31st, 2010

A binary variable to show whether the agency was operative on 31 December 2010. Though in general, there are not significant gaps between the moment when a particular agency was legally created and the moment when the agency became operative, this variable is intended to confirm that agencies were working on December 31 2010. Hence, the database is aimed at capturing all working agencies by the end of 2010. This means that agencies not working by then, either because they were dismantled or because they were created but were not effective yet, were not included in the database.

(control-3) Legal form - original language

This variable spells the legal form of the regulatory agency in its original language.

(control-4) Legal form - english - Use the english translation provided in the webpage, when possible. Otherwise, translate it

In the case of agencies in non-English speaking countries, and when a formal translation was provided on the web page or in specific legal documents issued by the agency, this was the legal form denomination to be provided in the database. Only in those cases where such formal translation were not available, would the coder provide a translation of her own though in doing so she should try to look for the more commonly used name.

(Var-1) Current Legal Instrument

This variable is intended to establish the legal instrument that rules the agency. Selection variable including: 1) Constitution; 2) Law; 3) Decree; 4) Executive Decree; 5) Ordinance; 6) Other lower norms.

(Var-2) Agency Head term of office

This variable captures the number of years the agency head serves as such, and which is generally established in the legal norm creating the agency and defining its organization and procedures.

(Var-3) Agency Head appointment

This variable looks into the specific process for the appointment of head agencies, and makes explicit whether the appointment of the agency head is made by a board, by the Legislative and the Executive Powers acting together, by the Legislative acting on its own, by all members of the Executive Power acting collectively, by the President or Prime Minister, or by the Minister of the corresponding policy sector. An "other" option is included in case the appointment is not made by any of the aforementioned actors. This selection variables includes the following options: 1) Board, 2) Legislative-Executive; 3) Legislative only; 4) Executive Collectively; 5) President; 6) Minister; 7) Other.

(Var-4) Agency Head dismissal

This variable identifies the specific provisions for the dismissal of the agency head according to relevant legislation and norms, making clear whether dismissal is feasible, the reasons underlying dismissal - namely, if this is due to either political changes or to non-policy reasons - or whether no specific reason needs to be provided for the dismissal of the agency head. Variable ranges across: 1) Not possible; 2) Only for non-policy reasons; 3) Related to political changes; 4) No provision reason.

(Var-5) Agency Head renewal

This question only applies to those cases where the legislation in force clearly establishes a fixed term of office for the agency head. Then, the question is aimed at capturing whether renewal is feasible or not. In those cases where renewal is possible, then the objective is to apprehend whether renewal can be made once, more than once or as many times as required. The final category is intended to see whether renewal is feasible but not clearly determined or defined. Variation involves: 1) Not possible; 2) Once; 3) More than once; 4) Not limited; 5) Possible, but not defined.

(Var-6) Agency Head professional requirement

This dichotomous variable is aimed at capturing whether the appointment of the agency head is dependent upon a particular professional requirement.

(Var-7) Holding offices in government

An office of profit is a term used in a number of national constitutions to refer to executive appointments. A number of countries forbid members of the legislature from accepting an office of profit under the executive as a means to secure the independence of the legislature and preserve the separation of powers. This selection variable ranges between: 1) Not allowed; 2) Not specific provisions; 3) Required for some members; 4) Required for all members.

(Var-8) Agency Board term of office

This variable collects the board members' term of office in years.

(Var-9) Agency Board membership appointment

This variable captures the process through which board members are appointed, namely whether these are selected by the board, by joint decision of the legislative and executive powers, only by the legislative power, and by the joint decision of all members of the executive, by the president, the minister or by other means. Thus, it varies across: 1) Board; 2) Legislative-Executive; 3) Legislative only; 4) Executive Collectively; 5) President; 6) Minister; 7) Other.

(Var-10) Agency Board membership dismissal

This variable identifies the specific provisions for the dismissal of agency board members according to relevant legislation and norms, making clear whether dismissal is feasible, the reasons underlying dismissal - namely, if

this is due to either political changes or to non-policy reasons, or whether no specific reason needs to be provided for the dismissal of a board member. Variation occurs between: 1) Not possible; 2) Only for non-policy reasons; 3) Related to political changes; 4) No provision reason.

(Var-11) Agency Board membership renewal

This question only applies to those cases where the legislation in force clearly establishes a fixed term of office for board members. Then, the question is aimed at capturing whether renewal is feasible or not. In those cases where renewal is possible, then the objective is to apprehend whether renewal can be made once, more than once or as many times as required. The final category is intended to see whether renewal is feasible but not clearly determined or defined. It varies across: 1) Not possible; 2) Once; 3) More than once; 4) Possible, but not defined.

(Var-12) Agency Board professional requirement

This dichotomous variable is aimed at capturing whether the appointment of agency board members is dependent upon a particular professional requirement.

(Vars-13/18) Civil society accountability

This multiple answer question allows to capture the various mechanisms established within a particular agency to promote public accountability, and which include the establishment of an advisory council, the organization of public hearings, the establishment of a consumer's office, and the realization of open consultations, among others. Variation includes: 1) Advisory Council; 2) Public hearings; 3) Consumer's office; 4) Open consultations; 5) Other. As these options can be simultaneous, we formulate them as a series of five dichotomous variables.

(Var-19) Accountable to the ministry

This variable aims to collect information on the extent to which the agency is accountable to the corresponding (sectoral) ministry. It then includes the following options: 1) Not accountable; 2) Information only; 3) Approval annual report; 4) Fully accountable.

(Var-20) Accountable to the executive

This question is aimed at capturing the specific mechanisms through which the board is accountable to the executive. After determining whether the board is accountable to the executive, the idea is to capture whether this entails providing information or the need of approval of the annual report. Categories include: 1) Not accountable; 2) Information only; 3) Approval annual report; 4) Fully accountable.

(Var-21) Accountable to the legislative

This question is aimed at capturing the specific mechanisms through which

the board is accountable to the legislative. After determining whether the board is accountable to the Parliament, the idea is to capture whether this entails providing information or the need of approval of the annual report. It thus varies across: 1) Not accountable; 2) Information only; 3) Approval annual report; 4) Fully accountable.

(Var-22) Annual report online

(Var-23) Minutes are online

(Var-24) Resolutions are online

(Var-25) Organizational structure

This variable identifies who is responsible for the design of the organization structure of the agency: 1. Agency, 2. Agency and the government, and 3. Government

(Var-26) Personnel policy

This variable captures who was responsible for defining and establishing wages, incentives and promotions. It thus varies across: 1) Agency; 2) Agency and the government; 3). Government.

(Var-27) Personnel status

This question captures the particular status of employees within the agency; whether they are public servants, employees subject to public regulation, or employees subject to private regulation. Specific categories include: 1) Public servants/functionaries; 2) Employees under public regulation; 3) Employees under private regulation.

(Var-28) Budget income

This question is aimed at identifying the origins of budget resources; whether these are provided by regulated firms, by regulated firms and the state, only by the state, or if they are provided by the corresponding ministry. Categories include: 1) Regulated firms; 2) Regulated firms and public budget; 3) Only public budget; 4) Ministerial budget.

(Var-29) Budget approval

This question collects who approves the agency's budget; whether this is the responsibility of the agency, the parliament, the ministry or other particular actor or public agency. This variable includes then: 1) Agency; 2) Parliament; 3) Ministry; 4) Other.

Var-29) Budget control

This question looks into the process of budget control and is aimed at determining whether this is the sole responsibility of the agency, of the Parliament, of the corresponding ministry, or of a separate accounting office, among others. Categories include: 1) Agency; 2) Parliament; 3) Ministry; 4) Separate accounting office; 5) Other.

(Var-30) Regulatory competencies in the sector

This question is aimed at capturing the agency's regulatory competences within the corresponding sector. The idea is to see whether the agency is the only actor having regulatory competences or whether the agency shares these with other public actors - namely, other agencies, the executive or the parliament. The question also distinguishes those cases where the agency does not have any regulatory competence and just fulfils a consultative role. More specifically, categories vary across: 1) Agency; 2) Shared with other agencies; 3) Shared with the government; 4) Shared with the parliament; 5) Without competences, only consultation.

(Var-31) Capacity to implement sanctions

This dichotomous variable captures whether the agency has the capacity to impose sanctions.

(Var-32) Capacity to supervise

This dichotomous variable captures whether the agency has the capacity to supervise (control, inspection, surveillance).

(Var-33) Capacity to do research

This dichotomous variable captures whether the agency has the capacity to do research.

(Var-34) Capacity to elaborate norms

This dichotomous variable captures whether the agency has the capacity to elaborate its own regulations and norms.

(Var-35) Capacity to promote conflict resolution

This dichotomous variable captures whether the agency has conflict resolution capabilities.

(Var-36) Capacity to establish prices

This dichotomous variable captures whether the agency has the capacity to establish tariffs and prices in the sector.

(Var-37) Capacity to establish entries and exits of the market

This dichotomous variable captures whether the agency has the capacity to regulate entry to and exit from the market, including mergers and absorptions.

(Vars-38/43) Legal status of agency regulatory decisions

This question is aimed at identifying who revises agency decisions; whether this is the responsibility of the minister, the president, another regulatory agency, the judiciary or if decisions cannot be rejected. It thus varies across: 1) Minister; 2) President (prime minister); 3) Other regulatory agency; 4) Judiciary; 5) Parliament; 6) None (cannot be challenged in court). As more

than one actor can revise agency decisions, these are formulate as a series of six dichotomous variables.