The Interplay Between National and International Law—

Its Economic Effects Drawing on Four New Indicators

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Abstract:

This paper analyzes whether the interplay between national and international law has effects on economic variables. Aspects dealt with include (i) the difficulty of delegating competence to international bodies, (ii) the difficulty of reversing delegation, (iii) the way international law is transformed into the domestic legal order, and (iv) the potential role of national courts. The paper investigates whether institutional arrangements corresponding with these aspects have effects on a country's risk rating, which is used as a proxy for credibility. It is hypothesized that the role attributed to international law in domestic legal orders can improve the credibility of nation-state governments. The paper is based on a new database containing information on institutional arrangements in 71 countries. This database can also be used to empirically assess the ongoing discussion of "monism vs. dualism." The difficulty-of-delegating indicator has fairly robust effects on credibility. Monist orders, however, do not confer more credibility on governments than do dualist ones.

Key words: Delegation of Competence, Credibility, Dilemma of the Strong State, International Organizations, International Law, Municipal Law, Monism, Dualism.

JEL classification: F02, F21, H11, K33, P26.

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1 Introduction

It is argued (Majone 1996, 12) that "credibility, rather than the legitimate use of coercion is now the most valuable resource of policy-makers." A state strong enough to protect private property rights and enforce private contracts is also strong enough to expropriate private wealth (e.g., Weingast 1993). Simply promising to enforce private property rights is thus not sufficient to attract make potential investors invest. States that have not yet built a reputation for sticking to their policy announcements will be especially affected. In such cases, creating domestic independent agencies often is not viewed as a credible commitment because such agencies can be abolished with relative ease. It might therefore be rational for these countries to delegate relatively more powers internationally. Levy and Spiller (1994, 210) deal with the issue of regulatory commitment and hypothesize that countries without an independent judiciary will have difficulty developing regulatory systems that attract substantial levels of private investment. In such cases, "alternative mechanisms of securing commitment (like international guarantees) will be necessary" (ibid.).

Increasing one's credibility via international delegation appears to work. A recent paper (Dreher and Voigt 2008) shows that countries that are highly integrated in the international order—in the sense of being a member of many international organizations (IOs)—do indeed have better risk ratings than countries that are not. On the basis of panel data for up to 136 countries and over the time period of 1984 to 2006, membership in IOs is significantly and robustly linked with higher levels of credibility. Deliberately reducing its discretionary leeway by subjecting some policies to internationally agreed upon standards can thus increase a government's credibility.

Taking this as the case gives rise to several follow-up questions: Does the way in which membership in international organizations is anchored in the municipal legal order have additional effects on a country's credibility? Does the importance that the municipal legal order attributes to membership in IOs convey any important signals that have effects on the perception of a country's policies for both private actors and fellow governments? It is hypothesized that the more difficult it is to delegate competence to international bodies, the more credible such delegation, *c.p.* A second hypothesis is that the more difficult it is to reverse

original delegation decisions, the more credible delegation will be. A third conjecture is that if law generated by the international community is directly applicable on the nation-state level, credibility will increase. And, finally, it is hypothesized that delegation decisions will gain further credence if nation-state courts have the power to draw on decisions of international courts in their own dicta.

These hypotheses appear intuitively plausible, but I test them empirically. Parts of this paper echo age-old discussions over whether national law and international law should be considered as one single legal order ("monism") or whether they should be considered as two different legal orders ("dualism"). This discussion has been going on for a century now. Work on this paper began with the assumption that data on countries' institutional arrangements should be readily available precisely because of this century-old discussion. To my great surprise, I discovered that this is not the case and thus began to assemble my own database. This paper hence contributes to the literature by providing a fine-grained indicator of monism and dualism. However, the scope of the paper is much broader since the monism indicator is only one out of four new indicators presented here.

The new database promises to be useful with regard to a number of other research questions. The results here presented show that the difficulty-of-delegating indicator (based on the first hypothesis) has fairly robust effects on credibility. Monist orders, however, do not confer any more credibility on governments than do dualist ones. Quite to the contrary, two single components that are part of the monism indicator show that dualism is correlated with *higher* credibility ratings although not very robustly.

The rest of the paper is structured as follows. I engage in some theorizing in the next section. Section 3 describes the single components of the database. In Section 4, I present the data in various ways. Section 5 contains a more rigorous econometric analysis; Section 6 concludes.

2 Some Theory

Ratifying an international treaty can be interpreted as a policy announcement: a government that ratifies such a treaty promises to comply with its rules. All else equal, this means that ratification of an international treaty reduces the government's discretionary leeway. Since ratifying is a voluntary act, governments that reduce their degrees of freedom by doing so must expect something in return. I have shown elsewhere (Dreher and Voigt 2008) that the

voluntary hands-tying by governments does indeed improve their credibility, which, in turn, is expected to lead to higher investment and growth.

Suppose that, *c.p.*, domestic and international delegation have identical effects on a government's credibility. In such a case, I assume that governments prefer domestic over international delegation as less sovereignty is lost, governments generally valuing sovereignty. One of the reasons for delegating power internationally is thus the insufficient credibility of domestic delegation, at least as long as the goal of the IO created by international treaty can in principle also be achieved unilaterally at home as is, for example, the case with regard to respecting property rights. The central question of this paper, then, is whether domestic law influences the credibility gains that can be reaped from ratifying international treaties? It is conjectured that the more difficult it is to delegate competence onto the international plane, the more credible such delegation will be. This might occur, for example, if a great many domestic actors must consent to delegating competence onto the international level. Formulated in terms of signaling theory (Spence 1974), the necessity of obtaining the consent of a great many domestic actors makes announcing a country's adherence to internationally agreed upon standards costly, which makes the signal valuable. Such a situation is somewhat paradoxical, however: international delegation is chosen because domestic delegation is not sufficiently credible, yet the domestic legal order has at least some impact on the credibility-enhancing effects of international delegation. The paradox can also be described in terms of principal-agent theory: member states are the principals, who create an agent—the IO. Henceforth, this agent is to monitor the principal's compliance with the rules agreed upon. One could even go so far as to call this a Münchhausen paradox, reflecting a story Baron Münchhausen told of finding himself in dangerously deep water one day, from which he extricated himself by pulling his own hair.

For more than a century, international law scholars have been debating the "monism vs. dualism" issue. Essentially, the debate revolves around whether domestic and international law form one or two legal orders and how international law is transformed into domestic law. According to the monist notion, both domestic and international law form one unitary legal order. In the case that domestic law conflicts with international law, there are two pure ways of resolving such conflicts within the monist approach: to declare the supremacy of domestic over international law or to declare the supremacy of international over domestic law. According to the dualist tradition, however, domestic and international law are two separate and nonoverlapping legal orders: conflicts are thus impossible.

Many legal textbooks claim that the distinction between monism and dualism has become blurred and is of little factual relevance today. Nevertheless, all introductory texts to international law deal extensively with the distinction.[1] Cassese (2001, Chapter 8) refers to the distinction as different conceptions, different approaches, different theories, and different doctrines. The term "theory" appears to be used in the sense of "a particular conception or view of something" and not as "a coherent group of general propositions used as principles of explanation for a class of phenomena." These competing theories do not purport to offer any general explanations concerning the relationship between municipal and international law; rather, they reflect different convictions of how the relationship between municipal and international law *should* be structured. They are thus not positive, but normative. As international law usually does not contain any instructions as to how it should be implemented domestically, governments can choose whether their country will follow the monist or the dualist approach, that is, they can choose how their country deals with international law.

I now develop a number of hypotheses on possible effects of different institutional arrangements with regard to the implementation of international law in domestic legal orders.

(1) Difficulty to delegate powers internationally

National legal orders involve many and various steps that must be taken before powers can be delegated internationally. It is hypothesized that the more difficult it is to delegate powers, the more credible will be the country that delegates. If delegation can be accomplished at the whim of just one central politician, it is not costly and thus does not send a signal that the country is serious about delegating some decision-making power. If, on the other hand, powers are delegated only after parliamentary super-majorities are obtained, none of a potentially high number of actors vetoes the delegation, etc., delegation is costly and a government incurring those costs sends a signal that it is serious about delegation.

How to measure the "seriousness" of delegating powers internationally? To create international law, a number of steps need to be taken, e.g., negotiating the contents of the treaty, its phrasing, signing, and domestic ratification. The more actors that are involved domestically before an agreement becomes binding, the more difficult it is to have it ratified domestically. One measure of difficulty thus consists in counting the number of players whose consent is necessary for

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[1] Examples are Brownlie (2003, Chapter 2), Cassese (2001, Chapter 8), and Shaw (1997, Chapter 4).

domestic ratification. Usually, this will be (a representative of) the executive, the legislature, and, often, some figurehead. However, it is also possible that the judiciary has to confirm the constitutionality of the agreement or that the population at large has to indicate its agreement by way of a referendum.

(2) Difficulty of reversing internationally delegated powers

It is conceivable that playing by the rules of international law can be costly for a government, making exit from previously ratified treaties attractive.[2] If international delegation of powers can be reversed at low or even no cost, delegation will not increase credibility in the first place. Only if a government will incur substantial costs in "renationalizing" a policy can the delegation decision be interpreted as a credible commitment and hence increase government credibility. Some constitutions have a sort of "ratchet-effect" that makes it very difficult to reverse delegation decisions. I would expect this type of constitutional provision to signal a country's earnestness regarding international delegation of power.

(3) Monist vs. Dualist Legal Order

Monist legal orders, in which international law takes primacy over national law, are another indicator of the earnestness with which competence is delegated onto the international level. As mentioned above, there is a century-long debate among legal scholars concerning these two views, which is why it seems relevant to look at a variety of aspects that can all be subsumed under this heading. The following aspects are hypothesized to have an impact on the credibility of delegating powers internationally:

- Traditional dualism is based on the assumption that two legal orders can exist side by side without one having an influence on the other. Given that a state has ratified an international treaty and that the domestic legal order is not entirely compatible with international law, a provision in the constitution specifying that international law has supremacy over ordinary domestic or even domestic constitutional law is conjectured to be a signal indicating a country's willingness to play by the international rules even if doing so makes changes in the national legal order necessary.
- It is hypothesized that municipal legal orders that give direct effect to international law will be attributed higher credibility than legal orders that

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[2] See Helfer (2005) for the first systematic treatment of exit from international treaties. He counts 1,440 instances of exit between 1945 and 2004.

do not. Of course, provisions giving international law direct effect domestically make one-by-one transformation of newly created international law superfluous. Such provisions can thus be interpreted as a signal that domestic policymakers will refrain from trying to influence the transformation.

- International law also evolves by precedent. It is hypothesized that municipal legal orders that provide for the immediate integration of international law precedent will have a higher level of credibility than legal orders that do not. Again, such a provision can be interpreted as a signal that domestic governments will refrain from trying to influence international developments by transforming them only partially, somewhat modifying them, and so forth.
- Legal scholars distinguish between two mechanisms of implementing international law in the domestic legal order, namely: (i) adoption, according to which international law becomes directly applicable within the national legal order but retains its character as international law,[3] or (ii) transformation, according to which a transformer transforms international law into national law. One can further distinguish between general transformation (international law is transformed en bloc) and specific transformation (specific laws are transformed). It is conjectured that delegation of competence to international bodies is most credible if international law is "adopted" and least credible if it is transformed specifically.

(4) Role of domestic courts in implementing international law

It is hypothesized that domestic courts being substantially influential in the implementation of international law will enhance credibility of the delegation of competence to international bodies. This hypothesis is based on the assumption that judges are immune from the direct influence of governments.[4] The following is a list of several aspects useful in evaluating the role of the judiciary:

- The ability of the domestic constitutional/supreme court to overturn domestic laws because they are not in conformity with international law is conjectured to add credibility to the delegation onto the international level.

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3 Sometimes, the execution mechanism is distinguished from adoption. Yet, the effects are very similar, which is why they are counted as one mechanism here.

4 Since, empirically, this is not always the case, the actually realized degree of judicial independence will need to be controlled for in the empirical assessment.

- Given that the highest domestic court has the competence just described, it is further investigated whether this competence is constrained to *ex ante* review (i.e., review can take place only before domestic legislation has been passed that transforms international into domestic law) or whether it can also be used *ex post*. The conjecture is, of course, that the broader the competence of the court, the more credible the delegation.
- The highest domestic court's power to apply international law—even if such has not been formally adopted or transformed by any other actor—is expected to enhance the credibility of government commitments announced by ratifying international conventions.
- Lastly, the perception of the delegation of competence to the international level in domestic courts could be of interest. Here, I hypothesize that if the delegation of competence is seen as a genuine renunciation of certain sovereign rights, it should be accompanied by higher credibility gains than if membership is simply viewed as a promise not to exercise those rights for the time being.

These four hypotheses as to the possible consequences that the legal institutions used to delegate competence internationally could have on a country's credibility can be summarized as follows:

(1) The difficulty-of-delegation hypothesis: The more difficult it is to delegate powers from the national to the international level, the higher the ensuing credibility;
(2) The difficulty-of-reversion hypothesis: The more difficult it is to reverse the original delegation decision, the higher the ensuing credibility;
(3) The monist-order hypothesis: Monist legal orders that give international law primacy over national law will, *c.p.*, achieve higher credibility gains than that given to the ratification of international treaties by countries with a dualist legal order (or even a monist one attributing primacy to municipal law);
(4) The national-court hypothesis: The more power nation-state courts have to draw on international law, the higher the ensuing credibility.

I now describe my method of empirically testing these hypotheses.

3 Making Integration-Earnestness Measurable

Since data on the four aspects just described were not readily available, a questionnaire covering these aspects was developed and sent to experts in

international law.[5] Because I was interested in comparable data, a radical reduction in complexity was necessary, which means that many of the intricacies discussed by international lawyers are lost. For example, issues of timing and sequence are not explicitly dealt with. The questionnaire aimed at collecting objective data and not subjective evaluations. Many times, I requested the legal provisions (statutes, constitutional provisions, etc.) on which the answer was based and thus was able to check the accuracy of the expert's interpretation.

All four hypotheses can be boiled down to the idea of whether the country is sincere (or earnest) when delegating competence. One indicator is created for every hypothesis. All four indicators are comprised of a number of variables, detailed below. The coding scheme for all variables is very simple: if the institutional device is expected to secure a high level of "integration-earnestness," it is coded 1; if it is expected to secure a low level only, it is coded 0. Many variables allowed more than two options. Lacking a convincing theory regarding the differential effects of intermediate institutional devices, I chose to make them equidistant from each other. Thus, for example, if four solutions are possible, the scores would be 0, 1/3, 2/3, and 1. The aggregation of the single variables into the four indicators follows exactly the same logic: for lack of a convincing theory, no variable is assumed to be more (or less) important than any other variable. All variables in one indicator thus receive the same weight. However, this does not exclude the possibility that the results are driven by single variables only. To control for that possibility, I rerun all regressions based on single variables (instead of indicators). All four indicators are based on a number of variables. To normalize the results, the codings for the individual variables were summed and then divided by the number of variables, resulting in every indicator having a value between 0 and 1.[6]

I now describe how the four hypotheses are operationalized. The *difficulty-of-delegation* hypothesis posits that the more difficult it is to delegate power from the national to the international level, the higher the ensuing credibility. To

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5 A copy of the questionnaire can be found in the Appendix. Note that the version set out in the Appendix also contains the coding used to make the information comparable; this coding was NOT contained in the questionnaire sent to the experts. For many countries, we received more than one questionnaire, which enabled me to double-check the consistency of the answers.

6 Alternatively, one could simply let the data speak and run principal components analysis. We refrain from doing so for two reasons. First, as soon as one single variable is missing, we have to drop the entire country, thus losing quite a few observations. Second, it is often difficult to give a sensible substantial interpretation to the resulting factors.

operationalize this, it was first asked how many organs of the nation-state had to explicitly consent to an international treaty. More specifically, it was asked whether the head of the executive, the head of the legislature, the (formal) head of state, the judiciary, or the population at large need to agree for domestic ratification to be valid (the possibility that an additional organ not explicitly mentioned would need to agree is covered by the option "others, namely …"). The higher the number of players whose consent is needed, the more difficult to ratify a treaty and the higher the coding. It was next inquired whether the legislature consisted of one or more chambers and what majorities were needed in the respective chambers to ratify an international treaty (Questions 2 and 3). The answers to both questions were synthesized; a country with a single chamber and the need for a simple majority scored the lowest score and a country with two chambers and a majority of at least four-fifths in both houses scored 1.[7]

The *difficulty-of-reversion* hypothesis posits that the more difficult it is to reverse the original delegation decision, the higher the ensuing credibility. To empirically test this hypothesis, it was asked on what legal plane reversal of the original ratification can occur (i.e., the constitution, ordinary law, or precedent). The higher the legal level, the higher the coding. It was further asked whether reversal is easier than original ratification (coded 0), as difficult as the original ratification (0.5), or more difficult (1; Question 5).

The *monist-order* hypothesis conjectures that states adhering to the monist notion and declaring international law to be supreme over national law should gain most with regard to credibility. Countries in which international law has supremacy over domestic constitutional law in case of a conflict between the two were coded 1, countries in which international law has supremacy over ordinary domestic law 0.5, and countries in which domestic constitutional law trumps international law 0. A great many other aspects appear relevant in ascertaining the relationship between municipal and international law; some of them, as listed below, are explicitly recognized in the dataset:

- Does the constitution contain norms that require the conformity of national with international law? (1 if "yes"; 0 if "no").
- Does the constitution specify procedures for safeguarding the uniformity between national and international law? (1 if "yes"; 0 if "no").

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7 Combination of the two answers leads to a matrix with 20 cells. The coding of each of these cells is documented in Appendix 1.

- Does the constitution contain an article that provides for the direct effect of international law in the national legal order? (1 if "yes"; 0 if "no").
- Is interpretation of international law by international courts viewed as a genuine part of international law? (1 if "yes"; 0 if "no").
- How is international law implemented in the national legal order? (1 if by "adoption"; 0.5 if by "transformation en bloc"; and 0 if by specific transformation).
- Is delegation equivalent to a renunciation of certain sovereign rights (1) or is it simply a promise not to exercise those rights? (0).

The *national-court* hypothesis deals with the role of domestic courts in applying international law. Specifically, the more competence nation-state courts have in drawing on international law, the higher the ensuing credibility. To make this hypothesis tractable for empirical testing, I investigated whether the national constitutional/supreme court has the competence to overturn domestic laws in the case where they do not conform with international law (1 if "yes"; 0 if "no"). This coding is based on the assumption that a court that has such competence is engaged in monitoring compliance of nation-state legislation with international law. Traditionally, international law is the law of nations and has little do with individuals. However, this interpretation changes as soon as domestic courts have the competence to draw on international law in ascertaining the conformity of municipal law with international law: if individuals have standing in supreme national courts, they have been turned into watchdogs over international law. To evaluate the force of this competence more precisely, it was asked whether this competence was constrained to *ex ante* review, i.e., review must take place before domestic legislation is passed, or whether it can also be used *ex post* (0 if constrained to *ex ante*; 1 if it can also be used *ex post*). Yet another aspect is the question of whether the national constitutional/supreme court has the power to apply international law even if such has not been explicitly transformed by the legislature (1 if "yes"; 0 if "no"). This competence is conjectured to strengthen the bite of international law and its existence should therefore increase a country's credibility.[8]

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[8] It could be argued that this is likely to increase a country's credibility only if its judges are favorable to international law and that such a situation may be unlikely due to political economy considerations: the more competences that are delegated to the international level, the less competences remain on the nation-state level. By being favorable to international law, nation-state judges would thus indirectly reduce their own domain of competence, which would violate the

These are the indicators that are used to test whether the way in which international law is transformed and applied in domestic legal orders has any effect on a country's credibility. The dataset here presented makes possible at least two things, namely: (1) checking whether countries can be grouped as unequivocally monist or dualist; and (2) checking whether the empirically ascertained approaches toward the transformation of international law in domestic legal orders have any significant effect on a number of economically relevant variables. Results are available for 56 countries.

4 Taking Stock: The Interplay Between National and International Legal Orders

4.1 Introductory Remarks

This section presents the four new indicators on the basis of the variables described in the last section. First, several results are simply highlighted and contrasted with the conventional wisdom found in textbooks of international law. Second, the relationship of the four new indicators with other variables of interest, such as the degree of democracy, the domestic degree of separation of powers, and whether the country finds itself in transition, are explored.

4.2 Data Description

The variables described in the previous section represent the four hypotheses described in Section 2. Based on these variables, four indicators intended to mirror one hypothesis each were constructed. The correlation matrix displays the partial correlation coefficients among the four indicators.[9]

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rational actor assumption. Yet, as long as it cannot be excluded that some courts are friendly to international law some of the time, the national-court hypothesis might have an effect.

[9] In the correlation matrix displayed here (as well as in Appendix 2, which contains the values of all indicators used here), the "difficulty-of-delegation" hypothesis is shortened to "delegation," the "difficulty-of-reversal" hypothesis to "reversal," the various aspects used to ascertain where a country should be grouped on the monism/dualism scale to "monism," and the degree to which domestic courts can apply international law to "courts."

Table 1: Correlation Matrix of the Four Indicators

	Delegation	Reversal	Monism	Courts
Delegation	1			
Reversal	-0.228(*)	1		
Monism	0.108	0.017	1	
Courts	-0.084	0.165	0.130	1

It is noteworthy that all indicators appear basically uncorrelated with each other, meaning that domestic legal systems are not constructed in ways that give international law an important place with regard to all four areas. On the other hand, it also means that domestic legal systems are not constructed in ways that have a systematic bias against all forms of international delegation.[10]

Prior to confronting my indicators with other variables of interest, I use the dataset to test some of the conventional wisdom found in many textbooks on international law. Although some of these texts speak of "surveys" regarding the implementation of international law into municipal legal orders, they usually present an informal overview of a few relevant laws rather than a truly data-driven analysis (see, e.g., Cassese 2001, 170). Instead of scrupulously checking a variety of textbooks, I rely here on just one, namely, that by Cassese, and take it to be representative of the rest.

The distinction between monism and dualism has received much attention from scholars of international law. Let us therefore begin by describing the institutional traits that a country completely following the monist approach should display. The core characteristics of the monist approach attributing primacy to international law are documented in the answers to Questions 6 and 7. Question 6 asks whether a country has traditionally followed the monist approach. Of all 71 countries in the survey, 23 claim to have done so. Question 7 inquires into whether international law has supremacy over domestic constitutional law (which should usually include supremacy over ordinary domestic law). Hence the combinations 6a and 7b (monist approach and international law supreme over domestic constitutional law) as well as 6a and 7b+c (monist approach and international law supreme over both domestic constitutional and ordinary law) constitute monist orders. The combination of 6a and 7c was considered insufficient to qualify as monist with primacy to international law since constitutional changes could always trump international law. Within my sample of 71 countries, only four

[10] Due to the low correlations among the four indicators, we refrain from constructing an overall "integration-earnestness" indicator comprising all four indicators.

qualify, namely, Moldova (6a and 7b), and Belgium, Macedonia, and the United States (6a and 7b+c).

A country completely following the monist approach is conjectured to have a constitution that provides for the direct effect of international law in the national legal order (Variable 10). Among the entire sample (and to my surprise), 36 countries, i.e., half the countries surveyed, have such constitutional provisions. Yet, among the four countries following the monist approach, only Moldova and Macedonia have such a provision. A completely monist country can further be expected to endow its domestic court with the competence to overturn domestic constitutional law if it does not conform with international law (Variable 14). Seven out of 65 countries have endowed their courts with that competence. Among my four candidates for "most monist legal order," though, only Moldova has. Finally, a completely monist country can be expected to endow its highest domestic court with the competence to apply international law directly (Variable 16): 61 out of 68 countries have done so, among them all four monist countries here under consideration. According to these criteria, Moldova has the most monist legal order among the countries for which data are available. What is more important, this exercise shows that institutional diversity is very high indeed and that the monist-dualist dichotomy is not fine grained enough to grasp at least some of that diversity.

I now turn to some other conjectures frequently discussed in international law textbooks. Cassese (2001, 170) argues that states that have a flexible constitution have only one way of giving international law overriding importance within the domestic realm, namely, by entrenching international law, and continues: "Such a course of action, however, does not seem to have occurred so far in those States which have a flexible constitution." Due to my dataset, I no longer have to guess about this. First, the term "flexible constitution" needs to be defined. A constitution can be called flexible if parliament can amend it using the same majorities necessary for passing ordinary legislation; such a delineation would include countries that do not have a written constitution, such as the United Kingdom and New Zealand. In addition to these two countries, other countries in my sample that have flexible constitutions according to this definition are Kazakhstan, Nicaragua, Sweden, and Uruguay. None of these countries, however, gives international law a role superior to domestic law (either constitutional or ordinary; Variable 7). Cassese's presupposition is thus confirmed by my data.

Cassese (2001, 171) further draws attention to the fact that delegation of competence to international organizations can affect the relationship between the

executive and the legislature. He claims that in states where the executive makes treaties without parliamentary consent, the intervention of parliament is "always required for the treaty to be transformed into national legislation." This claim can be empirically tested by drawing on information contained in my dataset. Ratification of a multilateral treaty is covered by Variable 1. The case Cassese has in mind is when the head of the executive and not the legislature needs to consent explicitly. Among the countries covered in the dataset, six fit this description—Australia, Canada, Israel, New Zealand, Singapore, and the United Kingdom. All six belong to the common law tradition. Given this allocation of competence concerning the ratification of a treaty, Cassese expects that the legislature will have some say before the treaty is transformed into national law. Two variables in my dataset can be used to test this hypothesis. The first one is that the constitution should *not* contain an article providing for the direct effect of international law, which is dealt with in Variable 10. This is indeed not the case with regard to any of the six countries under consideration. Again, Cassese's claim is supported by the data.

Given that the executive can ratify treaties without the explicit consent of parliament, Cassese further expects that action by parliament will be required for the transformation into national law. This can be tested by drawing on Variable 12 of the dataset. I interpret the hypothesis to mean that there will neither be adoption (a) nor *en bloc* transformation of international law (b, i), but specific (i.e., piece-by-piece) transformation of international law (b, ii). This is indeed the case in all six countries covered. Cassese's claim is, again, supported by the data.

4.3 Bivariate Correlations with Other Variables of Interest

I now investigate how "integration earnestness" is correlated with other variables based on a number of theoretical conjectures. Since it cannot be excluded that only some aspects of "integration earnestness" are correlated with other variables, I provide the correlations with all four indicators. All in all, correlations are rather low (see Table 2):

(1) Three indicators proxying for the degree of a country's membership in international organizations are used (these are described in detail in Dreher and Voigt 2008). The first (INTDEL 1) simply contains the number of IOs that a country belonged to in 2003. Since INTDEL 1 accounts for neither the specific content of the rules nor for the question of whether the organization operates globally or only locally, INTDEL 2 recognizes only IOs with a global reach in which the security of property rights plays at least a minimal role and

degrees of membership are possible.[11] INTDEL 3 starts from INTDEL 2 but weighs membership according to the number of years that a country has been a member. This is based on the conjecture that credibility could also be a function of time. A former study (Dreher and Voigt 2008) shows that higher degrees of membership in IOs are indeed correlated with higher degrees of credibility.

(2) The relationship between the degree of international delegation and "integration earnestness" is conjectured to involve a tradeoff: the more earnest the domestic legal system promises to be with regard to international law, the more expensive the delegation of competence to international organizations. This should lead, in turn, to a lower propensity to delegate competence in the first place.[12] This idea implies that the difficulty-of-delegation indicator should have a negative sign when correlated with the three indicators of international delegation. In all three cases, however, the sign is positive; indeed, with regard to the first indicator of international delegation, the correlation is rather high.

Table 2: Correlation Matrix Between the Four Indicators and Other Variables

	Difficulty of Delegation	Difficulty of Reversal	Monism	Courts
International Delegation I	0.292*	-0.250*	-0.036	0.009
Int Del. II	0.066	0.040	0.167	0.182
Int Del. III	0.199	-0.145	-0.220	0.055
Age Democracy	-0.038	-0.257	-0.259	0.090
Date Constitution	-0.115	0.230	0.199	-0.052
Transition	-0.213	0.027	0.333**	0.018
De Facto JI	0.025	-0.209	-0.006	-0.119
Common Law	-0.046	-0.262*	-0.406**	0.128
Brit. Colony	-0.092	-0.080	-0.355**	-0.137
Democracy	-0.01	-0.157	0.172	0.382**

* 5%, ** 1% significant.

Regarding the difficulty of reversal, backward induction would lead us to expect high reversal costs to be correlated with low degrees of membership

11 States can, e.g., not only be a member of the WTO but the number of commitments they entered into within the framework of GATS can, and does, vary significantly. This variance is what is meant by "degrees of membership."

12 Whether countries with a high degree of international delegation AND a high degree of integration earnestness can reap additional benefits in terms of increased credibility will be investigated in the next section.

in IOs. This is, indeed, the case with regard to the first and third measures of membership, but only insignificantly so with regard to the third measure.

Similarly, the choice of a dualist (or a monist) domestic legal order can be expected to have repercussions on the degree of international delegation. As dualism perceives the domestic and the international legal order as conceptually distinct, participation in the international legal order is not viewed as abdicating competences on the national level. The other side of the coin would be a monist order providing for supremacy of international over domestic law. Here, membership in IOs has a potentially high price and is thus less likely to occur. The correlation matrix shows that this conjecture appears to be correct with regard to the third indicator of international delegation.

(2) Newly independent states will be more likely to face a credibility problem than will long-established regimes. It is thus straightforward to assume that these states strive for recognition and attempt to send signals concerning their credibility—provided that these signals are not too costly. Signals regarding domestic integration earnestness have the further advantage that they can be unilaterally emitted. It would thus seem that the more recent a country's independence, the higher the degree of integration earnestness. The correlation matrix shows that there is a negative correlation between the age of a democracy (the United States, which has been a democracy since 1787, is normalized to "1" here) and the difficulty-of-reversal as well as the monism indicator.

Looking at the four indicators, it appears that young democracies attempt to signal their integration earnestness by establishing a monist legal order, an impression reinforced by the strong positive correlation between transition countries (i.e., countries in dire need of establishing credibility) and the monism indicator. On the other hand, domestic courts do not seem to serve that function, as evidenced by the almost perfect noncorrelation with the transition dummy.

(3) According to Cassese (2001, 165), Kelsen's theory of monism (1945, 1952), had a significant ideological impact despite its inconsistencies and practical pitfalls. Kelsen developed his theory in the interwar period. If Kelsen's theory did indeed lead to an emphasis on the importance of international law, it gives rise to another reason to expect that younger regimes will display a higher degree of integration earnestness, particularly regarding the monism-dualism distinction. The date of the current constitution (simply coded as the year when it went into effect) and integration earnestness are indeed positively correlated (0.23 with regard to reversal; 0.20 with regard

to monism), just as predicted. It is noteworthy that the correlation coefficient with the other integration earnestness indicators are much smaller and even negative.

(4) The number of veto players has been discussed in a number of publications (e.g., Tsebelis 2002, “checks” in Table 2). Usually, this variable is used as a proxy for the difficulty of passing new legislation: the higher the number of actors that have to agree to new legislation, the more difficult it will be to have it passed. A high number of veto players can thus be assumed to increase policy stability, which entails the downside that adjustment to exogenous shocks occurs slowly. Two competing conjectures regarding the relationship between the number of veto players and integration earnestness can be advanced: on the one hand, it seems consistent to assume that constitutional systems previewing a high degree of separation of powers internally should, following the same logic, also display a high degree with regard to international law (this would especially hold true for the first indicator). Additionally, if a high number of veto players is intended to convey the message that a country is serious about the separation of powers, it is hard to see why it should stop short of trying to send that signal with regard to the domestic handling of international law. On the other hand, one could also argue that if the number of domestic veto points is already high, the additional returns from a high degree of integration earnestness would be marginal. The results show that the correlation between the degree of checks and my various indicators is rather low.

(5) Very similar arguments can be applied with regard to the relationship between judicial independence—both formal and factual—and integration earnestness because judicial independence can also be interpreted as one component of the separation of powers. The correlation matrix shows, however, that there is almost no correlation between the two variables.

(6) One of the most important traits of legal systems is whether they belong to the common or the civil law family. In common law systems, judges’ influence in discovering—and developing—law is higher than it is in civil law countries. One could thus expect that constitution-makers in such countries would be hesitant to establish monism as this would increase the influence of judges. The negative correlation between common law countries (as well as former British colonies, which are almost always common law systems) and monism is the strongest among all correlations here reported. This is also interesting with regard to the potential problem of endogeneity of the four delegation indicators analyzed here. To the extent that one supposes common law and having been a British colony as

exogenously given, however, endogeneity does not seem to be too problematic.[13]

(7) Finally, democracies seem to have fewer problems with endowing their judges with the competence to apply international law directly, as attested to by the correlation of 0.382.

In sum, Section 4 reveals three things of interest: (1) the correlation between the four indicators here introduced is rather low; (2) many of the hypotheses put forth by international law scholars are in accord with the data introduced here; and (3) correlations between the four indicators and other variables of interest are, at least on average, rather low. On the other hand, some theoretical priors are confirmed by the data.

5 Econometric Analysis

The question I am interested in is whether the way in which international law is dealt with in domestic law has any significant impact on the credibility of policy announcements made by nation-state governments. Ratification of an international treaty is here interpreted as a policy announcement in the sense that the government promises to play by the rules of that treaty. I thus need a good proxy for the "credibility of policy announcements," which would be the endogenous variable.

Two possibilities for this proxy immediately suggest themselves, namely: (i) the variance in interest rates among countries and (ii) the level of investment, measured either as total private investment or as foreign direct investment. Both are objective indicators. The credibility of government promises should also be reflected in subjective indicators such as (i) the perceived security of property rights and (ii) the creditworthiness scores assigned by various risk firms. The use of both subjective and objective indicators has advantages and disadvantages. The objective indicators have the advantage of reflecting real decisions (e.g., as to where to invest) and not merely personal evaluations that may not be followed by action. The subjective construction of credit ratings has the additional advantage of implicitly controlling for a number of factors that might influence a country's

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[13] On the other hand, the fairly high correlation with the age of democracy, the date when the constitution was passed, as well as a dummy variable for transition countries could indicate that there is a problem of endogeneity. Yet, none of these correlations is as high as those with the common law and the British colony dummies.

capacity to repay a large debt but that would be very difficult to control for using objective controls (Keefer and Knack 2003).[14]

In this study, I use a modified version of the country risk ratings produced by Euromoney. Literally, these country risk ratings proxy for the likelihood that a government will pay back its loans on time. I propose to interpret the rating more widely. Taking out a loan is based on a contract and always contains a promise to pay it back under specified circumstances. Country risk ratings can, hence, also be interpreted as the subjective evaluation of how credible a government's promise is to pay back its loans. In theory, it could be the case that government promises in one policy area (say, environmental policy) are much more credible than in another policy area (say, disarmament issues). Here, I assume, however, that the credibility attributed to countries by risk agencies with regard to the promise of paying back loans is a good indicator for the credibility of government promises generally.

Euromoney's risk ratings are based on the views of experts and heads of syndication and loans entities, as well as on data from the World Bank, forfeiting houses, and credit rating agencies. To obtain the overall country risk score, Euromoney assigns a weighting to nine categories. These are political risk (25% weighting), economic performance (25%), debt indicators (10%), debt in default or rescheduled (10%), credit ratings (10%), access to bank finance (5%), access to short-term finance (5%), access to capital markets (5%), and discount on forfeiting (5%). I use a modified version of the indicator as some of the components included in Euromoney's risk ratings seem to belong on the right-hand side of the equation because they *explain* country risk. Good economic performance should, for example, lead to an improvement in the risk rating. The components used here are: (i) *political risk*, which comprises the risk of

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14 With regard to creditworthiness ratings, Keefer and Knack (2003, 173) cite a study by Feder and Ross (1982) who show that out of a sample of 78 Euromarket loans for 34 countries, the interest rate spread was strongly and inversely correlated with the creditworthiness ratings, controlling for maturity and length of the grace period. They (ibid.) also cite a study published by the U.S. General Accounting Office in 1994 that found the creditworthiness indicator similarly strongly related to the discount on 38 sovereign debt instruments, owed by 21 countries, which were traded on secondary markets. Keefer and Knack draw on a different creditworthiness rating than the one we use, but it is very highly correlated with the one used here. The indicator provided by Euromoney has the advantage over similar indicators that Euromoney explicitly provides the data for the single components out of which the indicator is created, which allows me to modify it according to my research aims.

nonpayment or nonservicing of payment for goods or services, loans, trade-related finance and dividends, and the nonrepatriation of capital that is evaluated by the risk analysts; it thus reflects the perceived probability of governments breaking some of their promises; (ii) the *credit ratings* assigned to sovereigns by Moody's, S&P, and Fitch IBCA; and (iii) the *discount on forfeiting*, reflecting the average maximum tenor for forfeiting and the average spread over riskless countries such as the United States.[15]

In all three categories, higher values mean higher credibility. For simplicity, the maximum scores for the single components introduced by Euromoney are not changed, which means that countries can score a maximum of 40 (= 25 + 10 + 5) points. For this study, the country risk data for March 2003 were used. I estimate the following model:

$$\text{Risk Rating}_i = \beta_0 + \beta_1 M_i + \beta_2 \text{INTDEL}_i + \beta_3 \text{EARNEST}_i + \beta_4 Z_i + \varepsilon_i \quad (1)$$

M is a vector of standard variables explaining the variation of credibility scores across countries. To date, no canonical model has emerged out of extreme bounds analysis or the like. I include three variables in the M vector. (1) GDPCAP, which indicates per capita income (here in log form for the year 2000). This is included because it has been significant for explaining differences in country risk ratings in former studies. It seems plausible that countries that have managed to realize a high level of per capita income have done so at least partially by keeping their promises, which, in turn, should secure them a higher level of credibility. (2) It cannot be excluded that the economy of a country with a high per capita income stagnates or even shrinks over a certain period. This could be connected with a higher time preference and, in turn, with a higher likelihood of reneging on promises, which would result in less credibility. This is why I use the growth rate over the period 1990–2000 as my second variable. (3) International trade is likely to be most affected if governments renege on their promises (at least as long as alternative sources/outlets exist). Inversely, if we observe a high level of international trade, we can assume that the government has kept its promises in the past, which reflects the share of exports plus imports of GDP averaged over the period 1990–2000.[16]

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15 The partial correlation between the original version and my modified version is very high (r = 0.964).

16 I thank an anonymous referee for suggesting the inclusion of international trade.

"INTDEL" is a variable that measures the degree to which a country has delegated competence internationally. The three versions of this variable are described in Section 4.3.

Here, we are interested in the question of whether a high degree of "integration earnestness" can further improve a country's risk ratings. "EARNEST" can be any of the four indicators developed above. "Z" is a vector of control variables intended to ensure that it is not omitted variables that are responsible for high levels of significance; these variables thus test the robustness of my results. In particular, a number of domestic institutions could be important determinants of a country's credibility. The NGO Freedom House has ranked most countries with regard to both their degree of political rights as well as the civil liberties accorded to citizens. To save on degrees of freedom, I take the mean of the two indicators, rescaled such that higher numbers reflect higher degrees of freedom. Inglehart and Welzel (2005, 193) argue that the indicator neglects the actual implementation of these rights and should actually be interpreted as a *de jure* indicator.[17] To obtain an "effective" indicator, they propose multiplying the Freedom House scores by the "control of corruption" indicator provided by the World Bank (Kaufmann et al. 2003) based on the notion that high degrees of corruption signal that it is not formal rules that count but the discretionary power of the elite. After rescaling the control of corruption indicator, I multiply the variables such that the product can take on every value between 0 (worst) and 100 (best). I call this indicator "*de facto* rule of law." The Scandinavian countries, followed by New Zealand, the Netherlands, and Canada, score best, whereas Cuba, Syria, and Vietnam score worst. The indicator is based on data from 2000. The incorporation of three single variables into just one has the additional advantage of saving degrees of freedom. Two other domestic factors could also be determinants of a country's credibility: (2) the number of checks on the legislature (according to data provided by Beck et al. 2001), following the logic described in section 4.3, and (3) democratic regimes may enjoy higher credibility than autocratic ones. This latter is controlled for by drawing on the Polity IV indicator (Marshall and Jaggers 2004), which codes countries between –10 (perfect autocracy) to +10 (perfect democracy).[18]

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17 They point out, e.g., that Latvia, Lithuania, Slovakia, and South Africa all receive the same score as Germany, Great Britain, Spain, and Belgium.

18 I also controlled for the development assistance received per capita in the year 2000 on the assumption that countries that heavily depend on foreign aid might simply lack the means to keep their promises, which should, in turn, result in low levels of credibility. The results show that this variable always has the expected negative sign but that the variable is never significant in

The empirical strategy closely follows the underlying model. First, the baseline regressions are performed, adding one of the four indicators in turn. In a second step, the robustness of these results to outliers is checked. In a third step, the four indicators are differentiated into their single components. Here, I report only a fraction of all robustness tests performed. The cross-section analysis is performed by drawing on ordinary least squares, while inference is based on *t*-statistics computed on the basis of White heteroscedasticity-consistent standard errors.

Table 3 contains some baseline regressions and estimates the effects of my first indicator that focuses on the difficulty of delegation. The M vector, together with one of the delegation measures, already "explains" close to 80% of the variation in credibility. My hypothesis is that the inclusion of the difficulty-of-delegation indicator should further improve this result and such is indeed the case. Even after the complete Z vector is added, the difficulty-of-delegation indicator remains significant at the 1% level. Assuming a coefficient of 12 for the difficulty-of-delegation indicator, a one standard deviation improvement in this indicator is predicted to increase the country's credibility rating by 1.3 points (equivalent to one-tenth of a standard deviation; descriptive statistics are reported in Appendix 3).[19]

- TABLE 3 AROUND HERE -

The other three indicators ("cost-of-reversal," "monism," and "courts") did not reach conventional significance levels in explaining differences in risk rating. I thus do not report them in any detail here. The significance of the four indicators is, hence, mixed at best. This might also be the result of aggregating single variables inadequately into the four composite indicators, which is why I also analyzed the relevance of single variables for explaining country risk. Again, I only report the results of those variables that proved to have some significance. Table 4 reports the results concerning Variables 1 through 3, which form the basis of the difficulty-of-delegation indicator. Variable 1 (the number of constitutional organs that need to agree for an international treaty to be ratified) remains significant even after the Z vector is included. Assuming a value of 7 as the coefficient of that variable, a one standard deviation improvement is connected

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conjunction with any of the earnestness indicators. The results are available upon request from the author.

19 In this and all other tables, dummy variables for both Argentina and Hungary are included. Based on the explanatory variables used, the risk rating for Argentina in 2003 should have been much better than it was; the opposite holds for Hungary.

with an improvement in credibility of 0.91 points. A look at the components of the Z vector is interesting: higher levels of the *de facto* rule of law indicator are very significantly correlated with higher levels of credibility. This is in line with a number of previous studies (e.g., Feld and Voigt 2003) that find that actual government behavior is what counts and not what some law says ought to count. In other words, government credibility will be substantially influenced by what governments really do and much less so by what they ought to do. This means that signaling "integration earnestness" will improve credibility only if it is accompanied by concordant behavior.

Interestingly—and unexpectedly—higher degrees of democracy are correlated with lower levels of credibility, *c.p.* In other words, it is actual implementation of the rule of law that is credibility enhancing and not the level of democracy. These results are consistent over all regression models. The combination of Variables 2 and 3 (referring to necessary majorities) basically tells the same story.

Table 5 deals with Variable 7, which asks what type of law has supremacy when domestic and international law conflict. The hypothesis is that giving dominance to international law over domestic law should boost credibility. The table shows that this hypothesis can be rejected. The variable always has the "wrong" negative sign, often at significant levels, meaning that according supremacy to international law *reduces* a country's credibility.

- TABLE 5 AROUND HERE -

Variable 11 deals with the question of whether interpretation of international law by international courts is accepted as a genuine part of international law by domestic courts. Here (results displayed in Table 6), the variable has the anticipated sign and survives the inclusion of the Z vector in certain specifications. Variable 11 is a dummy and a coefficient of 2.5 thus indicates that countries where international law is interpreted in such a manner can expect to enjoy a credibility rating that is some 2.5 points higher than countries where this is not the case.

- TABLE 6 AROUND HERE -

The last variable significantly correlated with a country's credibility is Variable 16, which asks whether the highest domestic court has the power to apply international law. The conjecture is that such competence should strengthen the power of courts and increase credibility. The results reported in Table 7 show that this is the case. A coefficient of 3.5 indicates that countries where courts enjoy

that competence should enjoy credibility levels that are around 3.5 points higher than countries that do not.

- TABLE 7 AROUND HERE -

To finish the analysis of the impact of domestic law on a country's credibility ratings, I include the indicator (difficulty-of-delegation) as well as the single variables that are robustly correlated with the credibility ratings. Table 8 shows that the difficulty-of-delegation indicator always remains significant in these models. Variables 11 and 16 are significant at least at the 10% level almost throughout. The adjusted coefficient of determination exceeds 0.9 in the last three equations and is generally higher than in previous tables. The cumulative effects of the three aspects are considerable: a country securing a coding of 1 in all three variables can expect to enjoy between 15.7 and 21.4 more points in the credibility ratings than a country that scores 0 for all three variables. Given that the ratings have a maximum score of 40, this is a considerable effect (the standard deviation of the ratings is 12.27).

- TABLE 8 AROUND HERE –

In summary, only one of the four newly developed indicators for integration earnestness is robustly and significantly correlated with government credibility as measured here, namely, the difficulty-of-delegating indicator. Compared to the other three indicators, the signal sent by the difficulty-of-delegation appears to be the most direct, straightforward, and easy-to-interpret one. Although in game theoretic terms, the difficulty-of-reversal seems just as straightforward, it might well be the case that by possibly anticipating many rounds of the game—or many years—the signal is just too uncertain, noisy, and difficult to interpret. The difficulty with monism might originate from the heterogeneity of the underlying variables. Remember that one of them that is fairly robust has an unanticipated sign (namely, supremacy of international over domestic law is correlated with less, rather than more, credibility). Finally, drawing on domestic courts to increase the credibility of one's policy promises might rely on an assumption that is not always the case: the idea is to make judges the watchdogs of their governments, which presupposes their actual independence. However, in some of the countries most in need of signaling the seriousness of their policy announcements, this assumption is definitely erroneous: in some of the transition countries, the courts have a long history of being the lapdogs rather than the watchdogs of government.

Yet, the nonsignificance of three of the four indicators might be due to an altogether different reason, namely, that an inadequate rule was used to aggregate

the single variables into overall indicators. And, indeed, one variable that is a component of the monism indicator (supremacy of international law) and two that are part of the courts indicator (Variables 11 and 16) have a significant impact on credibility. When all these are estimated in a single model, the supremacy of law variable loses its significance, but both court variables retain theirs.

Another possible explanation for my mixed findings could be that my indicators clearly focus on one kind of international integration, namely, formal conventions. The first two indicators focus on the costs of entering into and exiting from such conventions. The monism and the courts indicators ask for the relative position of formal international law in the domestic legal order and also whether domestic judges are given competence to take formal international law directly into account. Guzman (2008, 58f.) points out that governments have various tools at their disposal to send signals about how serious they are regarding some commitments. According to him, entering a formal treaty is not necessarily more costly than entering into some soft law agreement, but the government ratifying a formal treaty sends the signal that it is very serious, with its promises pledging a great deal of reputational collateral. Here, I analyzed the formal preconditions for sending one kind of signal rather than the kind of signals actually sent by governments. However, the various indicators of international delegation used here are one step in that direction and are in agreement with Guzman (2008) in that they are usually significant.

6 Conclusion and Outlook

Four indicators for the interplay between international and municipal law are presented. The correlations between the four indicators are rather low, and this is also the case with regard to correlations between the four indicators and other variables of interest. The regression results show that the difficulty-of-delegation indicator is relevant for explaining differences in the credibility of a country's policy announcements. The credibility of policy announcements is here proxied for by country risk ratings. An analysis of the single variables revealed more than one surprise: two of the significant variables (those for supremacy of type of law and direct effect) do not have the expected sign. Although these variables do not prove to be very robust, this result is potentially troubling for adherents of international law.

These results should, however, be taken with a grain of salt. Although I tried to secure the reliability of the data, future studies could try to increase the number of responses per country. In addition, increasing the number of countries available

for analysis is definitely a priority. I hope that my database constitutes a starting point that will be taken up and extended by other researchers.

I believe that the indicators introduced here can be used to deal with a number of additional questions. The effect of the way international law is integrated into municipal law on the amount of foreign direct investment, as well as on interest rates, are two straightforward examples. But, less obviously, it could also be the case that compliance with international law is, at least partially, determined by its interplay with domestic law. It is well known that formal sanctions for noncompliance with international law are often insufficient to enforce compliance, but it seems possible that the integration of international law into domestic law explains why so many states comply with international law most of the time, as found by Henkin (1979).

Acknowledgments

The creation of the dataset on which this paper is based would have been impossible if the experts named here had not generously given of their time and expertise. A heartfelt thanks to all of them again! Eralda Shtylla—Economist, Albania (Albania); Orlando Daniel Pulvirenti—Partner, Bunge, Smith and Luchia Puig—Professor of Law at the School of Law of the National University of Buenos Aires (Argentina); Stuart Clark, Partner, Clayton Utz, Sydney, NSW, (Australia); Prof. Dr. Wolfgang Weigel (Austria); Dr. Peter D. Maynard, Peter D. Maynard Counsel & Attorneys, Bay St. P.O. Box N-1000 Nassau (Bahamas); Marko Tutnjevic (Bosnia and Herzegovina); Roberto Filho (Brazil); Tozzini, Freire, Teixeira e Silva Advogados (Brazil); Andrea Behm, Legal Advisor to the "Khmer Institute of Democracy," Phnom Penh and Susanne Mueller (Cambodia); Gib van Ert, Hunter Voith Litigation Counsel, Vancouver (Canada); Professor Jeannette Irigoin, University of Chile (Chile); Dr. Wei Gao (P.R. of China); Maria Pia Carazo (Costa Rica); Čermák Hořejš Myslil a spol. (Czech Republic); Pellerano & Herrera (Dominican Republic); Kosheri, Rashed and Riad Law Firm, Cairo (Egypt); Hannes Vallikivi, Attorney at Law, Tark & Co. (Estonia); Päivi Kaukoranta, Director, Treaty Law Unit, Legal Department, Ministry for Foreign Affairs of Finland; S. Dagron and J. Pini (France); Akritas Kaidatzis (Greece); Ilona Medrikat (Honduras); András Jakab (Hungary); M/s P.H. Parekh & Co and Atul Chitale—Partner, A. Y. Chitale & Associates (India); Stefanus Haryanto, Adnan Kelana Haryanto & Hermanto (Indonesia); Dr. Moussa Abu Ramadan (Israel); Giovanni Cordini and Piervincenzo Spasaro and Daniela Sgrò—Spasaro Misuraca and Associates Law Firm (Italy); Natalya Yelizarova—Senior Associate for Zhakenov & Partners Law Firm (Kazakhstan); Seliger and Prof. Dr. Seon Bong Yu (South Korea); Dace Apine, PhD student, School of Law, University of Aarhus (Latvia); K. Vagneris (Lithuania); Mr. Dimitar Dimitrovski, Ministry of Economy of the Republic of Macedonia, Head of Legal Department (Macedonia); Codreanu Ruslan, Division for Economic Adjustments within the European Integration Process, Ministry of Economy (Moldova); Dina Mani Pokharel; Development Law Associates, GPO Box 2745 Maitighar, Kathmandu (Nepal); C. Borstlap (the Netherlands); Bertha Arguello (Nicaragua); Kekwere (Nigeria); Prof. Ole Kristian Fauchald, Dept. of Public and International Law, University of Olso (Norway); Victor Avila, Avila y Vidal Abogados (Peru); Prof. Dr. Stanislaw Sotysinski (Poland); Paula Fernando, Researcher at Centre for Social Studies and of ther Permanent Observatory on Portuguese Justice (Portugal); ichiper@just.ro and Ms. Ruxandra Costache, LLM and Professor of International Law at the University of Bucharest Law School, ruxandra@abaceeli.ro) (Romania); Mahulena Hofmann, Max Planck Institute for Comparative Public Law and International Law,

Heidelberg, Germany (Slovakia); Arne Mavcic (Slovenia); Juan Ramon Iturriagagoitia (Spain); Frans Viljoen (South Africa); Joakim Nergelius, Örebro University (Sweden); Axel Tschentscher (Switzerland); Ozcan, Istanbul University (Turkey); S. Picciotto (the United Kingdom); Leibowitz Law Center, Waukegan, Illinois USA, www.lakelaw.com (the United States); International Law Offices (Ukraine); Dr. Jan Woischnik, Rule of Law-Program, Fund. Konrad Adenauer (Uruguay); Adrián & Adrián Abogados Consultores Caracas-Venezuela and Tamara Adrián (Venezuela).

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Table 3:

OLS Regressions of 2003 Risk Ratings on Difficulty-of-Delegation Indicator

Variables	***(1)***	***(2)***	***(3)***	***(4)***	***(5)***	***(6)***
GDP/cap. In 2000 (log. Form)	20.37** (17.24)	18.32** (13.65)	24.59** (14.17)	21.27** (11.85)	15.16** (7.77)	14.99** (8.31)
Growth 1990-00	0.24 (1.01)	0.31 (1.34)	0.55 (1.77)	0.61* (2.05)	0.31 (1.36)	0.41* (1.78)
Open 1990-00	-0.01 (1.08)	-0.00 (0.36)	0.01 (1.22)	0.03* (2.16)	0.01 (1.04)	0.02* (2.42)
International Delegation II	7.77** (2.76)		6.27 (1.92)		-0.24 (0.08)	
International Delegation III		12.42** (4.90)		13.34** (4.75)		7.26** (2.98)
Difficulty-of-Delegation			13.30* (2.32)	10.37* (2.17)	12.85** (3.16)	11.08** (2.92)
De Facto Rule of Law					0.23** (7.60)	0.19** (7.27)
Polity IV					-0.47* (2.43)	-0.45* (2.51)
Intercept	-123.10	-110.30	-157.13	-136.71	-93.64	-95.14
$\overline{R}^2$	0.773	0.798	0.819	0.855	0.885	0.895
SER	5.841	5.512	5.128	4.579	4.088	3.896
J.-B.	8.57*	10.78**	2.02	0.82	0.150	0.01
N	137	137	71	71	71	71

The table contains ß regression coefficients, the numbers in parentheses are the absolute values of the estimated t-stats, based on the White heteroscedasticity-consistent standard errors. **, *, or (*) indicates that the parameter is significantly different from zero on the 1, 5, or 10% level; SER is the standard error of the regression and J.-B. is the value of the Jarque-Bera test on normality of the residuals. Additionally, dummy variables for Argentina and Hungary are included. Their coefficients are not reported here.

Table 4:

OLS Regressions of 2003 Risk Ratings on Single Components of Difficulty-to-Delegate

Variables	*(1)*	*(2)*	*(3)*	*(4)*
GDP/cap. in 2000 (log. Form)	14.87** (6.84)	14.70** (7.41)	15.35** (7.36)	15.15** (7.83)
Growth 1990-00	0.28 (1.20)	0.40(*) (1.72)	0.27 (1.03)	0.36 (1.36)
Open 1990-00	0.00 (0.40)	0.02* (2.05)	0.01 (0.92)	0.02* (2.21)
International Delegation II	-0.30 (0.09)		0.34 (0.11)	
International Delegation III		8.11** (3.08)		7.00** (2.72)
V1	7.63* (2.32)	6.80* (2.04)		
V2/3			6.79* (2.36)	5.81* (2.13)
De Facto Rule of Law	0.23** (7.06)	0.19** (6.38)	0.22** (7.18)	0.19** (6.56)
Polity IV	-0.52* (2.47)	-0.49* (2.55)	-0.40(*) (1.93)	-0.38(*) (1.98)
Intercept	-90.17	-92.37	-93.45	-94.47
$\overline{R}^2$	0.876	0.889	0.884	0.895
SER	4.246	4.008	4.147	3.961
J.-B.	0.55	0.335	0.501	0.214
N	71	71	71	71

The table contains ß regression coefficients, the numbers in parentheses are the absolute values of the estimated t-stats, based on the White heteroscedasticity-consistent standard errors. **, *, or (*) indicates that the parameter is significantly different from zero on the 1, 5, or 10% level; SER is the standard error of the regression and J.-B. is the value of the Jarque-Bera test on normality of the residuals. Additionally, dummy variables for Argentina and Hungary are included. Their coefficients are not reported here.

Table 5:

OLS Regressions of 2003 Risk Ratings on Monism Indicator

Variables	***(1)***	***(2)***	***(3)***	***(4)***
GDP/cap. in 2000 (log. form)	24.52** (13.79)	21.58** (11.19)	15.84** (7.06)	15.55** (7.51)
Growth 1990-00	0.42 (1.18)	0.49 (1.48)	0.25 (0.95)	0.35 (1.35)
Open 1990-00	0.02 (1.54)	0.03* (2.29)	0.01 (0.77)	0.02* (1.97)
International Delegation II	6.19 (2.11)		-0.14 (0.05)	
International Delegation III		12.43** (4.52)		7.72** (2.94)
What Law Supreme? (V7)	-6.05* (2.59)	-4.37* (2.11)	-2.68 (1.39)	-2.21 (1.21)
De Facto Rule of Law			0.21** (6.16)	0.18** (5.48)
Polity IV			-0.42(*) (1.92)	-0.43* (2.08)
Intercept	-150.50	-133.47	-93.14	-94.51
$\overline{R}^2$	0.826	0.855	0.875	0.887
SER	5.041	4.602	4.273	4.066
J.-B.	0.278	1.131	0.102	0.661
N	69	69	69	69

The table contains ß regression coefficients, the numbers in parentheses are the absolute values of the estimated t-stats, based on the White heteroscedasticity-consistent standard errors. **, *, or (*) indicates that the parameter is significantly different from zero on the 1, 5, or 10% level; SER is the standard error of the regression and J.-B. is the value of the Jarque-Bera test on normality of the residuals. Additionally, dummy variables for Argentina and Hungary are included. Their coefficients are not reported here.

Table 6:

OLS Regressions of 2003 Risk Ratings on Acceptance of International Court Rulings in Domestic Courts

Variables	*(1)*	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
GDP/cap. in 2000 (log. Form)	20.22** (8.58)	24.40** (12.48)	20.50** (9.85)	13.16** (6.00)	15.37** (7.10)	15.20** (8.07)
Growth 1990-00	0.75** (2.85)	0.53 (1.55)	0.68 (2.20)	0.58** (2.56)	0.28 (1.08)	0.42* (1.67)
Open 1990-00	0.04** (2.60)	0.01 (0.70)	0.03* (2.27)	0.03** (2.72)	0.00 (0.18)	0.02* (1.86)
International Delegation I	0.26** (3.29)			0.19** (2.82)		
International Delegation II		4.83 (1.59)			-0.98 (0.29)	
International Delegation III			14.13** (4.60)			9.03** (3.16)
International Court Decisions in Domestic Courts? (V11)	3.32** (2.73)	2.56(*) (1.77)	2.41(*) (1.91)	2.19* (2.24)	1.63 (1.41)	1.83(*) (1.70)
De Facto Rule of Law				0.19** (5.82)	0.22** (6.29)	0.18** (5.74)
Polity IV				-0.43* (2.29)	-0.50* (2.36)	-0.52** (2.67)
Intercept	-136.24	-151.96	-130.18	-88.34	-91.00	-94.18
$\overline{R}^2$	0.852	0.808	0.853	0.900	0.873	0.889
SER	4.658	5.298	4.658	3.850	4.314	4.040
J.-B.	3.55	3.21	0.414	0.219	0.164	0.291
N	68	68	68	68	68	68

The table contains ß regression coefficients, the numbers in parentheses are the absolute values of the estimated t-stats, based on the White heteroscedasticity-consistent standard errors. **, *, or (*) indicates that the parameter is significantly different from zero on the 1, 5, or 10% level; SER is the standard error of the regression and J.-B. is the value of the Jarque-Bera test on normality of the residuals. Additionally, dummy variables for Argentina and Hungary are included. Their coefficients are not reported here.

Table 7:

OLS Regressions of 2003 Risk Ratings on Applicability of International Law by Domestic Courts

Variables	*(1)*	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
GDP/cap. in 2000 (log. Form)	21.44** (8.56)	25.27** (13.00)	21.71** (10.46)	14.02** (5.35)	16.22** (6.24)	16.30** (6.96)
Growth 1990-00	0.79* (2.66)	0.56 (1.53)	0.68* (2.02)	0.51* (2.16)	0.25 (1.02)	0.35 (1.38)
Open 1990-00	0.05* (2.30)	0.01 (0.27)	0.05* (2.34)	0.02* (1.12)	-0.01 (0.65)	0.02 (0.79)
International Delegation I	0.26** (3.22)			0.17* (2.56)		
International Delegation II		7.82* (2.37)			3.39 (1.00)	
International Delegation III			14.47** (4.89)			8.35** (2.83)
Power to Apply Int. Law? (V16)	3.48 (1.49)	3.63 (1.62)	2.90(*) (1.69)	3.41* (2.44)	3.75* (2.60)	3.50** (2.91)
De Facto Rule of Law				0.20** (6.88)	0.23** (6.99)	0.18** (5.89)
Polity IV				-0.47** (2.79)	-0.63** (3.05)	-0.57** (3.13)
Intercept	-146.58	-161.91	-140.91	-94.619	-101.074	-103.354
$\overline{R}^2$	0.852	0.814	0.856	0.902	0.882	0.894
SER	4.645	5.203	4.571	3.786	4.139	3.934
J.-B.	0.013	2.831	0.040	0.129	1.222	0.005
N	68	68	68	68	68	68

The table contains ß regression coefficients, the numbers in parentheses are the absolute values of the estimated t-stats, based on the White heteroscedasticity-consistent standard errors. **, *, or (*) indicates that the parameter is significantly different from zero on the 1, 5, or 10% level; SER is the standard error of the regression and J.-B. is the value of the Jarque-Bera test on normality of the residuals. Additionally, dummy variables for Argentina and Hungary are included. Their coefficients are not reported here.

Table 8:

OLS Regressions of 2003 Risk Ratings on a Mix of Singularly Significant Variables

Variables	*(1)*	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
GDP/cap. in 2000 (log. form)	20.98** (9.34)	24.83** (13.96)	21.66** (11.42)	14.45** (7.07)	16.02** (7.84)	16.17** (8.67)
Growth 1990-00	0.77** (2.93)	0.52(*) (1.71)	0.66* (2.14)	0.50* (2.36)	0.26 (1.21)	0.36 (1.62)
Open 1990-00	0.05** (2.69)	0.01 (0.71)	0.04* (2.33)	0.02* (1.26)	-0.01 (0.31)	0.01 (0.74)
International Delegation I	0.23** (3.21)			0.15* (2.38)		
International Delegation II		5.82(*) (1.71)			1.48 (0.50)	
International Delegation III			12.47** (4.33)			6.60* (2.29)
Difficulty-of-Delegation	8.99* (2.17)	13.93* (2.87)	10.68* (2.52)	9.38* (2.49)	12.24** (3.19)	10.42* (2.87)
V11	3.33** (2.84)	2.58(*) (1.84)	2.35(*) (1.93)	2.25* (2.43)	1.75(*) (1.72)	1.83(*) (1.88)
V16	4.44 (1.64)	4.87(*) (2.00)	3.76(*) (1.829	4.07* (2.53)	4.36** (2.95)	4.18** (3.06)
De Facto Rule of Law				0.19** (6.87)	0.22** (7.52)	0.18** (7.00)
Polity IV				-0.44* (2.61)	-0.52* (2.49)	-0.53** (2.81)
Intercept	-147.878	-164.743	-144.881	-100.889	-104.188	-106.54
$\overline{R}^2$	0.972	0.839	0.870	0.915	0.900	0.907
SER	4.352	4.877	4.385	3.548	3.841	3.701
J.-B.	0.642	2.581	0.332	1.458	5.739(*)	2.628
N	65	65	65	65	65	65

The table contains ß regression coefficients, the numbers in parentheses are the absolute values of the estimated t-stats, based on the White heteroscedasticity-consistent standard errors. **, *, or (*) indicates that the parameter is significantly different from zero on the 1, 5, or 10% level; SER is the standard error of the regression and J.-B. is the value of the Jarque-Bera test on normality of the residuals. Additionally, dummy variables for Argentina and Hungary are included. Their coefficients are not reported here. In all cases, the F-statistics are significant at least on 0.01% level.

Appendix 1

International Law and National Legal Orders

QUESTIONNAIRE

Please return to:
Prof. Dr. XXX

Dear Reader,

this research project is concerned with the (economic) effects of delegating competence to international organizations. The particular issue that this questionnaire deals with is the interrelationships between national legal orders and international law.

We would be grateful if you could help us with your knowledge concerning the country on which you are an expert. We would appreciate if you could (a) answer the following questions, and (b) could indicate good sources for additional information (primary as well as secondary). The time needed to complete the questionnaire is likely to be less than 15 minutes.

If you are interested, we would be pleased to keep you informed on the progress concerning the research project. In that case, please provide us with your address. Of course, the easiest way to return the questionnaire is by e-mail. The latest results regarding this research project will be put on our server:

http://www.xxx

Thank you very much for your help. Yours sincerely

Country for which information is provided:

(Questionnaires with regard to EU member-states should be completed NOT having the delegation of competence to EU organs in mind!)

_____

(__) I would like to be informed on the progress of this project, please send up-date information to my e-mail address: _____.

(__) I would like to remain completely anonymous.

(__) I would prefer that my name and/or that of my law firm is mentioned in papers resulting out of this project; I would like it to be mentioned in the following way: _____.

In the ratification and implementation of international law, national legal orders frequently make distinctions between various kinds of international law: bilateral vs. multilateral treaties, technical vs. substantive issues, involvement vs. non-involvement of sovereign rights. In order to obtain comparable information, we ask you to have the ratification and implementation of the Rome Statute of the International Criminal Court in mind when answering the respective questions. We have chosen this example because the Rome Statute is of recent vintage. Further, we ask you not to take customary international law into account as it has not been explicitly agreed to by nation states.

In order to avoid ambiguities, please tick either „yes" or „no" and do not leave blanks where both answers are offered as options.

(1) Domestic ratification of a multilateral treaty (or accession if it already exists) like the Rome Statute requires the explicit consent of the following:

a	the head of the executive?	YES (0,2)	NO ( )
b	the legislature?	YES (0,2)	NO ( )
c	the (formal) head of state?*	YES (0,2)	NO ( )
d	the judiciary?	YES (0,2)	NO ( )
e	the population at large?	YES (0,2)	NO ( )
f	others, namely _____.		

(in parliamentary systems)*

(It is possible to tick more than one "yes" answer.)

(2) How many chambers does the legislature of the country you report on consist of?

One ( );

Two ( );

More, namely _____.

(3)Given that the legislature has to agree (1b), what are the required majorities in

		the first chamber?		the second chamber?
a	simple majority?	YES ( )	|	YES ( )
b	two third majority?	YES ( )	|	YES ( )
c	three quarter majority?	YES ( )	|	YES ( )
d	four fifth majority?	YES ( )	|	YES ( ).
E	other, namely _____	|		_____

_____.

	none	simple	2/3	3/4	4/5	other
Simple	0,071	0,358	0,428	0,5	0,571	
2/3	0,143	0,428	0,643	0,714	0,786	
¾	0,214	0,5	0,714	0,857	0,929	
4/5	0,286	0,571	0,786	0,929	1	
Other						

(4) Reversal of the original ratification is provided for

a	in the Constitution	(1),
b	in ordinary law	(0,66),
c	in precedent	(0,33),
d	elsewhere, namely_____?__.	

(5) Reversal of the original ratification decision is

a	more easy	(0),
b	the same	(0,5),
c	more difficult	(1)

than the original decision to join an international treaty.

(6) Has your country traditionally followed

a	the monist approach?	YES (1)	NO ( )
b	the dualist approach?	YES (0)	NO ( ).

The basis for following this approach can be derived from (please name the article(s) of the legal source) _____

_____.

(7)In case of conflicts between domestic and international law, it is assumed that

a domestic constitutional law has supremacy over international law? YES (0) NO ( ),

b international law has supremacy over domestic constitutional law? YES (1) NO ( ),

c international law has supremacy over ordinary domestic law? YES (0,5) NO ( ).

If a and c are marked, this results in a coding of ".25". If b and c are marked, this also results in a coding of "1"

(8) Does the Constitution contain norms that require the conformity of national with international law? YES (1) NO (0).

If yes, please specify where _____.

(9) Does the Constitution specify procedures that are to safeguard the uniformity between national and international law? YES (1) NO (0).

If yes, please specify where _____.

(10) Does the Constitution contain an article that provides for the direct effect of international law in the national legal order? YES (1) O (0).

If yes, please specify _____.

(11) Is the interpretation of international law by international courts accepted as forming genuine part of international law according to the jurisdiction of the highest domestic court? YES (1) NO (0).

(12) How is international law implemented in the national legal order?

a By adoption, according to which international law becomes directly applicable within the national legal order YES (1) NO ( ).

b By transformation, according to which a "transformator" transforms international law into national law. YES ( ) NO ( ).

i By general transformation (international law is transformed *en bloc*) YES (0,5) NO ( ).

ii By specific transformation (specific laws are transformed)
YES (0) NO ( ).

(13) In your country, is delegation of competence from the nation-state to international organizations primarily considered (in domestic courts) to be equivalent to

a a genuine renunciation of certain sovereign rights? (1)
b or is it simply a promise not to exercise those rights? (0)

(14) Does the highest domestic court have the competence to overturn domestic constitutional law because it is not in conformity with international law? YES ( ) NO (0).

(15) Please answer this question only if you have answered question 14 in the affirmative:

a Is this competence restricted to *ex ante* review? YES ( ) NO( ),
b or can it also be used *ex post*? YES ( ) NO( ).

14 and 15 are coded together: if 14 yes and 15 a, then 0,5; if 14 yes and 15 b, then 1.

(16) Does the highest domestic court have the power to apply international law? YES (1) NO (0).

A GOOD SOURCE FOR MORE DETAILED INFORMATION CONCERNING THE RELATIONSHIP BETWEEN NATIONAL AND INTERNATIONAL LAW CONCERNING MY COUNTRY IS _____
_____
_____.

General comments (please feel free to make any comment):

Appendix 2

COUNTRY	Cost	Reversal	Monism	Court
Albania	0.207	0.75	0.5000	0.5
Argentina	0.379	0.75	0.6250	0.75
Armenia	0.236	0.75	0.500	0.5
Australia	0.2	0.75	0.1250	0.5
Austria	0.479	0.665	0.9167	0
Belgium	0.479	0.5	0.3750	0.5
Benin	0.1355	1	0.7143	0.5
Brazil	0.379	0.75	0.3125	0.5
Bulgaria	0.1355	1	0.1875	0.5
Cambodia	0.379	0.75	0.4375	0.5
Canada	0.1	0.5	0.1250	0.5
Chile	0.5215	0	0.4375	0.5
China	0.236	0.58	0.071	0.5
Colombia	0.3355	0.165	0.3125	0.5
Costa Rica	0.2	0.75	0.6875	1
Croatia	0.236	0.75	0.286	0.318
Czech Republic	0.486	na	0.786	0.5
Denmark	0.136	0.75	0.188	0.5
Dominican Republic	0.279	0.5	0.4286	0.5
Egypt, Arab Rep.	0.379	1	0.0000	0.5
Estonia	0.2355	0.75	0.6429	0.5
Finland	0.3715	0.5	0.5000	0.5
France	0.379	0.165	0.6875	0.5
Georgia	0.236	0.75	0.5	0.5
Germany	0.279	0.165	0.2500	0.5
Greece	0.2355	1	0.6250	0.5
Guatemala	0.172	0.58	0.375	0.5
Honduras	0.2355	0.75	0.6875	0.5
Hungary	0.3355	0.5	0.3571	0.5
India	0.379	0.58	0.2857	0.5
Indonesia	0.2355	0.75	0.5000	0
Iran, Islamic Rep.	0.657	0	0.375	0
Israel	0.1	0.415	0.0000	0.5
Italy	0.479	0.33	0.5625	0.5
Japan	0.279	0.75	0.125	0.5
Kazakhstan	0.279	0.5	0.6875	0.5
Korea, Rep.	0.236	0.58	0.375	0.5
Lithuania	0.1355	0.83	0.8125	0.5
Latvia	0.336	0.58	0.5	0.479
Macedonia	0.2355	1	0.9286	0.5
Mexico	0.4	1	0.7143	0.5
Moldova	0.2355	0.5	0.8750	1
Nepal	0.279	0.33	0.188	0.5

Netherlands	0.279	1	0.2143	0.5
Nicaragua	0.2355	0.83	0.4167	0.5
New Zealand	0.279	0	0.4	0
Nigeria	0.5215	0.75	0.2857	0.5
Norway	0.236	0	0.375	0.5
Pakistan	0.379	0.33	0.2143	Na
Paraguay	0.379	1	0.4375	0.5
Peru	0.2355	0.75	0.5000	0.5
Philippines	0.414	1	0.25	0.5
Poland	0.379	0.33	0.6875	0.5
Portugal	0.236	1	0.563	0.5
Romania	0.379	0.58	0.6875	0.5
Russia	0.279	0.58	0.5000	0.5
Singapore	0.1355	na	0.2857	0
Slovakia	0.2355	0	0.9375	0.5
Slovenia	0.1355	0.33	0.6875	0.5
South Africa	0.379	0.415	0.6429	0.5
Spain	0.479	0.75	0.8125	0.5
Sweden	0.35	0.5	0.1429	0.5
Switzerland	0.379	0.33	0.5625	0.5
Taiwan	0.236	0.83	0.125	0.5
Turkey	0.2355	0.5	0.7500	0
Ukraine	0.1355	0.58	0.5625	0.5
United Kingdom	0.4	0.58	0.2500	0.5
Uruguay	0.379	na	0.4167	0.5
United States	0.2715	0	0.2857	0.5
Venezuela, Rep.	0.2355	0.75	0.5714	1
Vietnam	0.2	0.58	0.3125	0

Appendix 3: Descriptive Statistics

	Minimum	Maximum	Mean	Standard-Deviation
Risk Rating	1.11	39.97	17.41	12.27
Difficulty of Delegation	0.10	0.68	0.30	0.11
Reversal	0.00	1.00	0.59	0.29
Monism	0.00	0.94	0.45	0.24
Court	0.00	1.00	0.47	0.20
V 1 (Number of domestic organs that need to consent)	0.20	0.60	0.37	0.13
V 2/3 (Majorties needed for ratification)	0.00	0.71	0.22	0.18
V 7 (Conflicts between dom. and international law)	0.00	1.00	0.45	0.34
V 11 (Decisions of international courts)	0.00	1.00	0.65	0.48
V 16 (Court apply international law)	0.00	1.00	0.90	0.31

Appendix 4: Definition and Sources of Variables

Variables	Sources	Codings
Dependent variable		
Risk Rating	Euromoney (2003)	Continuous between 0 and 40 (up to 25 for political risk, 10 for credit ratings, and 5 for discount on forfeiting); higher values indicating better risks
Independent variables		
International Delegation I	Voigt (2005)	# of international organizations that country was member of in 2003 according to CIA World Book of Facts
International Delegation II	Voigt (2005)	Membership in (1) GATT/WTO; number of commitments within GATS (normalized between 0 and 1); (2) ICSID; (3) IFC; (4) ICCPR; (5) ICESCR; (6) First Optional Protocol; (7) Second Optional Protocol; (8) New York Convention, (9) Compulsory Jurisdiction ICJ. Ratification 1/9; resulting in scores between 0 and 1
International Delegation III	Voigt (2005)	Based on International Delegation II; ratification is weighed with the time since ratification
GDP/cap	Heston et al. (2002)	Year 2000, in log form
Growth 1990–00	Heston et al. (2002)	Average over years 1990–2000
Open 1990–00	Heston et al. (2002)	(X+M)/GDP
De Facto Rule of Law		Mean from political rights and civil liberties (Freedom House), which is multiplied by "Control of corruption" indicator from the Worldwide Governance Indicators (Kaufmann et al. 2003); both variables are recoded such that the new indicator can take on values between 0 (worst) and 100 (best)
Checks	Beck et al. (2001)	Number of institutions that provide legislative "checks" in 1997
Polity IV	Marshall and Jaggers (2004)	From –10 (dictatorship) to 10 (Western democracy); average over the years 1990–1997
Political Rights	Freedom House (1990–1997)	Between 1 and 7, 1 representing the highest degree of freedom; criteria (1) free and fair elections; (2) those elected rule; (3) competitive parties; (4) opposition has important role; (5) entities have self-determination /high degree of autonomy
Civil Liberties	Freedom House (1990–1997)	Between 1 and 7, 1 representing the highest degree of freedom; rights to free expression, to organize or demonstrate, freedom of religion, education, travel, and other personal rights