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Sosay, Gül and Zenginobuz, Unal

5 September 2005

Online at <https://mpra.ub.uni-muenchen.de/380/>

MPRA Paper No. 380, posted 11 Oct 2006 UTC

## **Independent Regulatory Agencies in Emerging Economies\***

Gül Sosay  
Boğaziçi University  
Department of Political Science and International Relations  
sosay@boun.edu.tr

E. Ünal Zenginobuz  
Boğaziçi University  
Department of Economics  
zenginob@boun.edu.tr

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\* Paper prepared for presentation at the 2005 Annual Conference of the European Consortium for Political Research, Budapest, Hungary, 8-10 September 2005. Ünal Zenginobuz would like to acknowledge support from Boğaziçi University Research Fund, Project No. 01C101 and Project No. 02C102.

## INDEPENDENT REGULATORY AGENCIES IN EMERGING ECONOMIES

### I. Introduction

While the diffusion of independent regulatory agencies (IRAs) across economically advanced countries has attracted much scholarly attention in recent years, systematic work on their spread across developing countries is still scarce.<sup>1</sup> In an effort to address this gap in literature, this paper aims to analyze the diffusion of regulatory agencies in emerging economies in Latin America, Asia, and Central and Eastern Europe. At this early stage of our research, we aim to empirically map out regulatory agencies in economic regulation sectors (e.g. competition, finance, and utilities/infrastructure) enjoying some degree of autonomy or independence in emerging economies, rather than limiting our focus solely on those that meet all the criteria for independence in the strictest definition of the term.<sup>2</sup> Such exploratory analysis constitutes the first step towards studying processes of diffusion in general and the mechanisms that lead to the creation of regulatory agencies in these economies in particular. The second objective of this paper is to examine the mechanisms which we expect to be at work in the spread of IRAs in the selected emerging economies.<sup>3</sup> We argue that despite the creation of a number of agencies in the countries concerned before 1990, diffusion has become evident and “interdependent”, as opposed to spurious<sup>4</sup> in the 1990s.

Although the foundations of studies focusing on organizational homogenization and institutional isomorphism date back to Weber ([1922] 1978; 1952), it is especially

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<sup>1</sup> Studies of IRAs in Latin American countries by Levi-Faur (2003), Jordana and Levi-Faur (2005) are among the rare examples.

<sup>2</sup> To qualify as an IRA an agency should derive its own power and responsibilities from an act of law, it must have an organizational structure completely separate from ministries (in the sense of being neither appointed nor managed directly by elected officials), and it must have at least a certain level of financial independence. See Giraldi (2002) for an index of formal independence of IRAs.

<sup>3</sup> Our sample includes Argentina, Brazil, Chile, Colombia, Mexico, Peru, Venezuela in Latin America, China, India, Indonesia, Malaysia, Philippines, South Korea, Taiwan, Thailand in Asia, the Czech Republic, Hungary, Poland, Russia, and Turkey in Central and Eastern Europe.

<sup>4</sup> According to Giraldi, “... diffusion proper occurs only when actors behave interdependently. When this does not occur, a diffusion-like pattern of adoptions can still emerge, notably if actors react to similar functional pressures, but in this case diffusion should be considered spurious.” (2004: 118)

since the beginning of the 1990s that conceptual and theoretical literature on diffusion of policies and organizational forms has developed substantially in political science. As comprehensive reviews of relevant literature and research traditions as well as surveys and classifications of mechanisms of diffusion have been presented at length by various scholars<sup>5</sup>, we will not go into a similar endeavor here. Nevertheless, it is necessary to briefly elaborate on the mechanisms that comprise the framework of this paper.

We agree with Giraldi that “trying to discriminate empirically between different mechanisms should be a central concern of diffusion research” and that “attempting to supply a full answer in a single research project would be unrealistic.” (2004: 118) Recognizing the empirical limits and difficulties involved in examining multiple mechanisms in the same paper, we, specifically, focus on a few mechanisms which, we see as deserving primary attention, in the spread of regulatory agencies in emerging economies. The first mechanism involves international coercion. According to DiMaggio and Powell, “coercive isomorphism”

results from both formal and informal pressures exerted on organizations by other organizations which they are dependent and by cultural expectations in the society within which organizations function. Such pressures may be felt as force, persuasion, or as invitations to join in collusion. (1991: 67)

This broad formulation encompasses a few distinct, yet related and often simultaneous, processes with voluntary and coercive aspects. Pressures exerted by intergovernmental organizations (IGOs) lie at the core of our explanation for the diffusion of regulatory agencies in emerging economies. These pressures may be highly coercive in the form of direct influence through conditionality for provision of loans, e.g. by the International Monetary Fund (IMF) and/or the World Bank, or for membership, e.g. by the European Union (EU).

Still another mechanism by which “dominant actors”, including economically advanced states, IGOs, and private investors, promote diffusion of policies and

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<sup>5</sup> For example, see DiMaggio and Powell (1991), Bennett (1991), Dolowitz and Marsh (1996; 2000), James and Lodge (2003), Giraldi (2004), Levi-Faur (2005), Elkins and Simmons (2005), Lazer (2005), and Meseguer (2005).

institutions is what Henisz, Zelner, and Guillén (2005) call, “indirect coercion” based on the assumption that there are domestic groups with different policy and institutional preferences in emerging economies. In such cases, “the intervention of an outsider or third party tilt the balance of power toward the group (or groups) favoring reform by providing that group with more resources, legitimacy, or rhetorical arguments, and by prompting various groups to join in the pro-reform coalition.” (Henisz, Zelner, and Guillén 2005: 12) Consequently, policies and institutional changes that cannot be agreed on and introduced through the dynamics of internal (i.e. domestic) political processes can be more readily done so with the involvement of pressures from external actors advocating similar changes in policies and institutions.

Moreover, IGOs, such as the IMF, World Bank, Organization for Economic Cooperation and Development (OECD), World Trade Organization (WTO), Asia-Pacific Economic Cooperation (APEC), and regional development banks as well as the EU, play a very active and influential role in the formulation and spread of certain ideas, programs, and organizational forms as the “best” or “to be taken-for-granted” practices. In the case of emerging economies, dependence on and competition for foreign loans and investment (both direct and portfolio) for economic stability, growth, and development, especially in times of crisis, facilitate the adoption of ideas, programs, and organizational forms that conform to those that are being institutionalized in the international society, particularly by “dominant actors”. Once they are “approved” as the “best” or the “natural” organizational forms in the international society, countries that seek to become and remain members of that society are compelled to “imitate” in order to maintain and enhance their credibility and competitiveness as well as to legitimate other decisions, such as liberalization and privatization, made to serve similar ends.<sup>6</sup> In other words, IRAs may be created voluntarily, but as Dolowitz and Marsh put it, “driven by perceived necessity.” (2000: 13) In sum, we contend that international coercion and symbolic imitation are the two most salient mechanisms in the diffusion of regulatory agencies in emerging economies.

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<sup>6</sup> For instance, as Giraldi (2004) exemplifies in his discussion of “symbolic imitation”, governments may create independent regulators so as to legitimate liberalization of utilities.

The paper is organized under three subsequent headings. The next section adopts a perspective that relies on the mechanisms of international coercion and symbolic imitation in explaining the diffusion of IRAs in the countries in our sample in the light of illustrative examples from selected emerging economies. As it tries to reveal the operation of these mechanisms, it also aims to distinguish where they remain insufficient to provide a full explanation by bringing in alternative or complementary mechanisms at work. Acknowledging that studies of a relatively large number of cases often fail to accurately capture the complexity of diffusion processes, the third section of the paper presents a case study of diffusion of IRAs in Turkey as an emerging economy. The paper concludes with a presentation of its major findings within the framework of mechanisms of diffusion included in this study and suggestions for future research in this area.

## **II. Mechanisms of Diffusion and the Spread of IRAs in Emerging Economies**

### **Pre-1990s: Limited Diffusion**

Before the 1990s, a small number of regulatory agencies were created in some of today's emerging economies. The earliest example is Colombia's Superintendency of Banks (*Superintendencia Bancaria de Colombia*) which was established in 1923 in financial services, particularly, banking, sector as a supervisory body. It was one of the projects developed by the Kemmerer Commission, led by Edwin W. Kemmerer, a professor of economics at the Princeton University, and composed of a group of other North American experts who were contracted by the President of Colombia to reorganize the country's financial, monetary, and fiscal institutions. This was one of the so-called "money doctor missions" of the 1920s whose aimed included the stabilization of national currencies and banking systems. These missions were American technical missions aiming to "transmit economic knowledge and techniques to the host country" (Patton 1999:46). From 1923 until 1931, missions led by Kemmerer advised the national authorities on the introduction of far-reaching monetary, banking and fiscal reforms, not only in Colombia, but also in Ecuador, Bolivia, Peru, Chile, Mexico, Guatemala, Germany, South Africa, Poland, China and Turkey. Although bodies equivalent of the *Superintendencia Bancaria de Colombia* were not established in many of these countries, these commissions played a significant role in structuring institutions, especially central

banks, in most. Hence, it may be argued that experts from powerful states, in this case, the United States, had already started diffusing policies and organizational forms to the rest of the international society as early as the 1920s.

As the above example shows and as Jordana and Levi-Faur (2005) assert, the idea of governance through autonomous regulatory agencies has some historical roots in Latin America. Yet, they have almost exclusively been in financial sectors. Aside from central banks, Argentina's *Comisión Nacional de Valores* (1968), besides Colombia's *Superintendencia Bancaria*, is the other early example included in our sample.

It is not until the mid-1970s that we observe the creation of regulatory agencies more systematically. As it had been “the first nation in the world to break with the dominant postwar policy paradigm by implementing a radical package of free-market reforms” (Fourcade-Gourinchas and Babb 2002: 542) involving liberalization and privatization after the military coup of 1973, Chile also emerged as a pioneer in the creation of regulatory agencies. 1975, the year its first economic regulatory agency, namely, *Superintendencia de Bancos e Instituciones Financieras*, was established was also when the IMF required a much harsher set of measures after the failure of its 1974 standby arrangement with Chile and when the so-called “Chicago Boys”, that is, a group comprised of those who participated in a U.S. program for training Chilean economists at the University of Chicago, rose to positions of influence in economic policy making. Although the IMF had not yet included regulatory reform as a condition for its loans, its pressure coupled with the domestic political conditions in the country facilitated the penetration of “foreign” economic policies and organizational forms into the decision making structure. As the Pinochet regime delegated tremendous responsibility to the Chicago boys, they could carry out their programs including liberalization of markets, privatization of utilities, and creation of a regulatory framework to support and legitimize these measures. Subsequently, the regulatory agencies that started their operations in Chile in the 1970s and 1980s were those in competition, financial services, security and exchange, as well as privatized utilities sectors, namely, gas, electricity, and telecommunications. However, the Chilean government did not create “independent” industry-specific regulatory agencies, for instance, for telecommunications and electricity.

In telecommunications, it established the Undersecretary of Telecommunications (SUBTEL) as an office within the Ministry of Economy and assigned regulatory functions to it. In the electricity sector it gave regulatory powers to a National Electricity Commission (CNE), formed by a group of cabinet members. It did not give enforcement powers to the control agency (Electricity and Fuels Superintendence) it inherited; neither did it maintain any supervision of the independent system operator, in charge of electricity dispatch and controlled by large generators. (Murillo 2002: 481-481)

This points to a critical difference between the early neoliberalism and the neoliberalism of the post-1990 period. Neoliberals' low preference for state intervention in the 1980s was transformed into a preference of re-regulation in the 1990s that would be also evident in the prescriptions and conditions of IMF and/or World Bank supported programs, especially after the mid-1990s.

The number of IRAs created in today's emerging economies, other than Chile, remained limited before the 1990s. One may suspect some regional diffusion as, for instance, "the military dictatorship in Argentina emulated some Chilean policies" (Fourcade-Gourinchas and Babb, 2002: 545) and established a competition agency (*Comisión Nacional de Defensa de la Competencia*) in 1980. Yet, evidence in regards to the creation of one or two IRAs in different sectors in a few countries, i.e. Colombia, Philippines, Indonesia, Turkey, in the late 1970s and 1980s does not suffice to show "interdependent" diffusion.

### **From the 1990s to the Present: Acceleration of Diffusion**

Jordana and Levi-Faur specify 1992 as the year after which the rate of growth of new regulatory agencies increase in Latin America. They find that

[f]rom a meager 43 regulatory authorities created before 1979 (mostly in the financial sector), the overall number had grown threefold to 138 by 2002. In addition, the autonomy of all but 5 of the agencies set up before 1979 was enhanced through legislation.<sup>7</sup> (2005: 103)

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<sup>7</sup> Their data cover regulatory authorities in nine economic regulation sectors, namely, central banking, financial services, securities and exchange, competition, telecommunications, electricity, gas, water, and post, and three social regulation sectors, namely, pharmaceuticals, environment, and food safety, in nineteen Latin American countries.



Parallel to the developments in Latin America, creation of IRAs took off in other emerging economies after 1992. This was not independent from major changes in the general international context. The 1990s were the years of rapid transformation and crises that left virtually no part of the international society unaffected. The end of the Cold War and economic collapse of communist systems culminated in the announced victory of market economy. In the absence of a viable competing ideology and policy paradigm, it has become “a taken-for-granted way to represent, and act upon, the economic world”. (Fourcade-Gourinchas and Babb 2002: 534) Thus, liberalization and privatization that had already started in the 1980s, accelerated and reached to parts of the world, such as Central and Eastern Europe, that it had not or could not before. The eagerness of the CEE countries to be integrated to the world economy and to accede to the EU further facilitated this process.

Another critical development of the 1990s was the neoliberals’ shift from deregulation to regulatory reform or re-regulation. Before the 1990s, while they encouraged privatization as a part of their agenda, the IMF/World Bank programs did not emphasize or require regulatory reforms including the creation of IRAs. The need for a sound regulatory framework for the sustainability of economic reforms was realized in the 1990s, particularly following the financial crises in emerging economies. Currently, there is widespread agreement that independent regulators are at the heart of governance for liberalized sectors. The IMF, World Bank, OECD, WTO, APEC, regional development banks as well as the EU all recommend and “encourage” the creation of IRAs. In many countries, they work together to promote IRAs based on some division of labor. For instance, while the IMF includes the creation of IRAs in financial sectors in its conditionality, the World Bank focuses on the formation of those in privatized utilities/infrastructure sectors. “In 1993 the World Bank explicitly extended conditionality agreements to the infrastructure sector by making evidence of market-oriented infrastructure reform a precondition for any project lending.” (Henisz, Zelner, and Guillén 2005: 14) Expansion of IMF/World Bank conditionality coupled with “prescriptive” pressures from other IGOs, such as the OECD and APEC, have created conditions which countries that seek to “emerge” as strong and competitive economies can hardly resist. Therefore, the acceleration of diffusion of IRAs in emerging economies

after 1990 can be attributed to international coercion in various forms and/or to voluntary adoption driven by necessity.

In this section, we primarily analyze the aforementioned mechanisms at work in diffusion of IRAs in emerging markets. There are of course some empirical difficulties in documenting the IMF and World Bank loan conditions for all years. Systematic data on specific loans are scarce because neither the IMF nor the World Bank published the terms of loan agreements prior to 1996. They were not made public by national governments, either. Hence, in our analysis of pre-1996 period, we rely on indirect evidence and caution against making definite conclusions.

### **Latin America**

The 1990s, during which IRAs spread across Latin America, was also a period of rapid liberalization and privatization for many countries in the region. While governments that had more cautiously initiated reforms in the 1980s after the debt crisis accelerated the process, those that resisted change could no longer do so after the evident failure of old economic models and policies to deal with emerging economic difficulties and crises. The announcement of the Brady Plan in 1989 had a critical impact on the reform process in the 1990s. As it offered debt relief as an incentive, the Plan linked the easing of credit terms with the Latin American debtors' acceptance of the IMF and World Bank requirements for liberal market reforms. (Cohn 2000: 184) In addition to making prior commitment to such reforms a precondition for debt relief, the Plan also introduced structural adjustment beyond policy change. Creation of new competition regulatory agencies in Colombia, Mexico, Peru, and Venezuela in 1992 and strengthening of those established earlier, such as the substantial reform of Brazil's *Conselho Administrativo de Defesa Econômica* in 1994 can be viewed as measures to show commitment to and to legitimize decisions to liberalize markets.

Another general observation is the institutionalization of IRAs in privatized utilities/infrastructure sectors. Privatization, which was also promoted by the Brady Plan, proceeded at different speeds and took different forms across Latin America. On one hand, there were those like Argentina that started as early as late 1980s and privatized almost every asset that the state owned, including in gas, electricity, highways, and oil

industries, in a very short period of time (1989-1992) and on the other hand, there were also those that lagged behind, such as Peru.<sup>8</sup> While the timing, speed, and breadth of privatization may account for the time IRAs were created in these sectors, it should be also be underlined that effective regulatory reforms were not introduced in many Latin American countries at the time privatization was launched. For example, there was no regulatory agency in telecommunications when the Mexican government took the decision to privatize the industry. It was years after, in 1995, that a Federal Communications Law, establishing *Comisión Federal de Telecomunicaciones*, as an agency with broad regulatory power, was passed. In Argentina, even though laws establishing such agencies were passed around the time of privatization, they were not present at the time most purchases were made. (Ariceta 2004) In other words, adoption of new organizational forms did not always occur simultaneously with the adoption of new policies. Besides possible domestic political factors, may the absent, or at most weak, international coercion to introduce rigorous regulatory reforms during the late 1980s and early 1990s be a factor behind this time lag?

In the context of Latin American emerging markets, it is difficult to make an accurate assessment of the real impact conditionality, as a coercive instrument, had on the establishment of IRAs since most were created during the period when international financial institutions had not yet started making their loan conditions public. Thus, we have to rely on indirect evidence in addition to a small number of letters of intent for countries that created IRAs after that period. As is mentioned before, the World Bank has explicitly made market-oriented infrastructure reform a precondition for project lending since only 1993. Hence, it is not likely that the Bank went as far as including the creation of IRAs in infrastructure sectors as a formal and strict condition for lending before then.

On the other hand, when the way the World Bank had generally interacted with the Latin American governments is examined, it becomes clear that it had other methods for influencing, if not coercing, them. In addition to its financial support, many Latin American countries relied on the Bank for so called “technical assistance” in introducing and implementing market reforms. “In some cases, direct supervision was an essential

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<sup>8</sup> The Peruvian government’s intention “to privatize enterprises in the energy sector” was issued as late as its May 5 1998 letter of intent submitted to the IMF. The letter is available at [www.imf.org/external/np/loi/050598.htm](http://www.imf.org/external/np/loi/050598.htm).

part of propelling reform forward.” (Teichman 2004: 40) Yet, in such a situation, it is difficult to empirically differentiate the degree and form of coercion as well as the specific mechanism of diffusion at work. It was coercive in the sense that introduction and implementation of structural as well as policy changes prescribed by the staffs of international financial institutions was required for funding. At the same time, another line of argument may be based on the diffusion of ideas to “willing pupils” or among “like-minded” technocrats. In some Latin American countries, such as Mexico, major national decision makers and/or their advisors were mostly trained technocrats with graduate degrees in economics or public administration from prestigious U.S. universities. As such, they were members of the same epistemic communities<sup>9</sup> to which the professional staffs of international financial institutions belonged to. It was often not through formal agreements, but through informal discussions and negotiations with Mexico’s technocratic elite that the World Bank staff affected policy and institutional change in the country. As Teichman puts it,

[c]onsidering ... that explicit policy conditionality generally failed to induce countries to carry out policies they opposed, the imposition of reforms through policy-based loans may not have been the most important way multilaterals contributed to policy reforms. Policy “influence”, although acknowledged as a concept that is slippery and hard to measure, may have been important nonetheless. (2004: 40)

Whether it is called “policy influence” for countries like Mexico or “persuasion” within the context of countries where the staffs of international financial institutions did not find like-minded technocratic leaders, this mechanism still does not disagree with DiMaggio and Powell’s (1991) definition of coercive isomorphism.<sup>10</sup> Moreover, if the policy-relevant knowledge the members of epistemic communities, regardless of their nationality, claiming to have authority over is knowledge originating from “prestigious” U.S. institutions, the described process may as well be termed ideational or ideological coercion.

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<sup>9</sup> Haas defines an epistemic community as “a network of professionals with recognized expertise and knowledge in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue area.” In his definition, “what bonds members of an epistemic community is their shared belief or faith in the verity and applicability of particular forms of knowledge or specific truths.” (1992: 3)

<sup>10</sup> See the definition on pp. 3/

In the 1990s, the IMF also realized the increasing utility of “soft coercion” in the form of “technical assistance” as a means to ensure the introduction and continuation of reforms. In addition to providing training to national bureaucrats, technocrats, and regulators it increased the number and frequency of its field missions. For example, between 1991 and 2002, it dispatched some 50 missions to Argentina where it has almost continuously engaged in since 1991. (IMF 2003)

However, as our discussion of Asian emerging economies in the next section will more clearly show, conditionality continues to be a significant coercive instrument for the IMF in promoting policy and institutional reforms in emerging economies. Among the provisions of Venezuela’s 1996 standby arrangement are the resumption of privatization, including the sale of remaining government shares in the telecommunications company and the sale of state-owned aluminum, steel, and electricity companies, as well as the strengthening of bank supervision.<sup>11</sup> Peru’s letter of intent, dated May 5 1998, expresses the government’s intention to privatize enterprises in the energy, mining, insurance, cement, and agricultural sectors. Moreover, the creation of IRAs in some sectors is specified as accomplishments to support its request for additional lending: “Earlier this year the specialized regulatory agency for energy, OSINERG, became operational, and the government established a specialized regulatory agency, OSITRAN, to supervise compliance with concession contract in public transportation infrastructure.”<sup>12</sup> Peru’s subsequent letter of intent, dated June 7 1999, in addition to declaring that the government has sold major public enterprises in telecommunications, energy, financial, fishing, and mining sectors and reduced its participation in the electricity and petroleum sectors, emphasizes realized regulatory reforms, such as the strengthening of the Superintendency of Banks and Insurance by a new banking law in 1996. Intensification of structural reforms, including privatization and strengthening the regulatory framework for economic activities, is listed as one of the cornerstones of its 1999-2002 program for which it sought financial support from the IMF.<sup>13</sup>

Although, for Latin American emerging economies, we have not come across any specific conditions for the creation of independent regulatory agencies in the few letters

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<sup>11</sup> See [www.imf.org/external/np/sec/pr/1996/pr9638.htm](http://www.imf.org/external/np/sec/pr/1996/pr9638.htm).

<sup>12</sup> See [www.imf.org/external/np/loi/050598.htm](http://www.imf.org/external/np/loi/050598.htm).

<sup>13</sup> See [www.imf.org/external/np/loi/060799.htm](http://www.imf.org/external/np/loi/060799.htm).

of intent that are publicly available, the inclusion of provisions related to improving regulatory framework and supervision in various sectors may be viewed as evidence for diffusion of regulatory capitalism in the region by the IMF. The specification of providing the *Superintendencia Bancaria de Colombia* with more autonomy and regulatory power among the main recommendations of the country's 2005 Financial System Stability Assessment Update prepared by a staff team of the IMF and the World Bank (IMF 2005) is an example showing their advocacy not only for the creation of regulatory agencies, but also for granting them maximum autonomy and independence. What we observe is an ongoing process (towards regulatory capitalism) that does not terminate when regulatory agencies, short of full autonomy and independence, are established.

Over the 1990s, besides the IMF and the World Bank, other international institutions have emerged as actors in the diffusion of regulatory reforms in Latin America. Most visibly, NAFTA, dominated by the U.S., had important effects on Mexico's regulatory framework. Mexico was certainly the party that most ambitiously pushed for the signing of NAFTA by taking unilateral measures to ease trade restrictions before seeking negotiations with the U.S. However, this was a voluntary action "driven by perceived necessity." According to Cohn (2000), the inability of Mexico's early liberalization efforts to persuade foreign investors that these changes would be permanent because of the country's long history of government intervention had shown that additional measures to enhance credibility were needed. A free trade agreement with the U.S. would provide this. A similar logic can be used to explain Mexico's initiatives to improve its regulatory framework. It cannot be a mere coincidence that Mexico made its competition IRA operational in 1992, the year NAFTA was signed. Subsequently, in 1994, Mexico, joined the OECD, which is still another international organization currently promoting regulatory reform. As a country that has volunteered to join both NAFTA and OECD, Mexico revealed its willingness to adopt organizational forms that are labeled as "best" practices by these bodies dominated by economically advanced countries. Within this context, creation of IRAs can be interpreted as "symbolic imitation" by a country that seeks to accomplish its goals by being integrated into the

society of states. That, of course, necessitates conforming to the values and norms institutionalized in that society.

## **Asia**

As Table 2 (see Appendix) reveals, although a couple of IRAs were created in Asian emerging economies before 1990, most were added to the countries' institutional structures over the 1990s and 2000s. Thus, it can be argued that mechanisms of diffusion leading to the spread of IRAs in Asia were at work.

Those established in the early 1990s were predominantly in the securities and exchange sector, e.g. in India, Malaysia, and Thailand. This largely coincides with the outset of liberalization of capital markets in these countries. Rather than being dictated by international organizations, these earlier examples can be accurately viewed as voluntary initiatives by national governments perceiving the necessity of creating more investor-friendly capital markets. For instance, following a major economic crisis, India, in 1991, launched economic policy reforms unprecedented in its economic history. Although India asked and made a standby arrangement with the IMF at the time, the coercive impact of its conditionality can be debated. In his analysis of economic reforms of the 1990s in India, Nayar contends that “the conditionalities could hardly be labelled dictation, for in some ... respects India soon went beyond those requirements because of its own perception that that was what was necessary in its situation.” (1998: 347) Nevertheless, this should not be viewed independent from the post-Cold War environment in which the market economy and economic ideas disseminated by “dominant actors” came to enjoy almost a monopolistic status. It was the finance minister of India himself who quoted Victor Hugo: “no power on earth can stop an idea whose time has come.” (Cited in Nayar 1998: 349). While India's economic restructuring can be interpreted as an example of “symbolic imitation”, it is also possible to see it as the outcome of a learning process. As Nayar puts it,

[I]f ideas are important in the Indian stance, they are important, however, not for some inherent power of their own but only in the light of India's past economic performance. Through a process of “social learning” key leaders had come to the understanding that earlier policies had failed to meet India's own goals and there was hardly any merit in persisting with

them. The same conclusion was, of course, self-evident to the IFIs, but the line of causality was different in India's experience. (1998: 350)

Even though these arguments regarding India's liberalization experience may be somewhat loosely connected with the creation of the Securities and Exchange Board of India, as an IRA, in 1992, they are illustrative of the limits of international coercion as the only dominant mechanism of diffusion of policies and institutions in emerging markets.

On the other hand, international coercion emerges as an effective mechanism of diffusion in the spread of IRAs after the mid-1990s in Asia. This can be most effectively documented for the establishment of IRAs in financial sectors and the enhancement of their autonomy and independence after creation during the post-financial crisis years in the region. Financial sector reforms were at the core of IMF-supported programs for Asian countries affected by crisis. Within this framework, for instance, S. Korea's letter of intent, dated December 3, 1997, included the promise of passing a bill "to consolidate supervision of all banks (including specialized banks), merchant banks, securities firms, and insurance companies in an agency with operational and financial autonomy", in addition to revised Bank of Korea Act providing for central bank independence.<sup>14</sup> Subsequently, the legislature swiftly passed the new legislation establishing the Financial Supervisory Board in 1998. Before the crisis, a proposal for a new autonomous supervisory authority had met with considerable resistance. (Lindgren, et. al. 1999) The ability of the IMF to expand conditionality to cover specific regulatory reforms including the establishment of an autonomous agency can be tied to the country's need for immediate financial assistance and readiness to accept whatever conditions are offered to it. If S. Korea had not complied, the IMF could withhold a disbursement of two billion USD. (Davis 1997)

In addition to such direct coercion, in the case of S. Korea, a mechanism of indirect coercion, may be working in tandem. The fact that a proposal for the institution of a similar agency was already being debated before the crisis points to the presence of those favoring such reform, but facing political opposition in the absence of pressure from the IMF. Its inclusion in the IMF-supported program empowered the supporters of a

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<sup>14</sup> The letter of intent is available at [www.imf.org/external/np/loi/120397.htm](http://www.imf.org/external/np/loi/120397.htm).



new IRA by providing them resources and legitimacy. This is what Henisz, Zelner, and Guillén (2005) call “indirect coercion” by third parties.

Letters of intent and memoranda of Asian countries affected by the crisis all included provisions such as “strengthening supervision”, “regulatory oversight”, and/or increasing the independence and autonomy of financial supervisors. Having channeled large sums of financial assistance to these countries, the IMF also put them under close surveillance to ensure its conditions were met as scheduled. This was especially the case for three crisis countries. Staff from the IMF’s Monetary and Exchange Affairs and Washington-based consultants spent about ten staff years in the field missions to Indonesia, S. Korea, and Thailand during 1998 and 1999 fiscal years. Moreover, the Fund placed resident banking supervisors in Indonesia and Thailand, and sent expert missions to S. Korea. (Lindgren, et. al. 1999) In sum, the degree and form of coercive pressures imposed on these countries were quite unprecedented in the history not only of these countries, but also of the IMF.

Another area where the coercive effects of the IMF and the World Bank have been increasingly felt in the region is in the privatization and regulation of utilities/infrastructure sectors, including telecommunications, gas, electricity (or energy in general), and water. Although these sectors are mostly in the Bank’s domain of operation, they have also been included in some letters of intent submitted to the IMF. For example, the privatization strategy that is specified in Thailand’s letter of intent, dated May 26 1998, provides for the development of an “effective regulatory framework for the public utilities to be applicable to the private sector operators, especially in water, power, and telecommunications, to promote competition and regulate monopolies”, “the establishment of regulatory capacity for water and transport sectors.” Thus far, progress has been limited; yet, the creation of Thailand’s National Telecommunications Commission as an IRA in 2004 can be regarded as a sign of slow, but advancing, diffusion. Similarly, Phillipines March 11 1998 memorandum lists a comprehensive restructuring of the electric power sector with the assistance of the World Bank and the Asian Development Bank and strengthening the Energy Regulation Board’s organizational and regulatory capacity as a part of its 1998-1999 program. In this context, the country’s Energy Regulatory Commission started to operate in 2001.

Among the Asian countries in our sample, India is one of those where the World Bank has been most intensely involved in and for a relatively longer period in restructuring utilities sectors, especially energy. The Bank's energy lending to India followed the governments' lead till 1993, that is, the year it started to explicitly extend conditionality to market-oriented infrastructure reform. After the 1990-1991 crisis in India, the Bank canceled over two billion USD in nonperforming loans and shifted the focus of its lending strategy to the electricity sector's institutional, financial, and environmental sustainability. "The Bank would lend only to states that agreed to totally unbundle their electricity boards, privatize distribution, and facilitate environmental reform, and the private sector's involvement in power generation." (World Bank Operations Evaluation Department 2001: 2) After a three-year period (1993-1996) of no energy lending to India, the Bank provided loans for three restructuring projects in the sector between 1996 and 1999. This was the interval during which the Central Electricity Regulatory Commission as well as a number of state-level electricity IRAs, such as Orissa Electricity Regulatory Commission, were established. The World Bank evidently played the role of an effective "diffuser" of organizational forms in this case. A comprehensive analysis of World Bank lending across countries since 1993 is highly likely to support this conclusion.<sup>15</sup>

Among the Asian emerging economies included in this study, China and Taiwan have been the ones most strongly resisting the mechanisms of diffusion at work. Although they have instituted a few separate regulatory agencies, they have, thus far, remained under the jurisdiction of the executive in Taiwan and of the State Council in China. While showing the limits of diffusion of "independent" regulatory agencies, these cases also evidence the impact of external pressures on even the governments that are reluctant to introduce political institutional change. In aspiring to be integrated to the global markets and to join the WTO, China has acquiesced to adopting at least the minimal requirements of being a part of the international society. The creation of separate, but not independent China Securities and Exchange Commission (1998), China Insurance Regulatory Commission (1998), and China Banking Regulatory Commission,

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<sup>15</sup> See "infrastructure" and related topics at [www.worldbank.org](http://www.worldbank.org) for the Bank's operations in this area.

may be interpreted as efforts at “symbolic imitation”. As such, China is not totally immune from the effects of diffusion, either.

### **Central and Eastern Europe**

Table 3 (see Appendix) provides a list of regulators in Central Eastern European (CEE) countries. The table reveals that creation of IRAs in these countries picked up pace towards the end of 1990s, similar to emerging economies in other parts of the world but for somewhat different reasons.

As was the case for a host of countries in Central and Eastern Europe and the remainder of the former Soviet Union that emerged from the dissolution of the Soviet bloc starting in 1989, CEE countries chose to move their economies toward market based systems with a view to integrating swiftly into the rest of the world economy. Towards this end, they engaged in extensive liberalization of the economy and undertook major restructuring of their institutions and economic decision-making processes, a process fittingly called “transition”.

Designing regulatory mechanisms for liberalizing markets and newly privatized state-owned operators in infrastructure sectors was part of this transition process and almost all transition countries received significant support of sorts from the IMF, the World Bank, the European Bank for Reconstruction and Development, and other international donor institutions, support for which they were very willing recipients. Furthermore, as Hanley, King, and Janos state in regards to Hungary, the external pressures from these institutions national governments confronted in CEE countries during the 1990s “did not push in divergent directions but worked in unison toward establishing in as short a time frame as possible a functioning market economy in which foreign investments were both welcome and secure.” (2002: 150) The cooperation and coordination among these institutions were evident by the fact that they operated based on a division of labor in assisting the transformation of CEE economies.

Reviewing the evidence on the IMF’s involvement in the restructuring of CEE economies, it becomes evident that the IMF concentrated on overall reorientation of the economies and macroeconomic stabilization than restructuring of sectors at the micro

level.<sup>16</sup> In letters of intent submitted by transition countries as part of standby agreements and in other related documents on IMF's involvement in the region there is hardly any detail on sector level restructuring apart from drawing attention to importance of what are called "structural reforms" in various sectors.<sup>17</sup> The only exception is micro level reforms in the banking sector and the financial sector overall, the main domain of activity for the IMF. The IMF provided very detailed advice for reform in these sectors and followed up on the pledges for reform by country governments through attaching conditionality to further lending.

Providing advice and steering of the actual process of structural adjustment at micro level in key sectors has primarily been the domain of activity for the World Bank, at least in the initial years of transition. The World Bank has had a strong presence in all transition countries and was the driving force behind transition countries' restructuring and privatization efforts in many of important infrastructure sectors and their adoption of IRAs as regulatory institutions as it has done in other developing and emerging economies.

Towards the end of the 1990s and at the beginning of the 2000s the prospect of EU membership became the main driving force for the adoption of regulatory institutions such as IRAs for the CEE countries. One of the pre-conditions for admission into the EU is the full harmonization of political, legal, and regulatory practices. Thus, CEE countries started to adopt EU's *acquis communautaire* immediately after achieving candidate status. IRAs in infrastructure sectors were becoming a norm in the member countries and hence, were in most cases directly mandated by the EU for the accession countries.

The EU used the PHARE program as a pre-accession instrument to help CEE countries prepare for joining the EU. The program was originally created in 1989 to

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<sup>16</sup> By the end of 1994, 25 transition countries were members of IMF, all except Hungary, Poland, and Romania having joined within the five years that passed since 1989. See, "Supporting Transition in Central and Eastern Europe: An Assessment and Lessons from the IMF's Five Years' Experience", Second Annual Francisco Fernández Ordóñez Address by Michel Camdessus, Managing Director of the IMF, Madrid, December 21, 1994 (<http://www.imf.org/external/np/sec/mds/1995/mds9502.htm>).

<sup>17</sup> See the relevant country pages available at IMF website that posts various documents, including letters of intent, on the country's relations with IMF (<http://www.imf.org/external/country/index.htm>).

provide assistance to Poland and Hungary.<sup>18</sup> It was then extended to cover the Czech Republic, Estonia, Latvia, Lithuania, Slovakia, Slovenia, Bulgaria, and Romania as well as Albania, Bosnia-Herzegovina and the former Yugoslav Republic of Macedonia.<sup>19</sup> As early as 1993, support provided through the PHARE program was reoriented to include a substantial increase of support for infrastructure investment. The PHARE program was thus the main conduit for the EU-led propagation of IRAs into CEE countries.<sup>20</sup>

Table 4 (see Appendix) presents a list of regulators in what are called South Eastern European (SEE) countries. Among these, Bulgaria and Romania are about to complete membership negotiations and will become full members of the EU, while Croatia has been given a date to formally start accession negotiations. Compared to the economies of CEE countries, the economies of SEE countries have lagged behind in restructuring their economies (some partly due to extended armed conflict they have been involved with their neighbors). Letters of intent submitted to the IMF show that for certain countries, e.g. for Bulgaria early on), the IMF made restructuring of certain sectors a precondition for extending further loans.<sup>21</sup> Similar to its programs in other countries, such as Latvia, the World Bank has included restructuring, privatization, and the establishment of a regulatory framework for utilities as conditions for lending to SEE countries, such as Croatia.

Bjork and Connors hold that the EU champions the creation of regulatory bodies not only in countries seeking membership, but also even in countries “with no desire to join the club, but with which it does business.” (2005: 54) Among such countries, Russia has been the one to which not only the EU, but also international financial institutions, such as the IMF, have, thus far, not been able to effectively diffuse their prescribed organizational forms. Unlike in Asian countries where IRAs were relatively rapidly established after the financial crises of the 1990s, in Russia, the impact of the 1998

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<sup>18</sup> For an overview of PHARE and related programs, see the EU webpage at <http://europa.eu.int/comm/enlargement/pas/phare/intro.htm>.

<sup>19</sup> In 2001, CARDS program (Community Assistance for Reconstruction, Development, and Stability in the Balkans) was initiated and Albania, Bosnia-Herzegovina and The former Yugoslav Republic of Macedonia was moved from the PHARE program to the CARDS program.

<sup>20</sup> A stated aim of the PHARE program is “Strengthening public administrations and institutions to function effectively inside the European Union”. (<http://europa.eu.int/comm/enlargement/pas/phare/intro.htm>).

<sup>21</sup> See the relevant country pages available at (<http://www.imf.org/external/country/index.htm>).

financial crisis did not go much beyond generating general and largely unfulfilled statements (also included in the country's memoranda to the IMF) about improving the regulatory framework. Somewhat like China, Russia's aspirations to join the WTO may catalyze the reform process as membership entails the obligated transfer of organizational norms and policies. Nevertheless, the fact that China has not yet gone further than establishing separate, but not independent regulatory commissions, may reveal the difficulties and limits involved in diffusing IRAs into large and powerful post-communist countries resisting rapid political transformation.

### **III. Diffusion of IRAs: The Case of Turkey**

#### **Background and Overview**

After a prolonged period of economic and political turmoil in the second half of 1970s, Turkey set on a course of market-oriented reforms at the end of 1979, which was a fundamental break with the country's *étatist* past.<sup>22</sup> Reform of the trade regime stood at the core of the reform program. This involved commitment to a more flexible exchange rate policy and abandoning of import substitution policies through promotion of exports as well as liberalization of imports. Another main objective of the 1980 reform was to reduce the size of the public sector and to allow more freedom to private initiative and markets in determining resource allocation in the economy. Privatization of state-owned enterprises and liberalization of financial markets were conceived as two very important aspects of this process.<sup>23</sup>

The 1980 reforms brought about profound changes in the incentive structure economic actors faced and in the way they did business. This was the case especially for the Turkish manufacturing industry, which had to go through a fundamental reorientation after decades of protection under import substitution policies. Cushioned by import restrictions and high tariff barriers, many sectors of the manufacturing industry had been highly concentrated, and state-owned enterprises had dominated many important sectors.

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<sup>22</sup> The military regime that seized power in 1980 at the height of the crisis continued with the reform program.

<sup>23</sup> For reviews of Turkey's liberalization policies, see Öniş and Riedel (1993), Togan (1994), and Togan and Balasubramanyam (1996).

Export promotion policies created a new set of incentives for the manufacturing industry, and the share of manufacturing in exports has dramatically increased within a rather short period of time.

One would have expected that more liberal import policies and export orientation of the 1980s would bring about a profound transformation for all aspects of the Turkish industrial structure. However, in two important aspects the conditions in most Turkish industrial sectors have not exhibited considerable improvement. Firstly, monopolization and high concentration in the Turkish manufacturing industries persisted.<sup>24</sup> Secondly, the process of privatizing state-owned firms, which was a stated aim of the reform program of 1980, started in 1986 but has not made headway up until very recently. The privatization experience of Turkey can be described at best as mediocre, as restructuring of most of the utility-like sectors, such as telecommunications and electricity, with large state-owned firms has not yet been fully accomplished.<sup>25</sup>

It can be argued that Turkey's meagre performance in terms of restructuring its manufacturing industry and privatization largely draws from its failure to institute and implement an effective regulatory framework, including a well functioning competition policy. A regulatory framework to oversee the industries that are likely to remain imperfectly competitive after privatization was not thought of before hand for most of the industries.

The importance of instituting a regulatory framework prior to liberalization and privatization of industries has finally been realized and legislation has been passed to this effect only towards the end of 1990s. This, however, only came after years of stagnant economic conditions and only in the aftermath of the Southeast Asian and the Russian crises of 1997 and 1998 that exacerbated some of the very important structural problems the Turkish economy had failed to address.

One of the key sectors in need of significant restructuring was the Turkish banking industry. Turkish banking industry had been ailing all throughout the 1990s,

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<sup>24</sup> See Katircioğlu et al. (1995), Yalçın (2000), and Metin-Özcan et al. (2000). Note that high concentration ratios may say very little about the industry structure in an open economy as long as international competition limits any domestic power. However, evidence available on the disciplining role of imports for the Turkish manufacturing industry is weak and very limited. Levinsohn (1993) tests the imports-as-market-discipline hypothesis using Turkish data for the 1983-1986 period, and provides some weak evidence supporting the hypothesis for a small number of industries.

<sup>25</sup> For a detailed review of Turkey's privatization experience between 1986 and 1998, see Karataş (2001).

primarily due to distorted incentives it faced in the chronically high and erratic inflationary environment, which went together with increasing government deficits. Excessive and persistent public sector borrowing requirements led to very high real returns in government issued securities that allowed some private banks to accumulate asset portfolios that were far from sound. Together with the slackening of entry requirements to the sector and the overall weakness of the regulatory framework, this environment contributed to the fragmentation of the banking sector into small banks. A significant number of small banks carrying weak asset portfolios became insolvent over time and had to be transferred to the Savings Deposit Insurance Fund (SDIF), which at the time was being managed by the Turkish Central Bank.<sup>26</sup>

The banking sector crisis was apparent by 1997 and a sweeping restructuring of the banking sector was demanded by both IMF and the World Bank as a precondition for extension of further loans. The restructuring of the regulatory framework in the banking industry started in 1999 with a new banking law that mandated the creation of an independent regulatory agency for the banking sector. The restructuring process was certainly a very painful one and it was further exacerbated by two very severe banking crises, namely those of November 2000 and February 2001. These crises caught the Turkish banking sector in the middle of a sweeping restructuring process, which was one of the critical components of the comprehensive disinflation program Turkey adopted at the beginning of 2000 under the tutelage of the IMF.

The disinflation program of 2000 with the IMF involved tight fiscal and monetary policies, large-scale structural reforms, and a pre-determined exchange rate policy to serve as a nominal anchor in reducing inflation from its chronically high levels. Regarding the banking sector, it foresaw revamping of the legal and regulatory framework for banking supervision in accordance with the EU and world standards, correcting the weaknesses in the private banking system, and restructuring and the ultimately privatization of the state banks. Towards this end, the powers of the independent Banking Regulatory and Supervisory Agency (BRSA), which was established as part of a new banking law in 1999, were further strengthened through a

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<sup>26</sup> SDIF was established in 1983. The Turkish Central Bank had managed SDIF from its inception until 2000, at which time it was transferred to the then newly founded regulatory agency for the banking industry (see below).



series of amendments approved in the Parliament in December 1999. As the single regulatory and supervisory agency to oversee the sector, BRSA was given independent jurisdiction over the entry and exit of banks and over changes to the regulatory framework.

The establishment of BRSA marked the onset of a wave of new IRAs in a number of industries. BRSA started its operations in 2000. Also in 2000, a new act to liberalize the telecommunications sector was enacted and an IRA was established to regulate the industry. Finally, two different acts were enacted for the liberalization of electricity and natural gas industries in 2001, and an IRA was established to oversee the performance of both of these industries. In the unusual sector of agriculture for IRAs, an IRA to regulate the sugar industry was created in 2001 and another for the tobacco industry was created in 2002. Finally, an IRA for regulating and overseeing all public procurement activities was created also in 2002.

The correlation between the IMF and World Bank sponsored programs amidst a series of economic crises Turkey went through at the end of 1990s and the creation of IRAs is clearly apparent. For example, in the Letter of Intent submitted by the Turkish governments to IMF in December 1999 as part of a standby agreement, Turkish government officially undertook to strengthen the independence of BRSA, which had been set up earlier in the year at the urging of the IMF.<sup>27</sup> Similarly, IRAs for the electricity, natural gas as well as telecommunication sectors were put in writing as part of a as part of a credit agreement with the World Bank in 2000. Establishing of an IRA for the electricity sector was also explicitly promised in the Letter of Intent submitted to the IMF in December 2000.<sup>28</sup>

An equally important external factor that contributed to the wave of IRAs in Turkey is its accession process to the EU. As part of this process that has aimed the starting of negotiations for full membership, Turkey has undertaken to reform its

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<sup>27</sup> The Letter of Intend, dated December 19, 1999, is posted at [http://www.hazine.gov.tr/standby/sb\\_english.htm](http://www.hazine.gov.tr/standby/sb_english.htm) (see the *Strengthening the banking system and banking regulation* section for the pledge regarding BRSA).

<sup>28</sup> See the *Telecommunications Reform* and the *Energy Reform* sections of the Letter of Development Policy submitted by the Turkish Government to World Bank 2000 ([http://www.hazine.gov.tr/standby/erl\\_ldp\\_ing.htm](http://www.hazine.gov.tr/standby/erl_ldp_ing.htm)). The Letter of Intend, dated December 18, 2000, is posted at <http://www.hazine.gov.tr/standby/mektup/mektup-en.htm> (see the *Privatization* section for the official promise regarding an independent electricity regulator).

administrative system in line with the rules and regulations of the EU. For reasons of its own, the EU has witnessed proliferation of IRAs in different sectors within its member states, and the establishment of IRAs was strongly encouraged and in some cases stipulated as a precondition for all accession countries. In the case of Turkey, this was not only a contributing factor for the proliferation of IRAs after 1999, but also a key factor for the enactment of a competition law and the establishment of a competition authority in the form of an IRA in 1994.

### **IRAs in Turkey<sup>29</sup>**

There are currently nine public entities in Turkey that concur with a broad definition for IRAs.<sup>30</sup> In the order of their date of establishment, these are *Capital Markets Board* (1981), *The Higher Board for Radio and Television* (1994), *Competition Agency* (1994), *Banking Regulation and Supervision Agency* (1999), *Telecommunications Agency* (2000), *Energy Markets Regulatory Agency* (2001), *Sugar Agency* (2001), *Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency* (2002), and *Public Procurement Agency* (2002). Table 5 (see Appendix) presents certain details about the structure of Turkish IRAs, including information on their statutory independence and accountability.

### **The Creation of Turkey's First Agency: Pre-1990 Period**

#### *Capital Market Board (CMB)*

CMB is the first public body that was established in Turkey with the broad traits of a *bona fide* IRA. It was established in 1981 in conjunction with the enactment of *Capital Market Law No. 2499*, which provided the legal framework for the establishment of an official capital market. CMB was given the task of establishing and developing capital markets and instituting an effective regulatory framework that would protect the rights all investors and other parties involved. It was established as a public legal entity in its own

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<sup>29</sup> For extensive overviews of IRAs in Turkey, see TÜSIAD (2002), Sönmez (2004). For international comparisons among IRAs in various developed and other countries, see Zenginobuz (2002a), and for a study attempting a comparative assessment of Turkish IRAs, see Zenginobuz (2002b).

<sup>30</sup> See Footnote 2 for minimum requirements to qualify as an IRA.

right and given the authority to make decisions independently. However, in the terms of Turkish administrative law, it was a body “related” to the Ministry of Finance.<sup>31</sup> A consequence of CMB’s related status was to carry out inspections of entities that operated in capital markets, if and when requested by the Ministry of Finance. It could take action against infringements of the law and impose sanctions on entities involved only with the approval of Ministry.

CMB has seven members who were appointed for six years by the Council of Ministers. Initially, three of the Board members were chosen among six nominees by the Ministry of Finance, and one each out of each two nominees by Ministry of Justice, Ministry of Trade, Central Bank, and Union of Turkish Banks.

The considerable power of control exercised by the Ministry of Finance over the operations of CMB was ended through two extensive amendments of *Capital Market Law No. 2499* that were enacted in 1992 and 1999.<sup>32</sup> With these changes CMB became the sole authority with the power to regulate, supervise, and sanction in the capital market. Hence, it would be fair to say that CMB became a *bona fide* IRA only in 1999. CMB is now “affiliated” with a Ministry of State within the Prime Ministry instead of being “related” to the Ministry of Finance and enjoys full administrative and financial independence.<sup>33</sup>

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<sup>31</sup> According to Turkish Constitution, Turkish administrative structure is unitary in nature in the sense that the executive branch is to be considered as constituting a whole in relation to all central and other (decentralized) administrative units constituting the state. Therefore, a strict indivisibility of administration is envisaged, and even the agencies with separate public legal personality are considered as being under the tutelage control of the center (Sönmez, 2004; 179). In the case of an agencies created with their own public legal personality, the indivisibility of administration is established by “relating” the agency to a (related) Ministry. The status of relatedness constitutes an obvious violation of notion of independence for an IRA. To get around this issue the IRA’s that are established later were declared as being “affiliated” to a Ministry rather than being related to it (see below). This was a creative piece of lawmaking as there is no previous mention of this notion in the Turkish administrative law. In fact, critics argue that the Turkish Constitution does not allow room for such a notion. See Tan (2000) for a discussion of the place of IRAs in Turkish administrative law.

<sup>32</sup> The *Law No. 3749* of 1992 and the *Law No. 4487* of 1999.

<sup>33</sup> See Footnote 15 for brief information on the notions of a “related” agency and “affiliated” agency.

## **Acceleration of Diffusion: 1990-1999 Period**

### *The Higher Board for Radio and Television (HBRT)*

HBRT was established in 1994 as a regulatory body following the ending of state monopoly in radio and television broadcasting in 1993.<sup>34</sup> HBRT was created as an independent body with its own public legal personality to regulate, oversee, and sanction all entities involved in broadcasting. Its powers extend over technical aspects of broadcasting (such as frequency planning) as well as regulation of competition in the broadcasting market. Moreover, HBRT is responsible for overseeing the content of material broadcasting and has the power to sanction against illegal and “immoral” content (ranging from temporary shutting down of stations to cancellation of broadcasting licenses). The procedure for nominating as well as appointing the nine Board members went through a number of changes, but in all cases both of these functions have been carried out by the Turkish Grand National Assembly

### *Competition Agency (CA)*

CA is the body responsible for implementing Turkish Competition Law, which was enacted in 1994.<sup>35</sup> Competition Board, the decision making organ of CA responsible for the enforcement of Competition Law, was not appointed until February 1997 and finally began its operations in November 1997. Competition Board comprises of 11 members. Various ministries and other governmental and non-governmental bodies nominate two candidates for each position and the Council of Ministers appoints one out of each two nominees as a member for a term of six years.

Competition Law grants full financial and administrative autonomy to CA. That is, CA is an “independent administrative authority”, and as such it is not subject to instructions and orders of any other governmental body, including the Council of Ministers that appoints the members of Competition Board.

Competition Board has been granted extensive powers of examination and investigation regarding issues that pertain to the infringement of Competition Law. It can

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<sup>34</sup> The Law No. 3984 of 1994. The Law No. 2709 of 1993 involved the constitutional amendment of the Article 133 of the Constitution of the Turkish Republic.

<sup>35</sup> Law No. 4054 on the Protection of Competition of 1994.

act upon a notification or a complaint by any concerned party, by the request of the Ministry of Trade and Industry, and upon its own initiative. CA has to be consulted regarding any changes in the legislation concerning competition policies.<sup>36</sup> Basic means that the Competition Board is empowered with in implementing Competition Law are the authority to request information from related parties and on-the-spot examination (Articles 14 and 15). The Law also empowers the Board to levy fines (Articles 16 and 17). Competition Board's decisions can be appealed to the Council of State.

The enactment of the Competition Law and the establishment of CA have largely been due to Turkey's obligation under the Association Agreement between Turkey and the European Economic Community, the European Union (EU) as formerly called, to enact and implement a competition policy.<sup>37</sup> The Association Agreement requires that the parties should apply the provisions of Rome Treaty for the harmonization of their laws, tax rules, and competition policies. Pursuant to the agreement reached at the Association Council meeting of March 1995, Turkey and EU finally created a customs union starting January 1, 1996.<sup>38</sup> This agreement required that Turkey undertook all necessary measures to enact and effectively implement the competition law and policies of EU. Thus, enactment of Turkish Competition Law was a prelude on Turkey's part to the signing of the customs union agreement with EU. The lag between enactment of Competition Law and its enforcement is to a large extent a reflection of the ambivalence on the part of both Turkey and the EU regarding Turkey's accession to EU and the stop-and-go nature of the progress that has been made in that regard.

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<sup>36</sup> To this end, a memorandum issued in 1998 by the Prime Ministry General Directorate of Personnel and Principles instructed all ministries to receive the opinion of CA about draft laws, by-laws, regulations and communiqués regarding issues that fall under the scope of Competition Law. However, compliance with this memorandum has been wanting, as it has been observed that for various regulations the opinion of Competition Authority was either not asked at all or asked at the last stage of regulation development process (for example, the Sugar Act and the Telecom Act, both enacted in 2001). The said memorandum had to be reissued in 2001.

<sup>37</sup> The Association Agreement was signed in Ankara on September 12, 1963 and became effective on December 1, 1964.

<sup>38</sup> Decision No. 1/95 of the Association Council.

## **The Proliferation of IRAs: From 1999 to the Present**

### *Banking Regulation and Supervision Agency (BRSA)*

BRSA was established in June 1999 in conjunction with the enactment of *Law of Banking No. 4389* that brought about significant restructuring of the Turkish banking industry. There was no official standby agreement with IMF at the time, but both the passing of the new banking law as well as the establishment of BRSA were to a large extent carried out under the urging as well as guidance of IMF. When Turkey finally signed a standby agreement with IMF in December 1999, an official pledge to further broaden BRSA's mandate, to amend its independence status as well as to enhance the transparency of its operations were put in writing in the associated letter of intent.<sup>39</sup> Several acts of law were then passed between 1999 and 2002 to amend various clauses of *Law of Banking No. 4389* to carry out these promises.<sup>40</sup>

BRSA has a Board in charge of its operations and it consists of seven members. With the last set of amendments, all of the BRSA Board members are appointed directly by the Council of Ministers according. In fact, the Council of Ministers also directly appoints the head of the agency and his deputy (see Table ? for some details of the current structure of BRSA).

Various acts of law amending previous legislation regarding BRSA constitute a very interesting case study for the evolution of IRAs in the context of an emerging economy. As per the stipulations of *Law of Banking No. 4389*, the members of BRSA were initially appointed for a period of six years in 1999. However, the *Law No. 4672* of May 2001 that amended *Law of Banking No. 4389* contained a stipulation terminating the terms of the existing members, thereby allowing the government to appoint a completely new set of members<sup>41</sup> The head of BRSA who was elected by the new Board was later

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<sup>39</sup> See the *Strengthening the banking system and banking regulation* section of the letter of intent dated December 19, 1999, submitted to IMF ([http://www.hazine.gov.tr/standby/sb\\_english](http://www.hazine.gov.tr/standby/sb_english)).

<sup>40</sup> The *Law No. 4491* of December 1999, the *Law No. 4672* of May 2001, and the *Law No. 4743* of January 2002 all contained amendments to *Law of Banking No. 4389*.

<sup>41</sup> Though the crisis of February 2001 did not bring down the coalition government that had been in power since 1999, Kemal Derviş, a Turkish citizen and a former associate of the then Prime Minister Bülent Ecevit, was summoned from its World Bank position in Washington D.C. by Bülent Ecevit himself to take charge of the Turkish economy that was on the verge of a complete breakdown. He was appointed as the Minister of State in charge of the economy. In complete contradiction of the law that created it, BRSA was put under the charge of Kemal Derviş, and Zekeriya Temizel, who was the first Head of BRSA, resigned

forced to resign in November of 2003 by the current one-party government that came to power after the general election of November 2002.

#### *Telecommunications Agency (TA)*

TA was established in 2000 through the enactment of the *Law No. 4502* and it started its operations within the same year. Its Board, which is in charge of running its operations, consists of five members.

The establishment of TA as an IRA in charge of regulating the Turkish telecommunication industry followed an official undertaking by the Turkish government to privatize its state-owned monopoly telecommunications operator and liberalize its telecommunications market as part of a credit agreement with the World Bank in 2000.<sup>42</sup> Previously, regulatory powers in the telecommunications industry were partly exercised by the Ministry of Transportation and partly by *Türk Telekomünikasyon A.Ş.*, the state-owned monopoly operator.

#### *Energy Markets Regulatory Agency (EMRA)*

As in the case telecommunications sector, the establishment of IRAs for the electricity and natural gas (energy) sectors was part of an official pledge made by the Turkish government to restructure and liberalize its electricity market in a credit agreement signed with the World Bank in 2000.<sup>43</sup> Initially, a separate IRA for the electricity market, *Electricity Market Regulation Agency*, was created by the *Electricity Market Law No. 4628* in February 2001 to regulate the electricity sector. However, before its Board members were appointed, it was transformed into a joint regulator for the energy sector as a whole and named *Energy Markets Regulatory Agency* in April 2000 with the enactment of *Law No. 4646* on the regulation of natural gas market. Its Board, consisting

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immediately in protest. For a certain period of time, Kemal Derviş exercised almost complete control over all economic decisions taken by the government and the termination of the terms of the initial set of BRSA Board members is seen largely as his undertaking. The operation aimed at appointing a new head for BRSA who was more “market friendly” than Zekeriya Temizel. Engin Akçakoca, who quit a top position in a private bank to become a Board member, was appointed as the head for the BRSA in March of 2001.

<sup>42</sup> See the *Telecommunications Reform* section of the Letter of Development Policy submitted by the Turkish Government to World Bank 2000 ([http://www.hazine.gov.tr/standby/erl\\_ldp\\_ing.htm](http://www.hazine.gov.tr/standby/erl_ldp_ing.htm)).

<sup>43</sup> See the *Energy Reform* section of the Letter of Development Policy submitted by the Turkish Government to World Bank 2000 ([http://www.hazine.gov.tr/standby/erl\\_ldp\\_ing.htm](http://www.hazine.gov.tr/standby/erl_ldp_ing.htm)).

of seven members, was appointed soon after and EMRA became operational in November 2001. EMRA is now the sole authority responsible for regulation and supervision of all energy markets in Turkey. Previously the Ministry of Energy and Natural Resources was the body that carried out these tasks.

### **An Oddity: Two IRAs in the Agriculture Sector**

Turkey stands out as a special case where two IRAs were created to regulate agricultural markets. Sugar beet and tobacco are two important crops for the Turkish agriculture industry. A large number of farmers and their families in different parts of Turkey earn their living through production of these crops. Agricultural support policies that Turkish governments have traditionally undertaken with a view to securing votes in elections are largely seen as a very important contributor to the mounting public debt. Consequently, IMF and the World Bank have both stipulated replacement of distortive price supports in the agricultural sector with direct cash support to farmers. They also demanded serious reforms for the sector, including privatization of the state-owned sugar and tobacco production facilities.

In a series of letters of intent signed as part of standby agreements, Turkish government has indeed promised to do away with price supports for sugar beet and tobacco and privatize the state-owned sugar and tobacco factories with the aim of liberalizing these markets.<sup>44</sup> There is, however, no mention of establishing IRAs for these sectors in the letters of intent. The creation of IRAs to regulate the markets for these two important crops seems to have aimed at compensating for the discontinuation of the state's direct presence in these two markets where the livelihood of a large number of families have depended for a very long time on subsidies through price supports. In this regard, it looks more like the choice of the Turkish government itself rather than an imposition by IMF or the World Bank.

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<sup>44</sup> Structural reform sections of letters of intent dated December 18, 2000; January 30, 2001; May 3, 2001; June 26, 2001; July 31, 2001; January 18, 2002; April 3, 2002; and June 19, 2002 all refer explicitly to the need for support policy reform for these crops and to privatizing state-owned production facilities involving these crops (all letters are available at [http://www.hazine.gov.tr/standby/imf\\_standbyeng.htm](http://www.hazine.gov.tr/standby/imf_standbyeng.htm)).



The overall structure and certain aspects of agricultural IRAs are markedly different than the IRAs established for non-agricultural sectors, with less independence from government's influence in terms of decision-making and financial matters.<sup>45</sup> Moreover, the law that established an IRA to regulate the sugar market contains a sunset clause granting discretion to terminate the activities of the agency at the end of 2004. The implied temporariness of the agency may very well be at the urging of IMF and World Bank and may have emerged as the outcome of negotiations between the two sides.<sup>46</sup> On the other hand, rather interestingly, there was no such sunset clause for the agency created to regulate the tobacco market.

#### *Sugar Agency (SA)*

SA was established in 2001 by the *Law No. 4634* and started its operations in the same year. Its Board consists of seven members, appointed by the Council of Ministers from among nominations by various Ministries, sugar producers' cooperatives and private sugar product manufacturers.

In contrast to other IRAs, the Board members for SA are allowed to continue with their existing jobs (their Board membership is terminated if they leave their current positions that was earmarked for the entity nominating them). In fact, most of the members appointed for the Board were state employees in other state offices and continued with their work in their primary positions during their tenure at SA.

Another interesting aspect of the structure of SA is the conditional sunset clause in the *Law No. 4634*. The clause stipulated that SA may be discontinued at the end of 2004 unless otherwise mandated by a decree of the Council of Ministers. In fact, the current government let the sunset clause become effective at the end of 2004 and, therefore, SA is currently extinct.<sup>47</sup>

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<sup>45</sup> See the low statutory independence scores calculated by Zenginobuz (2002b: Table 7) for the agricultural IRAs in comparison to the other Turkish IRAs.

<sup>46</sup> Ajay Chibber, the Head of World Bank Office in Turkey at the time, was quoted in a Turkish newspaper to state that the IRAs for the sugar and tobacco markets were transitory agencies (*Hürriyet*, February, 17, 2002, cited in Emek (2002, page 157).

<sup>47</sup> However, the terms of the Board members were extended for a period of two years. It is not clear what they will be compensated for as the Board as well as other operational units of SA are now officially disbanded.

*Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency (TTAMRA)*

TTAMRA was established in 2002 by the *Law No. 4773* and given the mandate to regulate and supervise the tobacco, tobacco products, and alcoholic beverages markets. In addition, TTAMRA was also assigned to provide social regulation in the sense of developing and implementing policies to reduce consumption of the goods under its mandate.

As in the case of SA, the Board of TTAMRA consists of seven members, all appointed by the Council of Ministers and the Board members for TTAMRA are allowed to continue with their existing jobs. However, interestingly enough, there is no sunset clause for TTAMRA in *Law No. 4773* that established it.

**The Last Addition - Thus Far**

*Public Procurement Agency (PPA)*

PPA was established by the *Public Procurement Law No. 4734* that was enacted in 2002 and it started its operations in the same year. Its Board consists of ten members.<sup>48</sup> Its main tasks include serving as a complaints office in all matters related to public procurement for all affected parties; developing and enacting all secondary regulations related to public procurement as well as designing and developing the form and content of contracts to be signed among parties.

A main impetus behind the establishment of PPA as an IRA was an initiative of the European Commission that urged member and accession countries to adopt a well-designed procurement policy and to institute a separate agency in charge of regulating and supervising all public procurement activities (89/665/EEC). A public procurement policy that does not discriminate against participants from other member states and a completely impartial enactment of it in a transparent manner were seen by the European Commission as vital for the prevention of uncompetitive practices in public procurement, an area that is notoriously open to rent seeking behavior by private parties as well as politicians and government officials.

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<sup>48</sup> The even number of the Board members is a curious oddity.

Establishing an independent agency for public procurement practices was also an issue negotiated within standby agreements between Turkish governments and IMF. Several letters of intent referred to Turkey's promise to set up an IRA for public procurement.<sup>49</sup>

Note that the European Commission did not explicitly require an IRA in the area of public procurement but a separate agency with a clear mandate and well defined procedures for appealing its decisions. It also required that the board members of the public procurement agency should have well defined tenures and effective immunity from unreasonable termination of their terms by the executive branch of government. Full independence of the agency was an issue that arose in the standby agreements with IMF.

### **The Turkish Experience with IRAs: Mechanisms of Diffusion and Beyond**

The proliferation of IRAs in Turkey in the 1990s and 2000s, rather than in the 1980s, when Turkey had already strated on a course of liberalization, clearly reveals the "interdependent" nature of its decisions to create IRAs. Except for instituting the Capital Markets Board, as a semi-independent agency mandated to develop, regulate, or supervise capital markets, in 1981, Turkey paid little or no attention to establishing an effective regulatory framework in the 1980s. A closer look at the dynamics of IRA creation in the country in the decades that followed provides a context to analyze the mechanism of diffusion at work.

As a country at the crossroads of IMF, World Bank, and EU influence, Turkey's addition of IRAs to its institutional structure can be explained, to a significant extent, by international coercion of various forms. First of all, Turkey showed its intention to be a part of the European integration project as early as 1963, when it signed an association agreement with the then European Economic Community. Pursuing that trajectory, the signing of a customs union agreement with the EU in 1995 (effective as of January 1, 1996) required Turkey to enact and effectively implement the competition law and policies of the EU. The creation of one of Turkey's earliest IRAs, namely, the Competition Agency, was, thus, a consequence of a process that was voluntarily initiated

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<sup>49</sup> See letters intent dated May 3, 2001; January 18, 2002; and April 3, 2002 (all available at [http://www.hazine.gov.tr/standby/imf\\_standbyeng.htm](http://www.hazine.gov.tr/standby/imf_standbyeng.htm)).

by Turkey to be a member of the society of European states and that obligated Turkey, by formal agreements, to conform to the policies and organizational forms institutionalized in that society. Although several blueprints for a competition authority had been developed and discussed in Turkey since the 1970s, a competition law establishing the Competition Agency (CA), as an IRA, could be passed in 1994. In addition to the failure of early efforts to bear fruit, the time lag between the passing of this law and its actual enforcement in 1997 makes one suspect whether domestic political dynamics would have allowed making the CA operational even at that time if it had not been for the formation of a customs union with the EU.

One explanation for Turkey's inability to independently make the CA operational might be the absence of a domestic consensus around what kind of competition policy and market-supporting institutions to adopt, even though it was understood by all domestic players involved that a well-functioning competition policy was the essential component of a market economy. The signing of the customs union agreement resolved this disagreement by making the introduction and implementation of EU practices in this area a "concrete necessity".

The period during which IRAs became more familiar entities in the Turkish polity has also been the time of financial crises in emerging economies and the time after Turkey acquired "candidate" status for the EU.<sup>50</sup> As our analysis above indicates, the IMF and the World Bank upgraded their coercive pressures to include the creation of IRAs on Turkey after 1999. The IMF, first, urged and guided the establishment of the Banking Regulation and Supervision Agency and then, included increasing the coverage of its mandate as well as its independence and transparency as a condition in its December 1999 standby agreement with Turkey. The Fund has also been a significant influence in the creation of an IRA for public procurement in 2002. It was originally the European Commission that demanded the adoption of a well-designed procurement policy and foundation of a separate agency. Yet, the Commission did not explicitly require an "independent" regulatory agency in this area. It was the IMF that pressed Turkey for the creation of such an agency by integrating it in its standby agreement with

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<sup>50</sup> It was at the December 1999 Helsinki Summit that the EU recognized Turkey as an EU candidate country on an equal footing with other candidate countries.

Turkey. As it has done in many other developing and emerging economies, the World Bank has concentrated on the privatization and regulation of utilities/infrastructure sectors, particularly telecommunications and energy in Turkey. The institution of IRAs in these sectors were included in Turkey's credit agreements with the Bank. In sum, direct coercion through conditionality has evidently been a mechanism in the diffusion of IRAs in the country.

Nevertheless, it would be too simplistic and somewhat inaccurate to conclude that the establishment of IRAs in the Turkish context was totally dictated by the IMF, the World Bank, and the EU, as diffusers of policies and organizational forms. Turkey, like many emerging markets in Latin America and Asia, had experienced not only the failure of old models and policies to prevent economic crises, but also the adverse effects of liberalization without adequate regulation. In each crisis, the IMF and World Bank assistance was sought and each time, the country was exposed to considerable amount of international coercion in the form of conditionality. Although it has to be further documented by more in-depth research, there is sufficient evidence to support the argument that some of those conditions were voluntarily accepted by Turkish governments that had not been able to surmount domestic collective action problems in designing and introducing policy and institutional reforms, as it had been the case in the area of competition. Such voluntarism was driven by the perceived (or real) necessity of introducing reforms to achieve economic stability and growth as well as to enhance credibility and competitiveness in international markets.

On the other hand, regardless of whether they have actually internalized the creation of IRAs as "best" practice or not, the Turkish decision makers have realized that IRAs could provide solutions for problems peculiar to the country's own markets. For instance, while the IMF and the World Bank demanded Turkey to liberalize its sugar beet and tobacco markets, they did not require the creation of regulatory agencies in these sectors. The establishment of the Sugar Agency and the Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency was a purely creative initiative by the Turkish government, reluctant to totally give up its presence and control in these sectors since the livelihood of millions of Turkish farmers depends on sugar beet and tobacco production. The World Bank's preference to see these two IRAs as transitory agencies,

the law establishing only one of which includes a conditional sunset clause, shows that these are not IRAs actually favored by international financial institutions. They are, rather, not-so-independent regulatory agencies which the Turkish government has created to introduce a new form of state involvement in agricultural markets and to mitigate the effects of liberalization promoted by the IMF and the World Bank. Whether this Turkish “oddity” can diffuse into other emerging and developing economies with similar concerns and problems in the liberalization of agricultural markets in the absence of international coercive pressures for the creation of IRAs in agricultural sectors is an issue that may deserve further inquiry.

#### **IV. Conclusion**

As a preliminary study of the spread of IRAs in emerging economies, one of the main observations of this paper is that both the number of IRAs and the frequency of their creation (i.e. the proximity in the timing of their creation) both within and across emerging economies have increased since the early 1990s. As such, the paper provides further evidence for interdependent behavior as the defining attribute of diffusion, in this case, diffusion of regulatory agencies.

Among various mechanisms of diffusion, international coercion in various forms has constituted the main focus of our analysis. One general conclusion that can be drawn is that especially given the variation across national political contexts, IRAs could not have spread at the pace which they did in emerging economies in the absence of international coercion. On the other hand, an examination of empirical examples presented in the previous sections shows that diffusion of IRAs in the countries included in our sample displays different degrees of coercion. For instance, while the creation of IRAs in banking, telecommunications, and energy in Turkey after 1999, the rapid proliferation of IRAs in Asian countries after the financial crises of the 1990s, and the establishment of most IRAs in privatized utilities/infrastructure sectors are due more to coercive pressures in the form of conditionality, the creation of competition IRAs in Turkey and most Latin American emerging economies contains a considerable degree of voluntarism by national governments that have earlier on realized the necessity of establishing effective market-supporting institutions in order to increase international

trade and attract foreign investors to their liberalized markets. In the latter cases, international coercion is supplemented, rather than replaced, by symbolic imitation.

In agreement with general arguments in regards to institutional change<sup>51</sup>, crises of various nature, such as the debt crisis of the 1980s continuing into the 1990s and the financial crises of the 1990s, have acted as catalysts for the adoption of foreign organizational forms as well as policies in emerging economies. In urgent need for lending by international financial institutions, inflow of foreign capital in the form of credits and investments, and increase in their exports, countries affected by crises often did not have the ability to significantly modify conditions that were specified by “dominant actors”. The drastic growth in the number of IRAs in debtor emerging economies in the 1990s around the time regulatory reforms including the creation of IRAs became a part of the neoliberal agenda and started to be incorporated into the IMF-sponsored programs and World Bank-supported projects as conditionality cannot be a mere coincidence.

Similarly the proliferation of IRAs in all CEE countries that sought to join the EU as soon as possible reveals the significant impact of external coercion on the diffusion of policies and organizational forms. This is not an anathema to the nature of the EU which sees itself as a diffuser of norms and practices in many issue areas. However, since there is no universal consensus on the form of regulation and the desirable degree of independence of regulatory agencies among the members of the EU, regulatory agencies created, under its watch, in CEE countries have different structures and degrees of autonomy and independence. The European Commission’s urging of all member and accession countries to establish a separate agency in charge of regulating and supervising all public procurement activities, but not going as far as demanding the creation of an “independent” agency is a case in point.

In addition to the use of “conditionality” as a coercive instrument, the imposition of soft coercion by “dominant actors” through technical assistance, training, and informal meetings and conferences also emerges as a relevant mechanism of diffusion. There is clearly an effort to spread what are considered to be “best” practices. Establishment of a

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<sup>51</sup> See, for instance, Krasner (1984).

sound regulatory framework including the creation of IRAs is among those practices. The presence of like-minded technocrats in some emerging economies do not necessarily alleviate the coercion involved as these technocrats are mostly those formerly educated and trained in the institutions of economically advanced countries that are promoting and institutionalizing these practices under the umbrella of international organizations. The involvement of these organizations in debtor countries empowers such individuals as well as domestic groups that advocate similar policy and institutional reforms not only by providing them resources, but also by framing their shared ideas as the only alternatives with authoritative claim. The latter has become much easier to accomplish after the collapse of communist economies and the Asian financial crisis that shook the foundations of the Asian developmental state.

Levi-Faur argues that even when they are clearly evident, pressures from external actors, such as the IMF, the World Bank, and the EC, “do not necessarily contradict the notion of learning”. (2003: 711) In our study, we also find some evidence that “learning” may also be a relevant mechanism of diffusion. There are those who interpret the acceleration of liberalization and privatization in some emerging economies, such as India, as the culmination of a learning process. Systematically differentiating and examining the relevance and impact of learning on the spread of IRAs in emerging markets has not been one of objectives of this paper. Yet, these are questions that deserve in-depth and detailed qualitative case studies and comparative analyses of a smaller number of countries than we have included in this exploratory paper.



## Appendix

**Table 1: Regulatory Agencies in Selected Latin American Emerging Economies  
(Economic Regulation)**

Country	Sector	Agency	Year
<b>Argentina</b>	Competition	Comisión Nacional de Defensa de la Competencia	1980
	Telecommunications	Comisión Nacional de Comunicaciones	1990
	Electricity	Ente Nacional Regulator de la Electricidad	1991
	Gas	Ente Nacional Regulator del Gas	1992
	Security and Exchange	Comisión Nacional de Valores	1968
	Financial Services	Banco Central. Superintendencia de Entidades Finacieras y Cambiarias	substantially reformed in 1992
	Water	Ente Regulator de Agua	1992
	Post services	Comisión Nacional de Comunicaciones	1992
<b>Brazil</b>	Competition	Conselho Administrativo de Defesa Econômica	substantially reformed 1994
	Telecommunications	Agência Nacional de Telecomunicações	1997
	Electricity	Agência Nacional de Energia Elctrica	1996
	Gas	Agência Nacional del Petroleo	1997
	Security and Exchange	Comissao de Valores Mobilários	substantially reformed 2002
	Water	Agencia Nacional de Aguas A	2000
<b>Chile</b>	Competition	Fiscalía Nacional Económica	substantially reformed 1980
	Telecommunications	Subsecretaria de Telecomunicaciones	1977
	Electricity	Superintendencia de Electricidad y Combustibles	1985
	Gas	Superintendencia de Electricidad y Combustibles	1985
	Security and Exchange	Superintendencia de Valores y Seguros	1980
	Financial services	Superintendencia de Bancos e Instituciones Financieras	1975
	Water	Superintendencia de Servicios Sanitarios	1990
<b>Colombia</b>	Competition	Superintendencia de Industria y Comercio	1992
	Telecommunications	Comisión de Regulación de Telecomunicaciones	1994
	Electricity	Comisión de Regulación de Energia y Gas	1994
	Gas	Comisión de Regulación de Energia y Gas	1994
	Security and exchange	Superintendencia de Valores Supervalor	1979
	Financial services	Superintendencia Bancaria Superbanca	1923
	Water	Comisión de regulación de Agua Potable y Saneamiento Básí	1994
<b>Mexico</b>	Competition	Comisión Federal de Competencia	1992
	Telecommunications	Comisión Federal de Telecomunicaciones	1995
	Electricity	Comisión Reguladora de Energia	1995
	Gas	Comisión Reguladora de Energia	1995
	Security and exchange	Comisión Nacional Bancaria y de Valores	substantially reformed 1995
	Financial services	Comisión Nacional Bancaria y de Valores	substantially reformed 1995
	Water	Comisión Nacional del Agua	1989

**Table 1 (continued): Regulatory Agencies in Selected Latin American Emerging Economies  
(Economic Regulation)**

<b>Peru</b>	Competition	Instituto Nacional de defensa de la Competencia	1992
	Telecommunications	Organismo Supervisor de Inversión Privada en Telecomunica	1993
	Electricity	Organismo Supervisor de Inversión en Energia	1996
	Gas	Organismo Supervisor de Inversión en Energia	2001
	Security and exchange	Comisión Nacional Supervisora de Empresas	substantially reformed 1992
	Financial services	Superintendencia de Banca y Seguros	substantially reformed 1981
	Water	Superintendencia Nacional de Servicios de Saneamiento	1992
<b>Venezuela</b>	Competition	Superintendencia para la Promoción y la Protección de la Libr	1992
	Telecommunications	Comisión Nacional de Telecomunicaciones	1991
	Electricity	Comisión Nacional de Energia Eléctrica	1999
	Gas	Ente Nacional del Gas	1999
	Security and exchange	Comisión Nacional de Valores	substantially reformed 1998
	Financial services	Superintendencia de Bancos y Otras Instituciones	substantially reformed 1993
	Water	Superintendencia Nacional de los Servicios de Agua	2001

Source: Jordana and Levi-Faur (2005) data set, available at <http://poli.haifa.ac.il/~levi/ralist.pdf>

**Table 2: Regulatory Agencies in Selected Asian Emerging Economies  
(Economic Regulation)**

Country	Sector	Agency	Year
<b>India</b>	Competition	Competition Commission of India	2002
	Security and Exchange	Securities and Exchange Board of India	1992
	Telecommunications	Telecom Regulatory Authority of India	1997, amended 2000
	Electricity	Central Electricity Regulatory Commission	1998, law amended 2000
	Ports	Tariff Authority for Major Ports	1997
<b>Indonesia</b>	Competition	Commission for The Supervision of Business Competition	2000
	Energy	Nuclear Energy Regulatory Agency of Indonesia	1998
	Finance	The Financial and Development Supervisory	1983
	Telecommunications	Badan Regulasi Telekomunikasi Indonesia	2004
<b>Malaysia</b>	Energy	Energy Commission	2001
	Security and Exchange	Securities Commission (SC)	1993
	Telecommunications	Malaysian Communications and Multimedia Commission	1998
<b>Philippines</b>	Security and Exchange	Philippine Securities and Exchange Commission	2000
	Energy	Energy Regulatory Commission	2001
	Telecommunications	National Telecommunications Commission	1979
<b>S. Korea</b>	Competition	Fair Trade Commission	1994
	Banking, securities, insurance	Financial Supervisory Commission (FSC)	1998
<b>Taiwan</b>	Competition	Fair Trade Commission	1992
	Banking, Securities, Insurance	Financial Supervisory Commission	2004
<b>Thailand</b>	Competition	Trade Competition Commission	1999
	Security and Exchange	Securities and Exchange Commission	1992
	Telecommunications	National Telecommunications Commission	2004
<b>PR of China</b>	Banking	China Banking Regulatory Commission	2003
	Security and Exchange	China Securities Regulatory Commission	1998
	Insurance	China Insurance Regulatory Commission	1998

**Table 3: Regulatory Agencies in CEE Countries (Economic Regulation)**

Country	Sector	Agency	Year
<b>the Czech Republic</b>	Business and commercial sectors	Office for the Protection of Competition	1996
	Electricity, gas and heat	Energy Regulatory Office	2001
	Commercial and foreign banks	Banking Supervision Department, Czech National Bank	1992
	Capital markets	Czech Securities Commission	1998
	Radio and television broadcasting	Council for Radio and Television Broadcasting	1992
	Telecommunications	Telecommunications Office	2000
<b>Hungary</b>	Competition	Hungarian Competition Authority	1990
	Electricity, gas and heat	Energy Office	1994
	All financial sectors	Hungarian Financial Supervisory Authority	2000
	Wire, radio, information technology, electronic signatures, postal services	Hungarian Communication Authority	1993
<b>Poland</b>	Competition	Office for Competition and Consumer Protection	1990
	Electricity, gas and heat	Office for Energy Regulation	1997
	Banking	General Inspectorate of Banking Supervision	1998
	Insurance sector, retirement pension funds	Insurance and Pension Funds Supervisory Office	2002
	Public finance sector	Public Procurement Office	1995
	Securities and Exchange	Securities Exchange Commission	1991
	Telecommunications and post services	Office of Telecommunications and Post Regulation	2002
<b>Slovak Republic</b>	Competition	Antimonopoly Office	2001
	Electricity, gas and heat	Regulatory Office for Network Industries	2001
	Financial sectors	Financial Market Authority (FMA)	2002
	Telecommunications	Office of Telecommunications	2000
<b>Slovenia</b>	Competition	Competition Protection Office	1994
	Electricity and gas	Energy Agency of Slovenia (ERA)	2000
	Banks, savings bank, Savings and Loan Undertakings	Banking Supervision Department (Bank of Slovenia)	1991
	Insurance	Insurance Supervision Agency	2000
	Securities and Exchange	Securities Market Agency	1994

**Table 4: Regulatory Agencies in SEE Countries (Economic Regulation)**

Country	Sector	Agency	Year
<b>Albania</b>	Electricity	Electricity Regulatory Entity	1996
	Insurance and reinsurance activities	Insurance Supervision Commission	1996
	Banking	Banking Supervision Department	1992
	Telecommunication	Telecommunication Regulatory Entity	1998
<b>FBiH</b>	Banking	Banking Agency	1996
	Telecommunication	Communications Regulatory Agency	2001
<b>Bulgaria</b>	Competition	Commission on Protection of Competition	1991
	Electricity, heating and natural gas	State Energy Regulatory Commission	1999
	Banks, including branches of foreign banks	Banking Supervision Department	1997
	Non-banking financial sector	Financial Supervision Commission	2003
	Radio and TV broadcasting	Council of Electronic Media	2001
	Telecommunications, postal services	Communications Regulation Commission	2002
<b>Croatia</b>	Competition	Agency for the Protection of Market Competition	1997
	Electricity, gas, oil and oil derivatives	Croatian Energy Regulatory Council	2002
	Securities market	Croatian Securities Commission	1996
	Telecommunications	Telecommunication Council	2002
	Radio and television	Radio and Telecommunications Council	2000
<b>Macedonia</b>	Competition	Anti-Monopoly Office & Anti-Monopoly Commission	2000
	Electricity, gas and district heating	Energy Regulatory Commission	2003
	Banking and savings institutions	Supervisory Department at the National Bank of Macedonia	1992
	Securities market	Securities & Exchange Commission	1992
	Broadcasting of State and commercial radio and TV	Council for Radio & TV Broadcast	2000
	Telecommunications network and frequency licensing	Directorate for Telecommunications	2000
<b>Moldova</b>	Energy	National Energy Regulatory Agency	1997
	Telecommunications and informaton technologies	National Regulatory Agency for Telecommunications and Informatics	2000
<b>Montenegro</b>	Capital market	Securities Commission	2002
	Telecommunication	Agency for Telecommunication	2001
<b>Romania</b>	Competition	Competition Council	1996
	Electricity	Electricity and Heat Regulatory Authority	1998
	Natural gas	Natural Gas Regulatory Authority	2000
	All operators	National Romanian Regulator of Communal Services	2002
	All capital markets and non-banking financial services agents	Romanian National Securities Commission	1994
	Electronic communications sector	General Inspectorate for Communications and Information Technology	2002
	Electronic communications, postal sectors, and public communication network	National Regulatory Authority for Communications	2002
<b>Serbia</b>	Competition	Antimonopoly Commission	1997
	Energy	Energy Regulatory Agency	2003
	Securities market	Securities Commission	1990

**Table 5: Regulatory Agencies in Turkey**

	<b>Law/ Date of Creation</b>	<b>Sectors</b>	<b>Composition and Appointment of the Board</b>	<b>Source of Income</b>	<b>Financial Oversight</b>	<b>Judicial Oversight</b>
<b>CMB (Capital Markets Board)</b>	Law 2499 / 1981	Capital Markets	-7 members -6 year term (renewable)  -Nominations by: “Related” Minister (2); Ministry of Finance (1); Minister of Industry and Trade (1); BDDK (1); TOBB (1); Union of Turkish Capital Market Intermediary Institutions (1)  -Appointed by Council of Ministers	-Special Fund: three per thousand of the issuance value of capital instruments  -General Budget (if necessary)	Minister in charge of SPK	Regional Administrative Court
<b>HBRT (The Higher Board for Radio and Television)</b>	Law 3984 / 1994	Radio and television broadcasting	-9 members -6 year term (renewable)  -Nominations by: Political Parties in Parliament (in proportion to representation – two nominees for each slot)  -Appointed by Turkish Grand National Assembly	-Annual frequency allocation fees from private radio and television companies -Five percent of advertisement revenues of private radio and television companies -Administrative fines -General Budget (if necessary)	Supreme Supervision Board (under Prime Minister)	Regional Administrative Court in Ankara

**Table 5: Regulatory Agencies in Turkey (continued)**

	<b>Law/ Date of Creation</b>	<b>Sectors</b>	<b>Composition and Appointment of the Board</b>	<b>Source of Income</b>	<b>Financial Oversight</b>	<b>Judicial Oversight</b>
<b>CA (Competition Agency)</b>	Law 4054 / 1994 (put into effect in 1997)	All Sectors	-11 members -6 year term (renewable)  -Nominations by: Competition Authority (4); Minister of Industry and Trade (2); Minister in charge of State Planning Institute (1); Court of Appeals (1); Council of State (1); Interuniversity Council (1); TOBB (Union of Turkish Chambers and Exchanges) (1)  -Appointed by Council of Ministers	-Two per thousand of registered capitals of corporations -Five percent of fines assessed by RK -Income from publications	Court of Accounts	Council of State
<b>BRSA (Banking Regulation and Supervision Agency)</b>	Law 4389 / 1999 (became effective in 2000)	Banking	-7 members -6 year term (renewable)  -Nominations by: Minister in charge of BDDK  -Appointed by Council of Ministers	-Special Fund: up to three per ten thousand of the total assets of banks (as reported in their balance sheets)	Audited by a committee appointed by the Minister in charge of BDDK and consisting of an inspector from Court of Accounts, an inspector from Ministry of Finance, and an inspector from Prime Minister's office	Regional Administrative Court

**Table 5: Regulatory Agencies in Turkey (continued)**

	<b>Law/ Date of Creation</b>	<b>Sectors</b>	<b>Composition and Appointment of the Board</b>	<b>Source of Income</b>	<b>Financial Oversight</b>	<b>Judicial Oversight</b>
<b>TA (Telecommunications Agency)</b>	Law 4502 / 2000	Telecommunication	-5 members -5 year term (renewable)  -Nominations by: Minister of Transportation (3); Minister of Industry and Trade, and TOBB (Union of Turkish Chambers and Exchanges) (1); Telecommunication Sector (1)  -Appointed by Council of Ministers	-Frequency license and usage fees -One per ten thousand of license fees - Contributions from operators -Income from publications and consulting -General Budget (if necessary)	Court of Accounts	Council of State/ Regional Administrative Court
<b>EMRA (Electricity Market Regulatory Agency)</b>	Laws 4628 and 4646 / 2001	Electricity Natural Gas	-7 members -6 year term (renewable)  -Appointed directly by Council of Ministers	-License fees -One percent of transmission fees - Contributions from up to one per thousand of annual revenues of operators in the natural gas sector	Supreme Supervision Board (under Prime Minister)	Council of State



**Table 5: Regulatory Agencies in Turkey (continued)**

	<b>Law/ Date of Creation</b>	<b>Sectors</b>	<b>Composition and Appointment of the Board</b>	<b>Source of Income</b>	<b>Financial Oversight</b>	<b>Judicial Oversight</b>
<b>SA (Sugar Agency)</b>	Law 4634 / 2001	Sugar and sweeteners	-7 members -5 year term (renewable)  -Nominations by: Minister of Industry and Trade (1); Minister of Agriculture (1); Minister in charge of Undersecretariat of Foreign Trade (1); Turkish Sugar Factories Inc. (1); Union of Turkish Sugar Beet Producer Cooperatives (1); Private Sugar Companies (2)  -Appointed by Council of Ministers	-Five per thousand of revenues from domestic sales of companies	Supreme Supervision Board (under Prime Minister)	Regional Administrative Court
<b>TTPABMRA (Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency)</b>	Law 4733 / 2002	Tobacco, Tobacco Products, and Alcoholic Beverages	-7 members -5 year term (renewable)  -Nominations by: Minister of Finance (1); Minister of Health (1); Minister of Agriculture (1); Undersecretariat of Treasury (1); Undersecretariat of Foreign Trade (1); Union of Turkish Chambers of Agriculture (1); Minister in charge of TEKEL Inc. (1)  -Appointed by Council of Ministers	-Four per thousand of revenues from tobacco products and alcoholic beverages produced (import value if imported) -License fees	Supreme Supervision Board (under Prime Minister)	

**Table 5: Regulatory Agencies in Turkey (continued)**

	<b>Law/ Date of Creation</b>	<b>Sectors</b>	<b>Composition and Appointment of the Board</b>	<b>Source of Income</b>	<b>Financial Oversight</b>	<b>Judicial Oversight</b>
<b>PPA (Public Procurement Agency)</b>	Law 4734 / 2002	All public bodies	-10 members -5 year term (nonrenewable)  -Nominations by: Minister of Finance (2); Minister of Infrastructure and Housing (3); Undersecretariat of Treasury (1); Council of State (1); Court of Accounts (1); Union of Turkish Chambers and Exchanges (1); Confederation of Turkish Employer Unions (1)  -Appointed by Council of Ministers	-Five per ten thousand of value of procurement contracts (to be collected from contractors) -Fees for filing complaints -Income from publications -General Budget (if necessary)	Court of Accounts	Regional Administrative Court

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