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The Effects of Foreign Audiences in International Dispute Settlements

by

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ABSTRACT

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This dissertation addresses the question of why actors (i.e., states and non-state actors) use international organizations (IOs) to settle disputes when such institutions often do not have enforcement power of their own. I approach this question by looking at the influence of IO dispute settlement processes on the behavior of domestic and foreign audiences. In particular, I argue that actors use IOs in order to influence pro-compliance foreign audiences by providing two types of information: information about violations that have occurred and information about the willingness and ability of parties to comply with settlement obligations. Informed pro-compliance audiences can work as enforcers, which help facilitate a state's compliance with an IO's ruling. This dissertation is composed of three stand-alone essays. These essays empirically test the implications of my theoretical arguments on datasets of actors' use of dispute settlement mechanisms in the areas of trade and foreign investment. This dissertation sheds new light on actors' strategic use of IOs.

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To my parents, Masuto and Michiko Matsumura.

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Chapter 1

Introduction

Why and when do states and non-state actors use international organizations (IOs) to settle disputes? Settling disputes by third parties' legal adjudication has been a widely acknowledged means to resolve international disputes. Over the last few decades, we have witnessed the proliferation of international dispute settlement mechanisms in IOs in many issue areas. However, it is not obvious why actors use IOs to settle their disputes, given that doing so requires them to pay extra legal and political cost, and give up decision control. What is perhaps more puzzling is that actors sometimes wait for months, or even years, to bring their disputes before IOs. If actors have high stakes in the disputes, paying legal and political costs may be justifiable as long as more benefits can be retrieved from settling the disputes through IOs. However, if so, why don't actors initiate litigation right after they find other actors' violations of international agreements?

This dissertation seeks to identify the conditions under which actors are more likely to use international dispute settlement mechanisms. In doing so, I focus on a benefit that acting through IOs can provide: transmitting information to *foreign audiences* (i.e., domestic audiences in a foreign state, and IO member states). Building on the recent theories of IOs as information providers (e.g., Carrubba 2005, Chapman 2012, Chapman and Reiter 2004, Chaudoin 2014, Dai 2007, Fang 2008, Thompson 2010), I argue that a key driver of actors' decisions to use IOs is their desire to send information and mobilize reactions from foreign audiences, which they cannot otherwise directly influence. Mobilized audiences who share similar policy preferences can empower actors' abilities to enforce international obligations. I

argue that actors use international dispute settlements in anticipation of how and when foreign audiences' likely reactions enhance the actors' abilities to influence foreign states. Therefore, this dissertation provides an explanation of actors' use of IOs as a function of the expected foreign audiences' reactions.

In the remainder of this chapter, I lay out my plan of investigation for the following three substantive chapters as well as the intended contribution of this dissertation.

1.1 Plan

This dissertation is composed of three stand-alone essays. In the first essay (Chapter 2), I analyze when a state files a claim to the World Trade Organization (WTO). This chapter focuses on a plaintiff state's incentive to influence *domestic audiences in a defendant state* by filing a dispute. Given the distributive nature of trade politics, a plaintiff can find some domestic groups in a defendant state whose trade preferences are partially aligned to its preference. A function of the WTO to transmit information, therefore, enables the plaintiff to influence those pro-free trade/pro-compliance domestic audiences in the defendant state and mobilize them against their government's trade agreement violations.

Depending on the domestic conditions, however, those groups should have different impacts on their government's trade policies. Thus, a plaintiff is expected to use the WTO when the demands of those groups are more likely to be translated into policies. I argue that a leadership turnover accompanied by a change in the leaders' political support groups may provide a chance that new societal interests including pro-trade groups are more likely to be represented. I hypothesize that a plaintiff is more likely to file a dispute to the WTO when a new leader whose main constituencies are different from her predecessor comes to power in a defendant state. Empirical analyses of dispute adjudications at the WTO (1995-2008) provide supportive evidence for the theoretical arguments.

In the second essay (Chapter 3), I apply the same theoretical arguments developed in the first essay to the cases of international investment disputes. Unlike trade disputes, investment disputes are not between-states disputes; rather they are disputes between non-state actors and states. I investigate when an investor files a claim about a host country's violation of bilateral investment agreements (BITs) to the International Center for Settlement of Investment Dispute (ICSID). I argue that a leadership turnover accompanied by a change in the leader's societal support coalition provides a window of opportunity for policy change and therefore rectifying BIT violations. While a national leader tends to break BITs to protect the interests of own constituencies, a new leader may place less emphasis on protecting those predecessor's constituencies. Accordingly, the entry of new leader who is supported by different constituencies from those of her predecessor increases the likelihood that BIT violations would be rectified, which in turn, encourages an investor to use the ICSID. Empirical analysis of dispute adjudications at the ICSID (1983-2008) shows that BIT violations made during the previous leader's tenure are more likely to be litigated after a new leader takes office with support from different societal groups.

In the third essay (Chapter 4), I shift my focus to an aspect of information transmission to other IO member states. In addition to domestic audiences, all IO member states are important audiences that receive information provided through IOs. I advance a theory that states might use an IO as a device to signal their commitment to treaty obligations. Focusing on the area of international trade, I argue that a state (or a defendant) might use its WTO ruling compliance to inform other WTO member states of its incentive and ability to implement free trade agreements. I derive an implication that a defendant is more likely to comply with a WTO ruling when it is in the middle of negotiations for new preferential trade agreements (PTAs). Empirical analysis of a defendant's compliance with WTO rulings (1995-2010) reveals that the increasing number of PTA negotiations that the defendant is involved in at the time of a

ruling dramatically reduces its time to compliance, even after accounting for the selection of dispute escalation.

1.2 Contribution

This dissertation is important for International Relations scholarship for several reasons. First, this dissertation helps us understand the conditions under which states and non-state actors use IOs by incorporating the aspect of foreign audience mobilizations. Despite the prominence of the idea that IOs transmit useful information (e.g., Carrubba 2005, Chapman 2012, Chapman and Reiter 2004, Chaudoin 2014, Dai 2007, Fang 2008, Thompson 2010), there has been little systematic empirical evidence that suggests actors use IOs to influence audiences in *foreign states* with few exceptions.[1]

Second, this dissertation contributes to important theoretical debates over the efficacy of IOs. The question of how states maintain cooperation in anarchy without centralized enforcement has been a major theme in IR scholarship. This dissertation provides an insight that while IOs alone cannot enforce international obligations, IOs do facilitate domestic and international audiences as enforcers. Mobilizing audience reactions is important for states' commitment to international obligations. Usually, states' costs of complying with international obligations have both domestic and international components. States must balance the need to comply with their international obligations with the domestic political need to protect political supporters from international competition (Fang 2010:125). Mobilized audiences may reduce the domestic costs of compliance as well as increase the international costs of

1. The first exception is Thompson (2010). By examining a state's request of the authorization of its use of force by the United Nations Security Council, Thompson has theorized a possibility that the authorized use of force will convey the signal of a state's benign intentions to both foreign leaders and their publics in addition to citizens in the state asking the authorization. The second important exception is Chaudoin (2014). Focusing on a state's use of dispute settlement arbitration at the World Trade Organization, he has also shown an aspect of IOs' information transmission to foreign audiences.

non-compliance.

Equally importantly, this dissertation adds nuanced arguments to the existing scholarship that emphasizes the role of domestic constituencies who stand to gain from the implementation of international obligations as domestic enforcers (e.g., Dai 2005, Simmons 2009). This dissertation suggests that those domestic citizens will mobilize and pressure their governments to comply especially when their efforts are likely to be successful. This insight provides a useful policy implication about how to design IOs. Considering how IOs can interact with domestic citizens of other IO member states or how memberships in functionally similar IOs may influence states' behaviors, we can create more effective IOs. Domestic enforcement of international obligations can be one of the most powerful and low-cost means to secure states' commitment to international obligations.

Third, this dissertation shows the importance of taking domestic politics into account especially when we study international adjudication. This is because there is a close link between with whom a plaintiff is likely to file and who made violations at issue in the first place. Given that international adjudication is costly for a potential plaintiff, a plaintiff will be strategic about when it purses adjudication. Especially, a plaintiff is expected to file a violation when there is a chance that the violation will be removed. For instance, if a treaty violation stems from a national leader's political necessity to protect her constituencies, the leader cannot easily remove the violation during her tenure period. This critically affects a plaintiff's filing decision. The plaintiff may feel little confidence that its litigation effort would be fulfilled as long as the violator stays in power. This dissertation shows that the exit of leaders who were accused of violating international treaties may open up an opportunity for filing because the new leaders may have little incentive to stick to predecessors' policies and be more amenable to remove treaty violations (see also Bobick and Smith 2013, Rosendorff and Smith 2013). Thus, domestic politics affect actors' selection of cases that they will settle

through international arbitration.

Along this line, this dissertation contributes to the literature that emphasizes the importance of national leaders' political supporters in the context of foreign policy making. This dissertation adds empirical support for arguments that shifts in foreign policy should be most likely when new leaders that represent different societal interests come to power (Leeds, Mattes and Vogel 2009, Mattes, Leeds and Carroll 2015). Not all leader transitions should necessarily be treated equally when we explain foreign policy change. This dissertation shows that a shift in leaders' political support groups (rather than a leadership turnover itself), is an important factor that predicts when the initiation of trade and investment dispute arbitration is more likely.

Finally, the central theoretical insights of this dissertation should apply beyond the cases of commercial disputes. They can be examined further in cases of established bodies like the European Union's Court of Justice, the International Court of Justice, and relatively new institutions like the International Criminal Court. In addition, beyond the timing of dispute filing and compliance with IO rulings, theoretical arguments developed in this dissertation can provide some implications about variation in dispute characteristics and dispute outcomes (e.g., the duration of disputes, the recurrence of disputes, and so on).

Chapter 2

The Effects of Foreign Audiences in WTO Litigation

Chapter Abstract

Why and when do states use dispute settlement mechanisms in international organizations (IOs)? This essay develops a theory that states use IOs to influence domestic groups in other IO member states by providing information. Examining dispute settlements at the World Trade Organization (WTO), I argue that a plaintiff state may have an incentive to use WTO litigation to inform pro-trade domestic groups in a defendant state of their own government's protectionist policies that harm their economic interests. The information transmitted through the WTO enables the plaintiff to influence those domestic groups in the defendant state and mobilize them against their government's policy. However, the extent to which domestic groups influence government policies depends on domestic conditions. Thus, a plaintiff's decision to litigate a claim is also conditional upon domestic conditions in a defendant state. It is hypothesized that a plaintiff files a dispute when a defendant state has a leadership turnover accompanied by changes in the leader's political support coalition, which may open up a chance for new domestic groups including pro-trade groups to have voices over their government's policy making. Empirical analyses of trade dispute adjudications at the WTO (1995-2008) reveal that a plaintiff is more likely to litigate a WTO dispute when there is a change in the leader's support coalition in a defendant state.

2.1 Introduction

The proliferation of international dispute settlement mechanisms or international courts has been significant in many issue areas ranging from human rights to trade. These mechanisms allow states to settle disputes by relying on third-party adjudication. Given the wide options of settling disputes other than adjudication; however, it is not obvious why states use international dispute settlement mechanisms. Relying on those mechanisms means paying extra legal and political costs as well as giving up decision control. What is perhaps more puzzling is that states sometimes wait for months, or even years, to file their disputes. If states have high stakes on the disputes, paying legal and political costs might be justifiable as long as more benefits can be retrieved from settling the disputes through international adjudication. However, if so, why don't states adjudicate right after they find another state's violations of international agreements?

This essay explores this puzzle of when states use international dispute settlement mechanisms. To do so, I focus on the benefit of acting through international organizations (IOs) and the conditions under which that benefit increases. Based on recent scholarship that emphasizes the role of IOs as important devices for transmitting information (e.g., Carrubba 2005, Chapman 2012, Chaudoin 2014, Dai 2005, Fang 2008, Thompson 2010), I investigate a possibility that a state uses an IO to provide information and influence *domestic groups in a foreign state*. Informing foreign groups of their government's violations of international agreements may increase the prospect that the government will remove violations as a result of its own domestic groups' lobbying pressures. However, those informed groups may not be always influential to their government's policy making depending on the domestic conditions. Thus, the benefit of influencing domestic groups in a foreign state though an IO's information is also conditional upon when those groups are influential over their government. This in turn affects the timing of when a state uses an IO.

To examine this argument, I analyze when a state uses a dispute settlement mechanism at the World Trade Organization (WTO). The WTO has a quasi-court through which its member states can settle their trade disputes by legal rulings. Given heterogeneous domestic preferences in the area of international trade, trade disputes provide a good field to investigate how a state (i.e., a plaintiff state) would use the WTO for the purpose of empowering certain domestic groups in another state (i.e., a defendant state) by informing them of alleged violations of trade agreements by their government. It is expected that a plaintiff uses the WTO when the demands of those empowered groups are more likely to be translated into government trade policies, especially when there is a leadership turnover accompanied by changes in the leader's political support coalition.

To test my hypotheses, however, I need a sample of "potential dispute cases" in which a plaintiff suspected other states' barriers against its trade but did not bring or has not yet brought the potential dispute to the WTO. This is often difficult because we cannot observe the disputes that have not been litigated. To overcome this issue, I use the Temporary Trade Barriers Database (TTBD) created by Bown (2015), which provides data on each country's imposition of import-restricting trade remedies, and I identify which potentially objectionable policies have been filed to the WTO. Empirical analyses reveal that a plaintiff decides its timing of litigation in conjunction of the domestic politics in a defendant state. I find that a plaintiff is more likely to bring its objection about a foreign state's trade barriers before the WTO when a defendant state has a leadership turnover accompanied by the leader's political support group changes.

The importance of this research lies in the following points. First, this essay sheds new light on a state's strategic use of IOs. Unlike previous literature that focuses on a state's incentive to use IOs to convey meaningful information, this essay shows that the receivers of information transmitted though IOs are not only domestic groups in states using IOs but

also domestic groups in other states. Second, this essay revisits an important point that a plaintiff's adjudication decision may be endogenous to a defendant's willingness to comply with adverse rulings issued by IOs. Since a plaintiff does not waste its litigation effort by filing a claim when there is little chance that adverse rulings are complied with by a defendant, the plaintiff may wait until the defendant's compliance is more likely. In particular, this essay shows that domestic politics in a defendant's state matter for a plaintiff's expectation of the defendant's ruling compliance. For a plaintiff, who made violations and who replaces those violators are crucial to select cases that it will file. This selection mechanism should not be ignored in future research. Third, these points would lead us to rethink under what conditions IOs matter and how IOs can interact with domestic politics. A weakness of most IOs is the lack of capabilities to demand sovereign states to comply with international rules. However, my findings suggest that while IOs alone cannot enforce international obligations, IOs do facilitate domestic enforcers (see also Dai 2005, Simmons 2009). This point would contribute to the ongoing debate on how to design IOs to prevent defection (e.g., Keohane, Moravcsik and Slaughter 2000, Smith 2000).

In the next section, I review existing literature that explains the conditions under which a state brings a dispute before the WTO. Then, I develop an argument that a plaintiff state may use the WTO to provide information and mobilize domestic pro-trade groups in a defendant state. I hypothesize that a plaintiff is more likely to initiate a dispute when a defendant state has a leadership turnover that replaces an old leader by a new leader with different policy preference. The third section provides research design and empirically tests the hypotheses. The final section concludes my main analysis and suggests future research.

2.2 Why Do States Use International Dispute Settlements

2.2.1 Traditional Views of States' Use of IOs

Third-party adjudication is expected to facilitate settling disputes among states peacefully or to allow for states to punish the single defection of international agreements and return to normal business (Rosendorff 2005, Schwartz and Sykes 2002). In the area of international trade, as of July 2015, 497 dispute cases have been filed and processed through the WTO. The WTO's dispute settlement mechanism is often cited as one of the world's most sophisticated forums for settling interstate trade disputes.

Not all trade disputes, however, are brought before the WTO. Indeed, what we have seen as WTO disputes represent a tiny portion of total trade agreement violations that states have been actually facing. Since adjudication procedures are long and costly and require states to sacrifice their decision control, states may prefer to use the options of settling disputes outside of courts such as through diplomatic negotiations. Therefore, states carefully select which disputes are worth taking to the WTO. Drawing upon an insight from the economic analysis of law, which is often used to analyze the initiation of domestic lawsuits,[2] several scholars have argued that states litigate disputes that promise sizeable domestic political and economic rewards would result if illegal trade remedies were removed (Allee 2004, Bown 2005*b*). There is strong empirical evidence that states with large export industries are more likely to file cases because their economic stakes justify the cost of enforcement actions (Horn, Mavroidis and Nordström 1999, Sattler and Bernauer 2011).

Besides material rewards, states use the WTO's dispute settlement when they need legal expertise or authoritative rulings. It is often the case that whether certain trade measures are in violation or not is difficult to determine due to the different interpretations of agreements

2. In this framework, actors are expected to start a lawsuit only if the expected value of going to court exceeds the expected value of not doing so (Cooter and Rubinfeld 1989).

among disputants. Under these circumstances, the WTO can help states to interpret the agreements and allocate reasonable punishments (Pelc 2012). Subjected to objective legal criteria, states can also prevent cases from being politicized. Moreover, some studies have revealed that states use international courts to establish favorable legal precedents for their future disputes (Busch 2007, Pelc 2012).

All of these existing studies have provided good explanations for why only selected disputes are taken before the WTO and what would be those disputes. However, these studies have not well explored when disputes are taken before the WTO. Interestingly, there is wide variation in the timing of when states actually file their claims to the WTO. For example, the United States' *National Trade Estimate Report*, which lists the trade barriers of US trade partners that harm US exports, listed 126 trade barriers by Japan during ten years from 1995 to 2004, of which only six were addressed in the WTO. Among those six litigated violations, four violations were brought to the WTO after more than three years since they were initially listed in the report. Why did the US wait before filing claims against Japan? Without settlements, illegal policies are allowed to remain in place and continue to damage victims. Beyond these US cases, we do not yet have a good understanding of when states use international dispute settlement mechanisms.

2.2.2 An Alternative View of States' Use of IOs

To answer this question of when states litigate disputes in the WTO, I focus on the benefit that a state can gain by acting through international organizations (IOs): a benefit to influence *domestic audiences in a foreign state* via information transmission through IOs. The function of IOs - to provide information - enables a state to recruit foreign groups whose policy preferences are aligned to its preference and mobilize them against their own government's violations of international agreements. Those domestic groups are important because they can

directly influence their government and induce policy changes. In the context of WTO litigations, certain domestic groups in a defendant state may empower their government to change its trade policy, which increases a chance that the defendant will comply with a WTO ruling. In this section, I elucidate when the benefit of providing information to domestic groups in a defendant state via the WTO can be maximized. This affects the timing of when a plaintiff uses the WTO.

Recent scholarship on IOs has revealed that states use IOs in order to transmit various kinds of information to their own domestic citizens (e.g., Carrubba 2005, Chapman 2012, Chapman and Reiter 2004, Dai 2005, Fang 2008). Since acting through IOs is visible and leads to an increase in the volume of media coverage (Pelc 2013), how a state behaves in IOs can easily send information to its domestic citizens. For instance, with established authority and scrutiny from other member states, IOs' approvals for states' foreign policies inform domestic constituencies of whether their government policies are legitimate (Hurd 1999, Reinhardt 2002) or reflect the will of international community (Thompson 2010).[3] Additionally, the self-imposed costs of using IOs can serve a purpose of signaling as well. Using IOs is a strategy by which a leader visibly demonstrates to a skeptical legislature her effort to defend domestic citizens (Davis 2012). This in turn provides information about leader's competency (Fang 2008).[4] Acting through IOs whose members have heterogeneous preferences can also convey information about the appropriateness of chosen policies (Chapman 2012).

These existing arguments about the role of IOs as information providers to domestic audiences are theoretically and empirically convincing. However, if domestic citizens of a state using IOs can receive information transmitted through IOs, we may wonder if citizens in for-

3. This provides a national leader useful political cover to carry out policies that are not favored by his domestic constituencies (Allee and Huth 2006).

4. Since a leader has little incentive to ask for IOs' authorization on state's foreign policies that may fail, only a competent leader is willing to use IOs.

eign states could also receive the same information. Similarly, if acting through IOs is an important means to enhance support for a state's foreign policies, we may wonder if the target of this effort should be limited to the domestic citizens of a state using IOs. Does not a state use IOs as a means of gaining support from *domestic citizens in other member states*?[5] If a state wants to maximize its influence over foreign states, the state may have an incentive to recruit foreign citizens who have similar policy preferences or interests as pressure groups. In the area of trade, a plaintiff state may use the WTO to inform domestic citizens in a defendant state of their government trade agreement violations and to activate certain groups that support their government's compliance with international agreements.

2.3 IOs, Foreign Audiences, and Litigation Timing

2.3.1 Why Do Foreign Audiences Matter?

In the context of international trade that creates distributive outcomes in a domestic society, there are always some groups whose economic welfare is reduced by government protectionist trade policies. Domestic consumers, certain industries, the distributors of imported goods, and export industries are expected to have pro-trade preferences. For example, for firms that depend on cheaper imported materials for their productions, trade barriers will increase production costs and thus erode their competitiveness. Thus, those firms prefer their government to liberalize the country's market by lowering tariff rates and eliminating domestic subsidies.

The existence of pro-trade groups in a defendant state has a substantive implication for the possibility that a defendant government actually changes current trade policies. Since those domestic groups support their government's decision to commit to international obligations,

5. See Thompson (2010) as an important exception. Thompson argues that the design and voting rules of the UN Security Council allow it to send informative signals about state's intentions to foreign leaders and publics.

they can exert political pressures on the government to open markets and eliminate regulations that are inconsistent with GATT-WTO agreements. More importantly, they are key to facilitating a defendant's implementation of a WTO ruling. As it is often the case, some defendants do not comply with adverse rulings in a timely manner because of domestic opposition (Hofmann and Kim 2009). This means that a plaintiff's winning does not guarantee that a defendant will immediately remove its illegal trade policies. However, domestic pro-trade groups can change this situation by increasing the probability that the government would comply with a ruling (Iida 2006:29). Thus, influencing those pro-trade groups in a defendant state is important to increase a likelihood that a losing defendant will comply with a WTO ruling and implement necessary policy changes. A prospect that compliance with a WTO ruling will be forthcoming affects a state's willingness to settle a dispute by adjudication (Garrett and Smith 2002).[6]

For a potential plaintiff, the WTO's dispute settlement is an ideal venue to access those pro-trade groups in a defendant state. In contrast to the closed nature of bilateral negotiations, litigating disputes at the WTO makes trade issues public events so that domestic groups can observe and assess government policies through published reports or increased media coverage (Beardsley 2010, Davis 2012, Pelc 2013).[7] Moreover, a key function of WTO adjudication is to provide information about the legal validity and anticipated consequences of government trade policies (Johns and Rosendorff 2009). Information provides domestic groups with the leverage necessary to lobby their government (Mansfield, Milner and Rosendorff 2000, Rosendorff 2005).

There are cases in which domestic groups use WTO rulings to justify their own actions or to call into question the legitimacy of government policies. One such case is a WTO

6. Hollyer and Rosendorff (2012:5) have presented a similar idea that IOs provide alarm bells to warn domestic audiences when leaders have violated their obligations.

7. Investigating web-search statistics, Pelc (2013) shows that citizens in the US are more likely to search WTO-related words in the internet when the US government got sued to the WTO for its potential violations of the GATT-WTO rules. This indicates that US citizens are concerned about their country being branded a violator of international law.

dispute between the United State and Chile, in which Chile's special license measure imposed on import liquors was judged as a violation of GATT Article III. Especially after the WTO rendered a ruling, bar owners and beer importers in Chile started filing claims to domestic courts about the government's measure that charged them extra licensing fees to sell imported beers and sprits (Echandi 2013:16-17). This example suggests that while domestic industries may have information about how their government's imposition of tariffs negatively affect their business, they often do not know whether those tariffs are illegal in the WTO standards.[8]

In addition to pro-trade groups, there are additional groups that can be mobilized by information provided through the WTO: the would-be targets of counter-retaliations. Under the current WTO rules, the injured WTO members are allowed to request authority to suspend trade concessions or to use retaliations that are equivalent to the level of nullification and impairment. Therefore, those who pay attention to information from the WTO are not only the direct victims of trade remedies imposed by their governments, but also indirect victims who will suffer from trade remedies in the form of counter-retaliations. Those would-be targets of counter-retaliations can significantly update their beliefs about the possible consequences of the government trade remedies only after seeing WTO settlement procedures that reveal a real possibility of retaliatory tariffs.

For example, the EU's approach in the dispute over steel tariffs with the US illustrates how the would-be targets of counter retaliation can be mobilized. Citing injury to the US steel industry from increased steel imports in March 2002, the EU filed a claim against the steel tariffs before the WTO. Before the WTO's appellate body was established, the EU published a retaliation list that threatened sanctions against $2.2 billion worth of US goods including fruit juices, apples, dried vegetables and t-shirts. This tariff list, indeed, trigged a large lobbying

8. Some remedies are difficult to identify as barriers by domestic groups since the government tends to hide those barriers for the fear of backlash against the welfare loss caused by protectionism (Kono 2006).

by targeted industries against the Bush administration that protected steel industries. Those cross-industry mobilizations could not be feasible without information proved through IOs.[9]

In this way, a plaintiff can use the WTO's dispute settlement as a tool to inform certain groups in a defendant state of their government's violations of trade policies that may sacrifice their economic interests. This information may mitigate mobilizing costs that pro-trade groups need to pay without observing a WTO dispute, which enables pro-trade groups to act together.[10]

2.3.2 When Do Foreign Audiences Matter?

If a plaintiff uses the WTO's dispute settlement mechanism for the purpose of providing information and mobilizing domestic pro-trade pressures in a defendant state, when would it be best? I argue that a plaintiff uses the WTO when the demands of pro-trade groups in a defendant state are more likely to be translated into government trade policies. This is because the benefit of mobilization is almost zero when those groups do not have an ability to influence their government's policy making. Following the literature of comparative politics, I argue that the nature of a national leader's core support coalition influences the extent to which a government crafts policies that satisfy constituencies' demands. This guides a potential plaintiff to make decisions about when to litigate.

It has been argued that a government's or leader's policy responsiveness to domestic demands is partly and importantly determined by those who constitute a leader's political support base. National leaders in every country must maintain the support of some subset of the group of individuals with the power to replace them, and leaders are more likely to adopt

9. Scholars have argued that the threat of counter-retaliation is a way to mobilize powerful domestic groups such as exporters in the scofflaw state against trade remedies that led to the counter-retaliations (e.g., Destler, Odell and Elliott 1987, Gilligan 1997, Milner 1988, Movsesian 2003, Nzelibe 2005).

10. If mobilization costs were very low, then those domestic groups would want to mobilize even in the absence of dispute initiations by foreign states, causing the states to have less incentives to use IOs. In such situations, the plaintiff state does not gain any additional benefits from initiating a dispute.

policies that are favorable for their supporters (e.g., North and Weingast 1989, Bueno de Mesquita et al. 2005). Although a leader is happy if her economic policy can improve overall national economic performance, a leader's primary focus is to generate economic returns for ruling societal interests that provide her political support. With a credible threat of withdrawing their support if a leader cannot provide benefits to them, societal interests who form the leader's coalition can exert meaningful influence. Consequently, the demands of the members of leader's support coalition are expected to be more likely to be translated into policies.

Referring to this point, scholars have argued that leadership turnover provides a possible indicator of a country's trade policy change (Bobick and Smith 2013, Rosendorff and Smith 2013). This is because a new leader may not have a strong incentive to continue to provide protection for economic interests of constituents who supported her predecessors. For instance, if a new leader's political survival depends on pro-trade constituencies or the would-be targets of counter-retaliations, the leader might be willing to remove protectionist policies in order to maximize her constituencies' welfare and secure political survival. If so, the new leader might be willing to eliminate trade violations that had occurred in the previous leader's time in office. In this way, a shift in leader's constituencies might result in a shift from protectionist policies to pro-trade policies, or *vice versa*.[11]

In addition, a national leader's attention to the constituency's demand is expected to be much higher when a given issue is salient. Since a leader varies over time in the degree to which she is attentive to her constituencies (Gawande, Krishna and Olarreaga 2009), policy salience provides information shortcut for the leader to decide which constituencies' demands to focus upon (Baumgartner et al. 2009:22). Also, if an issue is salient or visible, people are more likely to pay attention to leaders' behaviors, as reflected in news media reported. Thus,

11. Leeds, Mattes and Vogel (2009) and Mattes, Leeds and Carroll (2015) have shown that the changes in national leaders' core societal support coalitions are associated with the changes in countries' foreign policies, especially in non-democracies.

if a leader is unresponsive to high salience issues, voters pose a stronger threat of electoral punishments for her (Schattschneider 1975). Trade disputes at the WTO can contribute to an increase in issue salience and visibility. Litigating disputes makes trade issues public events so that domestic audiences can observe and assess the performance of their leaders through published reports or increased media coverage (Beardsley 2010, Davis 2012).

2.3.3 Hypotheses: Timing of WTO Litigation

The above arguments lead to a hypothesis about the timing of when a plaintiff state should bring a dispute before the WTO. It is expected that a plaintiff waits to bring a certain dispute before the WTO until sympathetic domestic audiences in a defendant state are more influential against their government to change policies. Especially, I expect that a leadership turnover accompanied by a change in leadership support coalition matters. Although it is difficult to identify which economic sectors support each leader, it would be reasonable to think a new leader who is supported by different societal groups from those of her predecessor tends to have support from different economic sectors, and therefore, she has different policy preferences and priorities.[12] This leads to the main hypothesis of this research:

Hypothesis 1

> *A plaintiff is more likely to file a dispute when a defendant has leadership turnover that is accompanied by change in societal support coalitions.*

I argue that a key incentive behind a plaintiff's strategic use of the WTO's dispute settlement stems from the WTO's function as an information provider. Because a plaintiff wants

12. However, it also might be a case that a new leader who is supported by different congruency than her predecessor who caused a violation actually keeps that violation or even strengthens existing protecting trade policies. If a new leader is supported by much stronger anti-trade constituency than her predecessor, this scenario is possible.

to use the WTO to transmit information effectively, it cares about how and when domestic audiences in a defendant state may react to the information. If this argument is relevant, when a plaintiff decides to settle a dispute by other means such as negotiations, it may not care about domestic audience reaction as much as when it uses the WTO. Although the existence of pro-trade groups in a counterpart of a dispute may be helpful even in a negotiated settlement, such groups are expected to be barely mobilized without relevant information as well as issue saliency. This leads to a secondary hypothesis:

Hypothesis 2

Leadership turnover accompanied by change in societal support coalitions in a defendant state does not affect the timing of plaintiff's use of bilateral negotiations.

If Hypothesis 2 is not rejected, the argument that a state uses the WTO's dispute settlement as a tool of providing information to foreign audiences would be less convincing.

2.4 Research Design

This research focuses on when disputes are taken before the WTO, which I define as plaintiff's litigation.[13] To know the timing of plaintiff's WTO litigation, the researcher needs to have a sample of cases in which a plaintiff suspected other states' violations against its trade but it did not bring or has not yet brought a case to the WTO. However, since we cannot observe the cases when a state could have but decided not to litigate, it is almost impossible to correctly identify those potential dispute cases. As a consequence, one of the biggest hindrances for

13. In the WTO settlement mechanism, if a plaintiff state identifies an objectionable practice of another member states, it can bring the case to the WTO to start consultation. If the plaintiff and the defendant fail to reach a resolution at the consultation stage before formal litigation, the plaintiff can request the establishment of expert panel or tribunal and ask it to hear the case and issue a ruling. If the defendant loses, the defendant must bring its trade policy in line with the panel's ruling.

scholars seeking to analyze when a state uses the WTO has been the issue of sample selection (Rosendorff 2015:11-12).

To overcome this issue, I use the Temporary Trade Barriers Database (TTBD) created and updated in June 2013 by Bown (2015).[14] TTBD includes data on countries' impositions of import-restricting trade remedies: Anti-Dumping (AD) duties, Countervailing (CV) duties, and Global Safeguard (SG) measures.[15] Although trade remedies are legal measures that a country importing foreign goods can use to protect its own domestic industries, the excessive use of those remedies can be seen as GATT-WTO agreement violations. The imposition of these trade-restricting measures are considered objectionable policies, and thus "potential candidates" for WTO litigations.[16]

Using the TTBD, I identify (1) to which countries (i.e., potential plaintiffs), potentially objectable policies have been imposed (2) by which countries (i.e., potential defendants), (3) the date when the countries imposed those policies, and (4) whether and how those policies ended. To determine whether trade remedies listed in the TTBD were actually litigated in the WTO, I check the correspondence of those measures with actual trade disputes that were dealt with at the WTO. To do so, I use the WTO database, Dispute Settlement Gateway, which contains information about past WTO disputes.[17] If the contents of a plaintiff's accusation (against AD or CV) listed in the WTO database correspond to the contents of a certain AD or

14. I am using TTBD version 2014. This version covers trade remedies that were imposed by 55 countries against exported goods from 129 countries between 1979 and 2013. TTBD is available at http://econ.worldbank.org/ttbd/gad/ (accessed on August 2, 2015).

15. AD duties are imposed when imported merchandises were sold in a country at an unfairly low price (i.e., dumping) and they harm domestic companies in that country. CV duties, also known as anti-subsidy duties, are imposed to neutralize the negative effects of subsidies applied to imported merchandise. SGs are emergency measures to limit imports temporarily, designed to safeguard domestic industries. SG measures are imposed against the excessive use of SGs.

16. Not only are the countries involved in AD, CV, and SG cases quite diverse, but so too are the products that receive these types of protection.

17. Dispute Settlement Gateway is accessible from https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm (accessed on August 2, 2015).

CV duties listed in the TTBD, I consider that those measures were brought to the WTO.[18]

This dataset allows me to compare the cases that were actually selected for WTO litigation to a sample of likely cases, and therefore, allows me to reasonably infer the role of WTO litigation by dealing with an issue of selection bias. In addition, this dataset enables me to analyze the plaintiff's choice of WTO litigation in comparison to other means of settling disputes (e.g., bilateral negotiations). My sample includes 3,158 potentially illegal trade remedies which are consisted of 2,887 AD duties and 271 CV duties imposed by 31 WTO member states (i.e., potential defendants) against 98 WTO member states (i.e., potential plaintiffs) before the end of 2008.[19] My unit of analysis is a remedy-year. These 3,158 trade remedies combine for 21,080 observations for the period from 1995 to 2008.[20]

2.4.1 Dependent Variables

All trade remedies in my sample will experience one of three possible events over the course of their lifespan: (1) a WTO litigation, (2) a revocation by an imposing country, and (3) the continuation of imposition. The first course is that the remedies are identified as harmful and taken before the WTO by countries that have had those remedies imposed. The second course is that the remedies are revoked as a result of either the unilateral decisions of imposing countries (i.e., withdrawals) or settlements through bilateral negotiations. The third course is that the remedies have been kept imposed. This means that neither imposed counties nor

18. I excluded SG measures from my sample. SG measures are imposed without specifying targets, and therefore, it is hard to identify potential plaintiffs.

19. In my data set, top five remedy imposers are USA (718), EU (440), India (375), Canada (229), and Argentina (179). Top five targets of remedy impositions are China (580), South Korea (221), Japan (190), USA (171) and Taiwan (158). The number of remedy impositions are shown in parenthesis.

20. The advantage of using a remedy-year as a unit of analysis is that we can distinguish factors influencing plaintiffs' decisions to bringing disputes before WTO from underlying propensity to have trade disputes. Several studies examine why some trade issues are taken before WTO adjudication by examining all possible pairs of WTO member states (e.g., Bown 2005*a*, Busch and Reinhardt 2002, Horn, Mavroidis and Nordström 1999, Reinhardt 2000, Sattler, Spilker and Bernauer 2011). However, about this country-year data stricture, it is difficult to tell whether dispute initiations occur simply because certain dyadic pairs of countries have higher potential to be involved in dispute in the first place.

imposing countries have taken any actions as of the end of my observational period. Regarding remedies that do not experience any terminating events as of the end of 2008, I consider them as right-censored cases.

The primary dependent variable is *WTO Litigation*. This is a binary variable, with value 1 if a remedy was taken before the WTO by a plaintiff and value 0 otherwise. Among 3,158 remedies in my data set, 154 remedies (5%) resulted in WTO litigations by 33 plaintiffs against 15 defendants by the end of 2008 (see Table 2.1).[21] These 154 WTO litigations (about 123 AD duties and 31 CV duties) comprise 38% of total WTO litigations occurred from 1995 to 2008.[22]

— Table 2.1 about here —-

2.4.2 Independent Variable

The independent variable is a change in the leader's support coalition: *SOLS Change*. It is expected that the changes in the constellation of those who support a national leader should be associated with changes in a state's foreign policies. The *SOLS Change* variable is taken from the Change in Source of Leader Support (CHISOLS) data project (Mattes, Leeds and Carroll 2015). The CHISOLS dataset includes the date of each national leader change for most nations from 1919 to 2008. The CHISOLS data records the date of entry and exit of individual national leaders and whether the leadership turnover is accompanied by Source of Leader Support (SOLS) change.

21. In my data set, countries appeared as plaintiffs more than eight times are EU(21), Italy (17), Germany (12), India (12), France (11), UK (8), South Korea (8). On the other hand, the countries frequently appeared as defendants include USA (78), India (38), EU (8), Argentina (6), South Africa (6), Brazil (5), Mexico (5).

22. There were 388 dispute initiations for this time period. Since my data set only include the impositions of AD and CV duties, it misses certain areas of trade disputes. In particular, it does not include regulations that affect the service industry, investment policies, and qualitative non-tariff barriers related to technical standards and intellectual property right protections (Davis 2012:123).

It is worth highlighting again that *SOLS Change* is a variable to capture changes in leadership political support, and thus, it is not an equivalent to changes in leaders (e.g., changes in the person in charge). In democracies, the CHISOLS data codes a SOLS change whenever a leader with a different party affiliation comes to power. For example, a leadership change from Bill Clinton to George W. Bush in 1993 is coded as a SOLS change, while a leadership change from Ronald Reagan to George H. W. Bush in 1989 is not coded as a SOLS change because both leaders belonged to the Republican Party. In a parliamentary government, a turnover in the Prime Minister is not associated with a change in support coalition if the party composition of the cabinet remains unchanged. In non-democracies, the CHISOLS project builds on Geddes, Wright and Frantz (2014) classification of post-1945 autocracies as single-party, military, personalist, monarchical systems or combinations thereof and, develops rules for identifying SOLS change. More details about their coding rules can be found in Mattes, Leeds and Matsumura (2015).

SOLS Change is coded 1 if any leadership change occurs accompanied by a change in the societal support coalition. Following Leeds, Mattes and Vogel (2009:470), for cases in which a new leader who is supported by a different SOLS than her predecessor assumes power during the last three months of the year, I code the following year as a year of SOLS change as well.[23] The CHISOLS data also codes interim leaders or regular leaders who are in power for less than 30 days. However, because I am only interested in leaders who have implications for effective policy decisions, I do not include those leaders.[24]

23. Following Mattes, Leeds and Carroll (2015), I aggregate major and minor SOLS changes in non-democracies and count both as SOLS changes. According to them, both minor and major SOLS changes in non-democratic systems can be considered to be meaningful. Minor SOLS changes in democracies (i.e., changes in parliamentary coalitions), however, may have a small impact on foreign policy change in comparison to major SOLS changes.

24. In some cases, policy change may not be observed immediately after a leadership transition, since new policies may not yet have had time to go into effect. For example, bureaucratic hurdles (reflecting the influence of the former government) or political appointments might delay the manifestation of a SOLS change effect on policies, making it hard to determine a consistent time frame in which the effects of a new leader's policy would begin to be observed.

2.4.3 Control Variables

Other factors are controlled that may affect a plaintiff's litigation decision. First, I control for the ability of a plaintiff to litigate a claim. *Plaintiff's GDP per capita* captures the plaintiff's capacity to use the WTO's dispute settlement. Empirical evidence on WTO disputes shows that the major economic powers such as the US, EU, and Japan are the frequent users of this mechanism, while the least developed countries are almost absent (Davis and Bermeo 2009, Guzman and Simmons 2002, Sattler and Bernauer 2011). The data for the plaintiff's GDP *per capita* is taken from the World Development Indicators (WDI) by the World Bank.

Additionally, several studies have shown that states with large export industries are more likely to file cases (Horn, Mavroidis and Nordström 1999, Sattler and Bernauer 2011). To address this point, I include *Plaintiff's Export Dependence*, which measures the plaintiff's export to the defendant (in million US dollars) as a percentage of the plaintiff's total export. As a plaintiff's export dependence on a defendant's market increases, a plaintiff is expected to be more likely to litigate because of their export stakes. The data for the dyadic trade are taken from COW version 3 (2012).

I also account for a power relationship between disputants. Bown (2005*a*) has shown a retaliatory capacity accounts for cross-national variation in dispute adjudication. I include *(Potential) Defendant's GDP per capita* and *GDP Ratio* between litigants. Dyads with larger differences in power between a plaintiff and a defendant are less likely to become involved in a WTO dispute (Sattler and Bernauer 2011). More powerful countries may obtain concessions from less powerful countries outside the WTO, and/or less powerful countries may abstain from formal WTO litigation for fear of reprisals. *GDP Ratio* is operationalized by taking the natural log of the plaintiff's GDP *par capita* over the defendant's GDP *par capita*. The data for the disputants' GDP *par capita* is taken from WDI.

Previous research indicates that democratic countries have higher propensity to use trade

dispute adjudication (Rosendorff and Smith 2013). Thus, I control for disputants' regime type. This is also important for the purpose of controlling for a confounding factor. The CHISOLS dataset shows that democracies tend to have more SOLS changes than non-democracies. Data on *Plaintiff Regime Type* and *Defendant Regime Type* are taken from the Polity IV Project by Marshall and Jaggers (2002). Country-years are coded 1 if the Polity IV score is greater than six (democracy), and 0 (non-democracy) otherwise. *Joint Democracy*, which is coded 1 if the Polity IV score is greater than six in the dyad, is also included. Democratic dyads have a greater commitment and trust to legal forms of dispute settlement than do non-democratic dyads (Busch 2000).[25] Finally, I control for possible trends in calendar year by including the years, years squared, and years cubed in all of the models as suggested by Carter and Signorino (2010).[26]

To conclude this section, I need to mention how to deal with a case in which the European Union is a defendant. While individual EU member states have the WTO membership, the EU participates in WTO dispute settlement process as a single entity when the EU or an individual EU member state as a defendant. However, with the nature of my dependent variable: *SOLS Change*, I cannot include a dispute in which the EU is a defendant, although I include disputes in which an individual EU member state is a plaintiff. A plaintiff cannot or does not expect any trade policy changes in the EU by looking at shifts in leader's support coalition in each EU member state. Thus, in my empirical analysis, all remedies that the EU imposed are dropped.[27] The summary statistics for each of these variables used in the estimation are provided in Table 2.2.

— Table 2.2 [Summary Statistics] about here —-

25. Alternatively, Guzman and Simmons (2002:S219) argue that democratic dyads are more likely to escalate to litigation because of domestic constraints. Highly democratic polities potentially involved a high degree of input from interest groups with a stake in the outcome of the disputes.
26. Year=1 refers to the first year in my sample.
27. 2,843 observations are dropped. They include the impositions of 407 AD and 33 CV duties.

2.5 Empirical Results

2.5.1 Plaintiff's WTO Litigation

— Tables 2.3 and 2.4 about here —-

To see the effect of leadership support coalition change in a defendant state on the likelihood of a plaintiff's litigation in the WTO, I employ a logistic regression model. Table 2.3 reports the results from the logit model. The coefficient estimate of *SOLS Change* is positive and statistically significant ($p < 0.01$) in both Models 1 and 2. This indicates that a plaintiff state is more likely to file a dispute to the WTO when it sees a domestic coalition change in a defendant state in the year of or a prior year to WTO litigation. This result supports Hypothesis 1.

As a sensitivity check, I run the same models by dropping cases where the EU, not an EU member state, participates as a plaintiff. It is possible that a decision making process about WTO litigations in the EU may differ from what is conducted by individual sovereign states.[28] The results are shown in Table 2.4. The results are consistent and *SOLS Change* shows even stronger effect when I drop cases in which the EU as a plaintiff.[29]

— Table 2.5 about here —-

The substantive effect of a change in leader's support coalition on the probability of WTO litigation is shown in Table 2.5. In Model 1, a change in leadership support coalition in the defendant state increases the predicted probability of the plaintiff's WTO litigation from 0.003 [0.002, 0.004] to 0.027 [0.005, 0.080]. When I focus on a different representative case, the impact of *SOLS Change* is much larger, while uncertainty increases. To take into account the

28. In my data set, 13 individual EU member states participate in WTO litigations as plaintiffs.
29. 7 such cases, which consists of 50 remedy-year observations, are drooped.

fact that WTO disputes often occur between economically powerful states, I set the litigants' GDP *per capita* at the 90th percentile level. Under this condition, *SOLS Change* increases the predicted probability of the plaintiff's initiation of WTO litigation from 0.008 [0.005, 0.012] to 0.056 [0.013, 0.162].[30] This pattern is the same when I drop cases in which the EU as a plaintiff. In Model 3, a change in leadership support coalition in the defendant state increases the predicted probability of the plaintiff's WTO litigation from 0.003 [0.002, 0.005] to 0.15 [0.013, 0.523] with holing all variables other than *SOLS change* at their means. It increases from 0.004 [0.003, 0.007] to 0.178 [0.017, 0.550] with setting litigant's GDP at the 90th percentile level.

The control variables show results consistent with previous studies. Regarding *Plaintiff's GDP*, the coefficient estimate is positive and statistically significant. This variable is expected to capture the plaintiff's capacity to litigate. This result suggests that a plaintiff with a larger GDP is more likely to take their disputes before the WTO. The *GDP Ratio* between the plaintiff and the defendant has a positive impact on the plaintiff's decision of WTO litigation. This result confirms a conventional understanding that dispute dyads with larger differences in power are more likely to become involved in WTO disputes (Sattler and Bernauer 2011). The coefficient for *Plaintiff's Export Dependence* on the defendant's market exhibits a positive and statistically significant effect on the plaintiff's litigation. This suggests that as the plaintiff's export dependence on the defendant's market increases, the plaintiff is more likely to litigate a dispute because of its stakes of a dispute. Finally, whether or not the disputants are democracies seems to have effects. In Models 1 and 3, *Plaintiff's Regime Type* and *Defendant's Regime Type* both exhibit positive and statistically significant effects. In Models 2 and

30. Although the values of predicted probability presented in each table is very small, this does not mean that the impact of each independent variable is meaningless. Since the proportion of the outcome events (i.e., litigation and bilateral negotiation) in my data set is quite small compared to no event cases, the outcome event can be considered as rare events. In the cases of rear event analysis, the value of the predicted probability should be always smaller.

4, which I exclude the two monadic terms due to their high collinearity with a dyadic term for joint democracy, *Joint Democracy* also exhibits a positive and statistically significant effect. Democracies are more likely to be involved in WTO disputes than non-democracies.

2.5.2 Plaintiff's Choice of Settlement Procedures

So far, the results support my argument. However, they do not tell us whether a change in leadership support groups in a defendant state exerts effects only on a plaintiff's decision to use a WTO litigation. If my argument that a state uses the WTO as an information transmission device is relevant, we should observe that a state's decision to use alternative settlement means (e.g., bilateral negotiations) is not affected by a change in leadership support coalition in other state (Hypothesis 2).

— Tables 2.6 and 2.9 about here —-

To test Hypothesis 2, I prepare the secondary dependent variable: *Choice of Settlement Venues*. This is a categorical variable coding how each remedy ends: (1) WTO Litigation, (2) Bilateral Negotiation, and (3) No Action.[31] In my data set, among 3,158 total remedies, 154 remedies (5%) ended as "WTO Litigation." 1,530 remedies (48%) ended as "Bilateral Negotiation"[32] 1,474 remedies (47%) do not experience any terminating events as of the end of 2008, which I consider as right-censored cases. These remedies are coded as "No Action" (See Table 2.1).

For this analysis, I use a multinomial probit (MNP) regression. The MNP model allows me to estimate simultaneously the influence of a set of variables on the probability of a certain

31. Theoretically, the "Bilateral Negotiation" includes the following two circumstances. First, a remedy is removed as a result of negotiations between a remedy-imposing country and a remedy-imposed country. Second, a remedy is withdrawn due to a unilateral decision of a remedy-imposing country regardless of status of AD or CV activity that had led a remedy imposition. Although the second circumstance leaves no from for a plaintiff's decision, it is difficult to identify such circumstance and exclude it.

32. They also included cases that were revoked by remedy imposing countries unilaterally.

settlement venue chosen by a plaintiff. The advantage of using MNP is related to the issue of independence assumption.[33] Theoretically, it is possible that policy makers may not use WTO litigations if they see that negotiated settlements or unilateral remedy-withdrawals are likely. If this is the case, the independence assumption would be violated. Unlike a standard multinomial logistic regression, a MNP does not require to meet the independence assumption and thus it is appropriate for this analysis.[34]

The results are shown in Tables 2.6 and 2.9. Since I am particularly interested in comparing the impact of *SOLS Change* on the plaintiff's choice of WTO litigation vs. bilateral negotiation, I use "using Bilateral Negotiation" as a reference category. *SOLS Change* has a positive and statistically significant impact ($p<0.05$ in Table 2.6 and $p<0.01$ in Table 2.9) on the probability of WTO litigation (relative to bilateral negotiation). In Model 5, *SOLS Change* is associated with a 0.684 increase in the relative log odds of using WTO litigation vs. Bilateral Negotiation. The relative odds for *SOLS Change* is 1.982 for using WTO litigation vs. Bilateral Negotiation.[35] This shows that the relative probability of WTO litigation rather than negotiation is 98% higher. Therefore, leader's support group change in defendant states is associated with an increase in the relative probability of WTO litigation over negotiations.

However, Tables 2.6 and 2.9 do not lead us to conclude that leader's support group change does not matter for the plaintiff's choice of a bilateral negotiation. To see the impact of *SOLS Change* on the likelihood that a plaintiff chooses a bilateral negotiation with a defendant, I re-ran the model using "No Action" as a reference category. The results are shown in Tables 2.7 and 2.10. The coefficient estimate of *SOLS Change* is positive and statistically significant

33. This is an assumption that the ratio of the probabilities for two venues does not depend on what other venues are available.

34. I ran my model using a MNL. As I expected, both Hausman and Seemingly Unrelated Estimation-based tests indicated that the independence of irrelevant alternatives (IIA) assumption was violated in my MNL model.

35. Relative odds are also called relative probabilities. This is an exponentiated coefficient (i.e., exp[0.684]).

for WTO litigation ($p<0.01$). This suggests that the relative probability of WTO litigation rather than keeping *status quo* when a plaintiff sees the SOLS change in a defendant more than double the corresponding relative probability when there is no SOLS change.[36]

One the other hand, the coefficient estimate of *SOLS Change* is also positive and significant for Bilateral Negotiation ($p<0.05$). In Model 5b, the relative probability of reaching a negotiated settlement rather than keeping *status quo* is 13 % higher when there is SOLS change in a defendant state. This result indicates that a plaintiff's decision to select bilateral negotiation (relative to the decision of taking no action) seems to be also influenced by the change in leadership support coalition.

— Table 2.8 about here —-

This result may not be so surprising given a part of my theory. Achieving negotiated settlements can be more successful when a leader who imposed a remedy is replaced by a new leader who is supported by different domestic groups than her predecessor. Thus, the entry of new leader/support coalition may increase settlements by negotiations. However, it should be noted that the magnitude of the effect of *SOLS Change* is smaller and less certain on negotiated settlements. Table 2.8 shows the predicted probability of choosing each settlement choice when there is a SOLS change in the defendant state, holding all other variables in the model at their means. A leader's support group change increases the plaintiff's choice of WTO litigation from 0.006 [0.005, 0.007] to 0.022 [0.009, 0.035], while it increase the plaintiff's choice of negotiated settlement from 0.059 [0.055, 0.063] to 0.067 [0.059, 0.076].

This highlights that while the leader's support group change may provide an opportunity for policy change, this opportunity for the settlement of disputes may be utilized more effectively in combination with WTO litigation. The utility of using the settlement opportunity

36. This is an exponentiated coefficient (i.e., exp[2.265]).

is higher when the plaintiff use WTO litigation to provide information and influence domestic groups in the defendant state. Overall, these results provide supportive evidence for the plaintiff's strategic use of WTO litigation.

2.6 Discussion

In this section, I provide two cases that demonstrate how a leadership turnover accompanied by support group change can affect a plaintiff's litigation decision. The first case is Taiwan's WTO litigation against India on October 2000. This case concerned anti-dumping measures imposed by India on several agricultural and industrial products. Since these measures were imposed in 1996, this means that Taiwan waited for approximately five years before taking these measures to the WTO. Taiwan's decision can be explained by domestic politics in India during the 1990s.

When the anti-dumping duties at issue were imposed, India was ruled by Prime Minister H.D. Deve Gowda of the Janta Dal Party. He was an influential leader of the Vokkaliga (agricultural) community and was popularly known as "Mannina maga" (Son of the soil) for espousing the cause of the farmers (Rotti 2013). His coalition, combined with support from the Congress Party, promoted the interests of agriculture and the traditionally favored industrial sectors, all of which benefitted from the trade restrictions (Bobick and Smith 2013). Thus, it seems that anti-dumping duties imposed on Taiwan's agricultural products were the reflection of the economic interests of Gowda's political supporters. In this political climate, Taiwan may have expected that India's compliance with averse rulings would be less likely even when Taiwan could win the case.

Gowda stayed in power until April 1997. After two interim governments, a new Prime Minister Atal Bihari Vajpayee of the Bharatiya Janata Party (BJP) came to power on March 1998 with twenty small regional parties known as the National Democratic Alliance (NDA).

The BJP garnered the backing of the dominant sections of Indian business (Jayasekera 1999) and Vajpayee himself was well-known for his promotion of pro-business and free-market reforms. Furthermore, after the September-October 1999 re-elections, the BJP won an outright majority in parliament, which reduced the BJP's dependence on the NDA. Accordingly, with sufficient votes in Parliament, Vajipayee could conduct stable economic policies promoting neo-liberal economic reforms. This provided a good opportunity for Taiwan to bring its claim over India's anti-dumping measures to the WTO.

The second case is the US litigation on June 2001 against Mexico's anti-dumping measures over agricultural products including beef and long grain white rice. The imposition of these duties occurred on September 1997 under the administration led by Ernesto Zedillo of the Institutional Revolutionary Party (PRI). The PRI was a leading party in Mexican politics from its founding in 1929. Virtually all of the important figures in Mexican national and local politics at that time belonged to the PRI (Jayasekera 1999). However, this 71-year dominance of the PRI ended when new president Vicente Fox of the Alliance for Change coalition won the presidential election and assumed office on December 2000. The Alliance for Change was a coalition between the National Action Party and the Green Ecological Party of Mexico, which draw its main support from urban professionals and business groups as well as Catholic groups (Storrs 2004:7).

President Fox himself promised to promote free market policies in his election campaigns. Indeed, he actually attempted to suspend the duties targeted agricultural and industrial products in response to the US objections and devastating impact on the US import of Mexican high-fructose corn syrup. However, this attempt was prevented because of the Mexican Congress that supported the continuation of the duties. While the Fox's Alliance for Change was the leading party in the legislature, the PRI continued to hold the greatest number of governorships, and no party held a majority in the lower legislature. Under these circum-

stances, there was little chance that Mexico would accept a negotiated settlement with the US. Therefore, it is possible that the US may have intentionally used the WTO in 2001 to activate pro-trade supporters and/or help president Fox to use the WTO litigation as his political cover. Eventually, the US won the case and Mexico implemented the rulings of the WTO within one year after the end of tribunal.

Without detailed case studies or interviews with policy makers who made actual litigation decisions, it hard to make a decisive conclusion about the effect of support group change on a plaintiff's decision calculus. However, these cases illustrate that a plaintiff possibly considers domestic political changes in a defendant state when it makes a litigation decision.

2.7 Conclusion

This essay investigates the possibility that a state uses an international dispute settlement mechanism to influence domestic politics in a foreign state to gain favorable outcomes. Theories have suggested that states use IOs to convey information to domestic audiences but past research has usually paid attention to the information conveyed to a state's *own* domestic citizens. Instead, I focused on a state's incentive to influence domestic citizens in a foreign state by acting though IOs and mobilize them against their government to change policies in violation.

The findings in this essay are generally consistent with the theory that IO member states use IOs to provide information to domestic audiences in other IO member states and mobilize them against their government to change policies. Empirical analyses of trade dispute litigations at the WTO from 1995 to 2008 revealed that a plaintiff is more likely to initiate a WTO dispute when domestic conditions in a defendant state favor the plaintiff. This finding shows that when there is a change in leadership support coalition in a defendant state, a plaintiff is more likely to use litigation and less likely to use bilateral negotiation to get rid of unfavorable

trade policies.

This essay contributes to important theoretical debates over the role of IOs in IR scholarship. The findings suggest that states may use IOs to transmit information not only to its own citizens, but also to domestic citizens in foreign states. Although recent scholarship has argued that states use IOs in order to transmit information to its domestic citizens, it has been underexplored whether states use IOs as a means of gaining support from *domestic citizens in other member states*. If a state wants to maximize its influence over foreign states, the state might have an incentive to recruit foreign groups who have similar policy preferences or interests as pressure groups.

This speaks to the influence of IOs in terms of enforcing international obligations. A weakness of IOs is the inability to demand that sovereign states comply with international rules. However, the findings in this essay suggest that while IOs alone may not be able to enforce international obligations, IOs do facilitate domestic enforcers. IOs can facilitate a decentralized compliance system, where the enforcement source is not from some states over others, but rather from some domestic constituencies over their government (Dai 2005:366). This point would lead us to rethink under what conditions IOs matter and how IOs can interact with domestic politics.

Second, in the context of the WTO, my analysis offers an additional factor that may influence a plaintiff's decision to litigate disputes. Domestic conditions in a defendant state is one of the important factors to solve the puzzle of why and when some dispute cases end in bilateral negotiations, but why others go to litigation. These points, in turn, provide useful policy implications for how to reform the WTO. Considering how IOs can interact with domestic audiences of IO member states, we can create more effective IOs (e.g., by increasing transparency or participation of non-state actors). The size of the benefit of acting though the WTO depends on when those domestic groups in a defendant state influence their government.

Finally, this essay also contributes to the literature on domestically motivated foreign policy changes. This essay shows that domestic politics, and in particular a shift in a leader's political support coalition, is an important aspect in identifying when the onset of dispute is likely to occur. This essay sheds light on a possibility that foreign actors might use IOs by influencing domestically motivated foreign policy changes in other counties. This topic seems worth investigating further - not only in the case of the WTO but also in the cases of other IOs. The general causal stories presented in this essay are generally applicable to any IO cases.

2.8 Tables

Table 2.1 : Plaintiff's Choice of Settlement Procedures

Plaintiff's Choices	**Frequency**	**% in Total Sample**
WTO Litigation	154	5%
Bilateral Negotiation	1,530	48%
No Action (Status Quo)	1,474	47%

Note: This table shows the plaintiff's choice of settlement procedures and the frequency of each choice about 3,158 trade remedies in my sample. The "Bilateral Negotiation" category includes cases that were revoked by remedy-imposing countries unilaterally. The "No Action (Status Quo)" category includes right-censored cases where trade remedies do not experience any terminating events as of the end of 2008.

Table 2.2 : Summary Statistics

Variable	Mean	Std. Dev.	Min.	Max.	N
WTO Litigation	0.01	0.08	0	1	23213
Choice of Settlement Venues	2.92	0.29	1	3	23213
SOLS Change	0.21	0.41	0	1	20022
Defendant's GDP *par capita* (log)	9.67	1.78	5.87	13.77	23113
Plaintiff's GDP *par capita* (log)	8.65	1.49	5	13.77	21399
GDP Ratio*	1.04	0.09	0.8	1.43	21302
Plaintiff's Export Dependence (log)	-3.31	1.95	-13.86	0.18	22502
Defendant's Regime Type	8.94	1.97	0	10	23165
Plaintiff's Regime Type	6.48	3.93	0	10	22841
Joint Democracy	0.66	0.47	0	1	22798
Year	5.64	4.32	1	32	23213
Year Squared	50.5	80.47	1	1024	23213
Year Cubed	609.56	1616.11	1	32768	23213
Year	1999.99	5.97	1977	2008	23213

* Defendant GDP *par capita* (log) / Plaintiff GDP *par capita* (log)

Table 2.3 : Effect of Change in Defendant's Leader Support Coalition on Plaintiff's WTO Litigation (1995-2008), Logit Model

	Model 1	Model 2
SOLS Change	1.88***	1.88***
	(0.70)	(0.68)
Defendant's GDP *par capita* (log)	−0.25***	−0.18**
	(0.08)	(0.08)
Plaintiff's GDP *par capita* (log)	0.47***	0.55***
	(0.08)	(0.07)
GDP Ratio	4.11***	4.82***
	(1.38)	(1.37)
Plaintiff's Export Dependence (log)	0.12*	0.14**
	(0.07)	(0.07)
Defendant's Regime Type	0.32***	
	(0.09)	
Plaintiff's Regime Type	0.17***	
	(0.05)	
Joint Democracy		2.14***
		(0.43)
Year	−0.99***	−0.98***
	(0.20)	(0.20)
Year Squared	0.10***	0.10***
	(0.04)	(0.03)
Year Cubed	−0.00**	−0.00**
	(0.00)	(0.00)
Constant	−12.74***	−12.33***
	(2.04)	(2.01)
N	18,204	18,204

Standard errors in parentheses.

* p<0.10, ** p<0.05, *** p<0.01

Table 2.4 : Effect of Change in Defendant's Leader Support Coalition on Plaintiff's WTO Litigation (1995-2008), Logit Model without the EU as Plaintiff

	Model 3	Model 4
SOLS Change	3.58***	3.37***
	(1.15)	(1.05)
Defendant's GDP *par capita* (log)	−0.05	0.04
	(0.11)	(0.10)
Plaintiff's GDP *par capita* (log)	0.15	0.26***
	(0.09)	(0.08)
GDP Ratio	3.07**	3.36**
	(1.42)	(1.44)
Plaintiff's Export Dependence (log)	0.14**	0.16**
	(0.07)	(0.07)
Defendant's Regime Type	0.23**	
	(0.09)	
Plaintiff's Regime Type	0.23***	
	(0.05)	
Joint Democracy		2.00***
		(0.43)
Year	−0.93***	−0.92***
	(0.21)	(0.21)
Year Squared	0.10***	0.09***
	(0.04)	(0.04)
Year Cubed	−0.00*	−0.00*
	(0.00)	(0.00)
Constant	−10.33***	−10.22***
	(2.07)	(2.08)
N	18,142	18,142

Standard errors in parentheses.

* p<0.10, ** p<0.05, *** p<0.01

Table 2.5 : Predicted Probability of WTO Litigation (1995-2008), Logit Model

Outcome	No Change in Leader's Coalition	Change in Leader's Coalition
WTO Litigation by Mean GDP Litigants	0.003 [0.002 – 0.004]	0.027 [0.005 – 0.080]
WTO Litigation by Large GDP Litigants	0.008 [0.005 – 0.012]	0.056 [0.013 – 0.162]

Note: This table shows the estimated impacts of SOLS change on WTO litigations. 95% Confidence Intervals are listed in brackets. For calculating the effect and its confidence interval, I used Clarify created by King, Tomz and Wittenberg (2000), holding all variables other than *SOLS Change* at their means. Estimates are taken from Model 1 in Table 2.3.

Table 2.6 : Effect of Change in Defendant's Leader Support Coalition on the Plaintiff's Choice of Settlement Venues (1995-2008), Multinomial Probit Model

	Model 5		Model 6	
WTO Litigations				
SOLS Change	0.68**	(0.28)	0.68**	(0.28)
Defendant's GDP *par capita* (log)	−0.14***	(0.05)	−0.13***	(0.05)
Plaintiff's GDP *par capita* (log)	0.16***	(0.04)	0.20***	(0.04)
GDP Ratio	1.17	(0.75)	1.41*	(0.75)
Plaintiff's Export Dependence (log)	0.07*	(0.04)	0.08**	(0.04)
Defendant's Regime Type	0.10**	(0.04)		
Plaintiff's Regime Type	0.07***	(0.02)		
Joint Democracy			0.82***	(0.19)
Year	−0.50***	(0.11)	−0.49***	(0.11)
Year Squared	0.06***	(0.02)	0.06***	(0.02)
Year Cubed	−0.00**	(0.00)	−0.00**	(0.00)
Constant	−2.94***	(1.07)	−2.85***	(1.07)
Bilateral Negotiations (Baseline)				
No Actions				
SOLS Change	−0.13*	(0.07)	−0.18**	(0.07)
Defendant's GDP *par capita* (log)	−0.02	(0.02)	−0.06***	(0.02)
Plaintiff's GDP *par capita* (log)	−0.09***	(0.02)	−0.08***	(0.02)
GDP Ratio	−1.06***	(0.31)	−1.18***	(0.31)
Plaintiff's Export Dependence (log)	0.01	(0.01)	0.01	(0.01)
Defendant's Regime Type	−0.08***	(0.01)		
Plaintiff's Regime Type	−0.02**	(0.01)		
Joint Democracy			−0.22***	(0.05)
Year	0.06*	(0.03)	0.06	(0.03)
Year Squared	0.00	(0.00)	0.00	(0.00)
Year Cubed	−0.00	(0.00)	−0.00	(0.00)
Constant	4.55***	(0.42)	4.41***	(0.42)
N	18,204		18,204	

Standard errors in parentheses.

* p<0.10, ** p<0.05, *** p<0.01

Table 2.7 : Effect of Change in Defendant's Leader Support Coalition on the Plaintiff's Choice of Settlement Venues (1995-2008), Multinomial Probit Model

	Model 5b		Model 6b	
WTO Litigations				
SOLS Change	0.82***	(0.27)	0.85***	(0.27)
Defendant's GDP *par capita* (log)	−0.12***	(0.05)	−0.06	(0.04)
Plaintiff's GDP *par capita* (log)	0.24***	(0.04)	0.28***	(0.04)
GDP Ratio	2.23***	(0.73)	2.59***	(0.73)
Plaintiff's Export Dependence (log)	0.06*	(0.04)	0.07**	(0.03)
Defendant's Regime Type	0.18***	(0.04)		
Plaintiff's Regime Type	0.09***	(0.02)		
Joint Democracy			1.04***	(0.19)
Year	−0.55***	(0.11)	−0.55***	(0.11)
Year Squared	0.06***	(0.02)	0.06***	(0.02)
Year Cubed	−0.00**	(0.00)	−0.00**	(0.00)
Constant	−7.49***	(1.03)	−7.26***	(1.03)
Bilateral Negotiations				
SOLS Change	0.13*	(0.07)	0.18**	(0.07)
Defendant's GDP *par capita* (log)	0.02	(0.02)	0.06***	(0.02)
Plaintiff's GDP *par capita* (log)	0.09***	(0.02)	0.08***	(0.02)
GDP Ratio	1.06***	(0.31)	1.18***	(0.31)
Plaintiff's Export Dependence (log)	−0.01	(0.01)	−0.01	(0.01)
Defendant's Regime Type	0.08***	(0.01)		
Plaintiff's Regime Type	0.02**	(0.01)		
Joint Democracy			0.22***	(0.05)
Year	−0.06*	(0.03)	−0.06	(0.03)
Year Squared	−0.00	(0.00)	−0.00	(0.00)
Year Cubed	0.00	(0.00)	0.00	(0.00)
Constant	−4.55***	(0.42)	−4.41***	(0.42)
No Actions (Baseline)				
N	18,204		18,204	

Standard errors in parentheses.

* p<0.10, ** p<0.05, *** p<0.01

Table 2.8 : Predicted Probability of WTO Litigation (1995-2008), Multinomial Probit Model

Outcome	**No Change in Leader's Coalition**	**Change in Leader's Coalition**
WTO Litigation	0.006 [0.005 – 0.007]	0.022 [0.009 – 0.035]
Bilateral Negotiation	0.059 [0.055 – 0.063]	0.067 [0.059 – 0.076]
No Action	0.935 [0.931 – 0.940]	0.911 [0.897 – 0.924]

Note: This table shows the predicted probabilities that a state takes each settlement procedure after observing SOLS change in other state with which the state has a dispute. 95% Confidence Intervals are listed in brackets. For this calculation, I used Clarify created by King, Tomz and Wittenberg (2000) and set variables other than *SOLS Change* are held at their means. Estimates are taken from Model 5 (or 5b)

Table 2.9 : Effect of Change in Defendant's Leader Support Coalition on the Plaintiff's Choice of Settlement Venues (1995-2008), Multinomial Probit Model without the EU as Plaintiff

	Model 7		Model 8	
WTO Litigations				
SOLS Change	1.27***	(0.44)	1.23***	(0.44)
Defendant's GDP *par capita* (log)	−0.04	(0.06)	−0.03	(0.05)
Plaintiff's GDP *par capita* (log)	−0.01	(0.05)	0.06	(0.04)
GDP Ratio	0.73	(0.77)	0.78	(0.77)
Plaintiff's Export Dependence (log)	0.08**	(0.04)	0.09**	(0.04)
Defendant's Regime Type	0.06	(0.05)		
Plaintiff's Regime Type	0.10***	(0.03)		
Joint Democracy			0.79***	(0.20)
Year	−0.44***	(0.11)	−0.44***	(0.11)
Year Squared	0.05***	(0.02)	0.05***	(0.02)
Year Cubed	−0.00**	(0.00)	−0.00**	(0.00)
Constant	−1.86*	(1.08)	−1.88*	(1.08)
Bilateral Negotiations (Baseline)				
No Actions				
SOLS Change	−0.14*	(0.07)	−0.18**	(0.07)
Defendant's GDP *par capita* (log)	−0.02	(0.02)	−0.06***	(0.02)
Plaintiff's GDP *par capita* (log)	−0.09***	(0.02)	−0.08***	(0.02)
GDP Ratio	−1.06***	(0.31)	−1.18***	(0.30)
Plaintiff's Export Dependence (log)	0.01	(0.01)	0.01	(0.01)
Defendant's Regime Type	−0.08***	(0.01)		
Plaintiff's Regime Type	−0.02**	(0.01)		
Joint Democracy			−0.22***	(0.05)
Year	0.06*	(0.03)	0.06	(0.03)
Year Squared	0.00	(0.00)	0.00	(0.00)
Year Cubed	−0.00	(0.00)	−0.00	(0.00)
Constant	4.57***	(0.43)	4.41***	(0.42)
N	18,142		18,142	

Standard errors in parentheses.

* p<0.10, ** p<0.05, *** p<0.01

Table 2.10 : Effect of Change in Defendant's Leader Support Coalition on the Plaintiff's Choice of Settlement Venues (1995-2008): Multinomial Probit Model without the EU as Plaintiff

	Model 7b		Model 8b	
WTO Litigations				
SOLS Change	1.41***	(0.44)	1.41***	(0.43)
Defendant's GDP *par capita* (log)	−0.02	(0.05)	0.04	(0.05)
Plaintiff's GDP *par capita* (log)	0.08*	(0.05)	0.14***	(0.04)
GDP Ratio	1.79**	(0.74)	1.96***	(0.74)
Plaintiff's Export Dependence (log)	0.07**	(0.04)	0.08**	(0.04)
Defendant's Regime Type	0.14***	(0.05)		
Plaintiff's Regime Type	0.12***	(0.02)		
Joint Democracy			1.01***	(0.19)
Year	−0.50***	(0.11)	−0.49***	(0.11)
Year Squared	0.05***	(0.02)	0.05***	(0.02)
Year Cubed	−0.00**	(0.00)	−0.00**	(0.00)
Constant	−6.43***	(1.04)	−6.29***	(1.04)
Bilateral Negotiations				
SOLS Change	0.14*	(0.07)	0.18**	(0.07)
Defendant's GDP *par capita* (log)	0.02	(0.02)	0.06***	(0.02)
Plaintiff's GDP *par capita* (log)	0.09***	(0.02)	0.08***	(0.02)
GDP Ratio	1.06***	(0.31)	1.18***	(0.30)
Plaintiff's Export Dependence (log)	−0.01	(0.01)	−0.01	(0.01)
Defendant's Regime Type	0.08***	(0.01)		
Plaintiff's Regime Type	0.02**	(0.01)		
Joint Democracy			0.22***	(0.05)
Year	−0.06*	(0.03)	−0.06	(0.03)
Year Squared	−0.00	(0.00)	−0.00	(0.00)
Year Cubed	0.00	(0.00)	0.00	(0.00)
Constant	−4.57***	(0.43)	−4.41***	(0.42)
No Actions (Baseline)				
N	18,142		18,142	

Standard errors in parentheses.

* p<0.10, ** p<0.05, *** p<0.01

Chapter 3

Leadership Turnover and the Initiation of Investment Dispute Arbitration

Chapter Abstract

International investment arbitration is an important tool for investors seeking to remedy violations of bilateral investment treaties (BITs) by host countries. This essay investigates when investors use international arbitration by focusing on their expectation about policy change in host-countries. I argue that a leadership turnover accompanied by a change in leaders' societal support provides a window of opportunity for policy change and therefore rectifying BIT violations. While national leaders tend to break BITs to protect the interests of their own constituencies, new leaders may place less emphasis on protecting those constituencies of previous leaders. Accordingly, the entry of new leaders who are supported by different constituencies from those of old leaders increases the likelihood that violations will be rectified, which in turn, encourages investors to use international arbitration. This argument is examined by investor-state disputes at the International Center for Settlement of Investment Dispute (ICSID) from 1983 to 2008. Empirical evidence shows that BIT violations made during the previous leader's tenure are more likely to be filed after a new leader takes office with support from different societal groups. This explains a puzzle that some investors do not take disputes to arbitration courts immediately after they find BIT violations.

3.1 Introduction

The increasing number of bilateral investment treaties (BITs) is one of the features of the recent international economy. As of June 2015, there are about 2,927 BITs signed by at least 198 different countries.[37] A BIT is an agreement formed between two countries, which promises that host countries will not treat foreign investors and their investments unreasonably (Franck 2007*b*:172). By offering precise and well-defined legal obligations toward investors in host countries' territories, BITs are expected to enhance host countries' commitment to protect economic rights of investors.

However, the existence of BITs alone does not ensure host countries' automatic commitment to treaty obligations. Defection from BITs is always possible. Thus, it is important to increase the costs of defection in order to secure host countries' comment. In this regard, scholars have empathized the role of international arbitration mechanisms (e.g., Franck 2007*b*, Salacuse 2007). Recent trend among BITs is to require signatory countries to give a consent needed to establish international arbitral jurisdiction in the event of a future dispute between one signatory and a national(s) of the other signatory (Salacuse and Sullivan 2005:87-88). Accordingly, investors whose home country is one of those signatories have the power to invoke compulsory arbitration in international arbitration bodies when they find host countries' BIT violations. The possibility of getting sued by investors increases the cost for host countries not to comply with BITs, which helps enhancing host countries' commitment to BITs.

The strong legal power vested to investors may suggest that investors can easily sue host countries when they find the latter's violations of BITs. Interestingly, however, the timing of when investors invoke compulsory arbitration and bring host countries' BIT violations to international arbitration courts varies considerably. Some investors take their disputes to

37. This information is obtainable from the United Nations Conference on Trade and Development's home page:http://investmentpolicyhub.unctad.org/IIA (accessed on June 22, 2015).

international courts immediately after they find host countries' violations of BITs, while some investors wait for many years to do so.

This essay investigates the question of when injured investors use international arbitration. In doing so, I revisit a fundamental question of the efficacy of international arbitration; the enforcement of adverse rulings. For investors who do not want to waste their litigation efforts by filing claims when adverse rulings are unlikely to be complied with by host countries, the benefit of using international arbitration is not constant. Investors may file a claim when host countries will be more likely to comply with adverse rulings. Based on this assumption, I argue that investors are more likely to use international arbitration when they believe domestic conditions in host countries are favorable for ruling compliance.

In particular, based on recent scholarship on the effect of leadership turnover on countries' policy change (e.g., Bobick and Smith 2013, Leeds, Mattes and Vogel 2009, Mattes, Leeds and Carroll 2015, McGillivray and Smith 2008), it can be hypothesized that injured investors may wait to file disputes until new leaders whose core constituencies are different from those of old leaders come to power in host countries. While national leaders tend to break BITs to protect the interests of their own constituencies, new leaders may place less emphasis on protecting those constituencies of their predecessors. Consequently, the entry of new leaders who are supported by different constituencies from those of old leaders increases the likelihood that violations will be rectified, which in turn encourages investors to use international arbitration.

I test this hypothesis empirically by examining the investors' use of the International Centre for Settlement of Investment Dispute (ICSID) as an example.[38] Since its establishment in 1966 as a World Bank institution, the ICSID has been providing means to settle disputes between investors and host countries for more than 40 years. This analysis is possible because of

38. Technically, the ICSID does not arbitrate cases by itself. Rather, it serves to help disputants create an acceptable panel and to provide logistical support.

an original data set of ICSID dispute initiations that codes when BIT violations occurred and were filed to the ICSID from 1983 to 2008. Empirical evidence reveals that BIT violations made during previous leaders' tenure are more likely to be filed after new leaders take office with support from different domestic groups. This implies that investors use international arbitration in anticipation of how host countries' domestic politics affect the likelihood that BIT violations will be dealt with.

This essay attempts to contribute to the arbitration literature in the area of foreign investment. Few scholars in international relations have explored the occurrence of investor-state arbitration. This research is one of the first attempts to examine when international arbitration is more likely to be used by investors. More importantly, this research suggests both potential limitations and promises of international arbitration. The finding highlights that efficacy of international arbitration mechanisms may be largely influenced by domestic politics in host countries, which neither international organizations nor investors have direct influence. However, it also suggests that international arbitration mechanisms may enhance investors' ability to influence domestic politics in host countries under some conditions. Triggering high visibility and salience of disputes, international arbitration may make new leaders in host countries more attentive and responsible to their constituencies including pro-investment domestic groups and those who support their government's general compliance with international obligations.

This essay is composed of five sections. The next section is the review of existing literature that explains the conditions under which international arbitration is likely to be used. The third section develops an argument that investors use the ICSID when BIT violations are more likely to be removed. It is expected that leadership turnovers in host countries open a window of opportunity for host countries' policy change, which motivates the investors to initiate ICSID arbitration. The fourth section tests my argument and the final section concludes my analysis.

3.2 A Puzzle of ICSID Adjudication

One of the unique features of dispute settlements in the area of international investment is that foreign investors have a direct channel for international arbitration mechanisms. Unlike the case of trade disputes where domestic firms must convince their government to initiate dispute settlement proceedings at the WTO against a foreign firm, industry, or government that has allegedly violated GATT/WTO agreements, investors can initiate arbitration proceedings without consent to their home government. This is because of BITs formed between investors' home countries and host countries. Most BITs include dispute settlement clauses offering accesses to international arbitration mechanisms to the nationals of one of the signatories to the treaty against the other signatory. Because of these clauses, investors can sue host countries directly without petitioning their home governments to intercede as long as the investors' home countries are the signatories of such BITs.

Among several international arbitration mechanisms, what has been most frequently referred to in the recent BITs is the ICSID. The ICSID was established in 1966 as the first public international arbitration tribunal dedicated to hearing investor-state disputes. Currently, it is the most frequently used permanent venue of arbitration in the area of investment.[39] According to data provided by Franck (2007*a*:38-39), investors have turned to the ICSID to contest foreign governments' violations of BITs more than seven times as frequently as other institutional arbitration bodies.[40] Figure 3.1 shows the number of ICSID adjudications from 1980 to 2010. The ICSID has received a dozen or more investment disputes each year starting from 1997. As of June 2015, the ICSID has dealt with 525 cases (ICSID 2015:7).

— Figure 3.1 about here —-

39. Other major forums for resolving investor-state disputes include the Arbitration Institution of the Stockholm Chamber of Commerce, the International Chamber of Commerce, the London Court of International Arbitration, and the United Nations Commission on International Trade Law (UNCITRAL).

40. The UNCITRAL has been also frequently used. But, it is an *ad hoc* venue of arbitration.

Regarding the use of the ICSID, however, there has been wide variation in timing when investors file BIT violations. Some investors take their claims to the ICSID immediately after they find host countries' violations of BITs, while some investors wait for many years to do so. For instance, a British investor sued the Romanian government with the ICSID for potential violations of the UK-Romania BIT in 2006. However, it was six years after the investor found the violations. The violations originated an emergency ordinance issued by the Romanian government in April 2000, which banned the British investor's duty-free businesses at Bucharest airport and required to give the investor's contracts to a number of Romanian companies. Similarly, a Norwegian mining company operated in Indonesia waited for six years to bring its claim to the ICSID. As a result of a mining law issued in January 2009, which required foreign mining companies to refine and process minerals within the country prior to export and limit foreign ownership of mining companies, this Norwegian company lost its business in Indonesia (TIN 2004). Given that BIT violations result in considerable economic damage to investors as long as they are imposed, it is a puzzle that some investors wait before using international arbitration. Why did not the UK investor in Romania and the Norwegian investor in Indonesia take their claims to the ICSID immediately?

A plausible answer to this question is that both the British and Norwegian investors could have tried to settle their disputes by negotiating with the governments. Since international arbitration is costly in the sense that investors must pay for soured relationship with host governments as well as litigation costs, settling disputes by negotiations seems to be a more appealing option for investors. Peters (2008:1260) describes that "direct costs of international arbitration are often significant and sometimes wind up exceeding actual amounts gained." There is empirical evidence that the amount awarded to investors is usually far less than they claim (Franck 2007*a*).[41]

41. Her data suggests that despite the fact that investors claimed US$343 million in damages on average,

Similarly, investors may use domestic legal remedies before using the ICSID. Under Article 26 of the ICSID Convention, host countries are permitted to require investors to exhaust local remedies as a condition of their consent to arbitration (Dodge 2006:10).[42] The availability of domestic settlement mechanisms has been analyzed as a factor that explains the use of international arbitration. Freeman (2013) has found that countries with weaker legal institutions experience the larger number of international investment arbitrations than those with stronger capacity. Given sovereign immunity and problems with the enforceability of judgments, national courts in some host countries may not be desirable options for investors to recourse even when national courts are available (Franck 2011). Scholars often portray international arbitration mechanisms as substitutes for weak domestic legal institutions (Dodge 2006:56).

The explanation based on domestic legal capacity or availability can provide a good prediction about which host countries are more likely to be taken before international courts for arbitration. However, existing studies cannot fully explain when host countries are likely to be sued. Especially, it is unclear when investors give up negotiating with host countries and decide to turn to the ICSID. For instance, if the lack of trust in the enforceability of national court judgments in host countries is a main reason for investors to rely on international courts, how can investors not be concerned about the host countries' enforcement of adverse rulings issued by the ICSID? Similar to general international organizations, the ICSID lacks enforcement capacity. While states that have signed the ICSID Convention have agreed to recognize

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that is not what they received. Indeed, tribunals awarded investors only US$10 million on average. Her data even shows that reported costs represent more than 10% of an average award (i.e., over US$1.2 million).

42. However, investors are generally not required to exhaust local remedies before bringing their claims to international arbitration courts. Under Art. 26 of the ICSID Convention, a state may require the exhaustion of local administrative or judicial remedies as a condition of its consent to arbitration under the Convention. In the absence of such a provision there is no requirement to exhaust local remedies. Only a few states have conditioned their consent to ICSID jurisdiction on the prior exhaustion of local remedies (UNCTAD 2003:31).

the tribunal's award as binding and to enforce that ruling through its own legal system (Article 54), the rules of sovereign immunity from execution of the judgment of the award continue to apply (Articles 55). Jensen (2008:1041) argues that "even if an investor wins an arbitral dispute, there is no guarantee that the host government will comply with the arbitration settlement." Baker (1999:59) agrees with this, saying that "it would appear that any signatory state against which an award has been rendered could plea the rules of sovereign immunity from execution of the judgment of the award [from international courts]." In short, we have not yet known when investors actually take their claims to international arbitration courts such as the ICSID.

3.3 A Domestic Explanation of ICSID Adjudication

To address when investors use international arbitration mechanisms, I consider the conditions under which the enforcement of BITs or host countries' compliance with adverse rulings is more likely. Since international adjudication is costly, investors may not want to waste their resources by filing claims when adverse rulings are unlikely to be complied with by host countries. Thus, we can expect that investors are more likely to file disputes when they believe domestic conditions in host countries are favorable for ruling compliance.

Based on recent scholarship on the effect of leadership turnover on policy change, it can be proposed that a leadership turnover accompanied by change in leader's societal support provides a window of opportunity for policy change and therefore ruling compliance. Since new leaders who are supported by different societal groups from those of previous leaders tend to have different policy preferences, they may have a lower priority to protect sectors or industries which lost representation in the new government (Bobick and Smith 2013, Rosendorff and Smith 2013). I argue that investors see a higher likelihood that BIT violations will be rectified when leaders who made violations at dispute are replaced by new leaders.

3.3.1 Leadership Turnover, BIT Violations, and BIT Compliance

The idea that new leaders have an opportunity to change countries' policies is not new. Scholars have argued that leadership turnovers provide a chance that new societal interests will be represented in policies (Bobick and Smith 2013, McGillivray and Smith 2008, Rosendorff and Smith 2013). Every national leader must maintain the support of some subset of the group of individuals with power to replace her, and thus a leader is more likely to adopt policies that are favorable for her supporters (e.g., Bueno de Mesquita et al. 2005, North and Weingast 1989). If so, the entry of a new leader who is supported by different societal interests from those of her predecessor may trigger a noticeable change in a country's domestic and foreign policies, for better or worse. Theoretically and empirically, Leeds, Mattes and Vogel (2009) and Mattes, Leeds and Carroll (2015) have explicitly shown that changes in leaders' societal supporting coalitions are associated with changes in countries' foreign policies, in non-democratic countries in particular.

In the area of investment, violating BITs can serve as a policy tool for leaders to secure political support (Li 2009:1105).[43] Violations such as direct expropriation, nationalization, confiscation of foreign investors' assets, and taxation increase governments' revenues, which can be redistributed to leaders' constituencies. In addition, when leaders are supported by consistencies who are negatively affected by the inflows of FDI, the violation of BITs may be necessary to protect their constituencies' economic interests. The growing presence of more competitive foreign firms often turns less competitive local firms into losers (Li and Resnick 2003:183). Indeed, it has been shown that local business owners tend to oppose the inflow of FDI (e.g., Aitken and Harrison 1999, Görg and Greenaway 2004, Reuveny and Li 2003, Scheve and Slaughter 2004).

Latin American rulers present clear examples that leaders discriminate foreign investors

43. See also Kobrin (1980, 1984), Lipson (1985), Thomas and Worrall (1994).

because of their political reasons. For example, Bolivian president Evo Morales decreed the nationalization of the country's natural gas industry immediately after his assumed power on May 1, 2006 (Kohl and Farthing 2012). During his electoral campaign in 2005, Morales claimed that many of contracts signed by previous governments are illegal and unconstitutional. Similarly, Ecuadorian president Alfredo Palacio confiscated Occidental Petroleum in 2006. The indigenous groups in Ecuador, who had campaigned for the company to be expelled, welcomed this takeover of Occidental (BBC 2006). Aside from Latin American leaders, Indonesian president Susilo Bambang Yudhoyono issued the mining law in January 2009 that limit foreign ownership of mining companies. This was a part of his electoral strategy to appeal to resource nationalism and local mining companies, which eventually helped his re-election three months later (TIN 2004).

On the other hand, however, there are some domestic actors who gain benefits from FDI. Certain domestic groups can benefit from the foreign capital of Multinational Companies (MNCs), their advanced technology and managerial skills, the higher employment, and wage rates that foreign capitals bring to the host economy (Lipsey 2004). If local firms and industries are capable of absorbing such spill-over from MNCs, they can increase their productivity and income (Görg and Greenaway 2004). Several scholars have shown that workers, skilled and/or unskilled, tend to benefit from inflows of FDI (e.g., Lipsey 2004, Lipsey and Sjöholm 2005). Therefore, for those pro-investment groups, the leaders' violations of BITs may bring negative consequences. This is demonstrated in the Indonesian case mentioned above. The 2009 Mining Law negatively affected some Indonesians. Over three thousands Indonesians who worked for a Norwegian mining company operated in the island of Sumbawa were laid off because of the closure of the company due to the Law (TIN 2004).[44]

44. Also, the benefits and costs of inward FDIs are typically concentrated in certain economic sectors and regions of host countries (Li and Resnick 2003). If FDIs choose to concentrate in a particular region, employment in that region may rise at the expense of other regions (Graham and Krugman 1995). This

With these distributive outcomes of FDI, national leaders' BIT violations may increase economic welfare for anti-investment groups, while they may simultaneously incur costs for pro-investment groups. Therefore, it might be the case that if leaders' political survival depends on their pro-investment constituencies, they have a strong incentive to comply with BITs. Those leaders may have an incentive to remove anti-investment policies in order to maximize their constituencies' economic welfare.[45] Moreover, even if leaders do not rely on those pro-investment constituencies, the leaders may have lower priority to use a BIT violation as a policy tool when their main constituencies are not anti-investment groups. A shift in leadership, or a change in a leader's political support coalition in particular, may result in a shift from anti-investor policies to pro-investor policies, or *vice versa*.

3.3.2 Use of International Arbitration

Since leadership turnovers are easily observable, foreign investors can perceive these differences in constituents and form an expectation of the likelihood that BIT violations are removed. However, it is wrong to assume that BIT violations should be automatically removed every time new leaders come to power with different constituencies than those of their predecessors. If that is the case, investors do not need to use costly international arbitration.

There are reasons that BIT violations cannot be unilaterally removed because of the entry of new leaders. First, changing policies such as rectifying regulations considered as violations entails some costs for any leaders. The costs could take the form of increasing legislative opposition or instructing bureaucracies to adjust policies (Huber and Lupia 2001:21). Accordingly, even new leaders with different policy preferences from those of their predecessors

concentration of gains and losses from FDIs in sectors and regions causes FDIs to take on the character of private goods (e.g., Kobrin 1980, 1984, Lipson 1985, Thomas and Worrall 1994).

45. Bradley (1977:80) has found empirical evidence that joint ventures "with local private parties" substantially reduce the likelihood of being nationalized.

would not change policies unless they think it is necessary. Second, national leaders do not pay attention to every constituency's demands. Rather, leaders vary over time in the degree to which they are attentive to the constituencies (Gawande, Krishna and Olarreaga 2009). This is because leaders need information that shapes the leaders' view of constituent interests (Lavine et al. 1996:294).[46] For their demands to be heard and translated into actual policies, constituencies have to make efforts to get their leaders to pay attention to the issues that are important to them. One of the important factors that affect governments' policy responsiveness is thus policy salience.

Policy salience has been analyzed as a factor that strongly increases the influence of policy-specific opinion (e.g., McConnell 1966, Page and Shapiro 1983, Schattschneider 1975). People care about salient issues and hold opinions about them (Franklin and Wlezien 1997:350). It follows that, in those issue domains, people are more likely to pay attention to politicians' behaviors, as reflected in news media reporting. More salient issues will weigh more heavily on voting decisions than will less salient issues (Abramowitz 1994, Miller et al. 1976, RePass 1971). If leaders are unresponsive to higher salient issues, voters pose the stronger threat of electoral punishments (Schattschneider 1975). It has been shown that policy congruence is higher on salient issues than on non-salient issues (Jacobs and Page 2005, Page and Shapiro 1983).[47]

Therefore, if investors want to utilize an opportunity for policy change brought by leadership turnovers, they need to take some actions to induce favorable outcomes. It appears that using international adjudication is helpful with this regard since doing so would increase the issue salience of BIT violations. In contrast to the closed nature of bilateral negotiations, taking disputes to international courts makes treaty violations public events so that domes-

46. See also Milner (1997).

47. Policy salience provides leaders who need to consider thousands of different policies each year an information shortcut (Baumgartner et al. 2009:22).

tic groups in respondent countries can observe and assess the performance of their leaders through published reports by international courts and increased media coverage (e.g., Beardsley 2010, Chaudoin 2014, Davis 2010, Pelc 2013). It is expected that the new leaders tend to hear their constituencies' demands more when disputes are escalated to international arbitration as opposed to negotiated settlements that are not observed by domestic groups. Moreover, besides pro-investment domestic groups that have vested interests in the government's removal of BIT violations, citizens who care about own government's general compliance with international agreements would pay attention to their government's behaviors once disputes are turned to international arbitration, which encourages new leaders to take actions.

An ICSID litigation by the British company mentioned above illustrates how both leadership turnover and the use of international arbitration matter. While the dispute resulted from Romanian Prime Minister Adrian Nastase's emergence ordinance in 2000, the company brought this case to the ICSID in 2005 when Nastase was defeated by Traian Basescu in a general election. The British company believed that Nastase's ordinance partly resulted from the company's refusal to pay a bribe to retain its business contracts in 2000. Thus, the entry of a new Prime Minister Basescu, who was supported by anti-corruption political elites, led the British company to expect policy change in Romania. In addition, the litigation came at a time when Romania, who failed to join the European Union the prior year, was facing heavy pressure from Brussels over its record in fighting corruption and implementing judicial reform (FT 2008). Romania could lose accession to the EU in 2007 if it failed to take effective action.

3.3.3 Hypothesis: ICSID Adjudication

The above arguments lead to the main hypothesis of this investigation: that investors wait to bring a certain dispute case before the ICSID until the likelihood of policy changes in host countries becomes higher. Especially, it is hypothesized that new leaders supported by

new societal interests will face more investor-state disputes among cases that were caused by previous leaders.

Hypothesis

An investor is more likely to file a dispute to the ICSID when a change in leadership support coalition occurs in a host country.

3.4 Research Design

3.4.1 Data and the Unit of Observation

To test the hypothesis empirically, I analyze investors' use of the ICSID. Unlike other forums for international arbitration, the ICISD is the only body that publicizes information about the nature, timing, and the outcomes of its proceedings and awards. Since the hypothesis is based on the argument that investors intentionally use international arbitration for the purpose of publicizing host countries' BIT violations to certain domestic groups in host countries, the ICSID is an ideal venue which investors may want to use for that purpose.

For each ICSID litigation, I have identified when investors found host countries' BIT violations that eventually ended up as litigations. Doing so, I checked the original legal documents submitted by investors (i.e., claimants) to the ICSID.[48] These documents allowed me to code details about the host countries' actions leading to the investor-state disputes (e.g., the dates of expropriation of investors' assets, investment license, and so on). Most documents are

48. An arbitration process is always initiated by an investor(s) by sending *Notice of Registration* to the ICSID and to a host country. This notice does not immediately start an arbitration process. Rather, it starts the stage of a negotiated settlement. Early settlement is possible when litigants can reach a mutually agreeable solution. When the early settlement by negotiation is not reached within six to 12 months, the investor then initiates arbitration by sending the *Notice of Arbitration* to the ICISD and the host country. After the *Notice of Arbitration* is issued, the ICSID constitutes a panel/tribunal to consider each side's claim. As an indicator of an investor's filing a claim, I use the *Notice of Registration*.

available from ICSID website.[49] Secondary information sources have been also used including *ita: Investment Treaty Arbitration* and *Investmentclaims.com*, *ICSID Report*, and *ICSID Review*.[50]

— Figure 3.2 about here —-

Data have been collected about 166 BIT violations/litigations made by 53 host countries (i.e., defendants).[51] For clarification, observations in my data set are limited to only BIT violations that have resulted in ICSID litigations from 1984 to 2008 and wherein I could identify when investors recognized BIT violations. Thus, the data does not include the instances where an investor did not bring or has not yet brought a claim to the ICSID even when the investor found a BIT violation. Neither does it include BIT violations that resulted in ICSID litigations but the dates of BIT violations could not be identified either due to the lack of litigation documents or the difficulty in identifying the dates of violations.[52] Because of these reasons, the dates of BIT violations for 99 litigations (out of 265 litigations) could not be collected during my observational period.

Limiting my observations to BIT violations that were actually litigated may raise a concern for a sample selection bias. If BIT violations with certain characteristics are selected to bring to the ICSID, this prevents correct inference about the effect of explanatory variables. However, no systemic pattern appears in my sample. For instance, there is wide variation in the host-counties and industries involved. The top six host countries that have been most

49. We can search decisions and awards at: https://icsid.worldbank.org/ICSID/FrontServlet (accessed on July, 2015).

50. *ita: Investment Treaty Arbitration* is accessible from http://www.italaw.com/ (accessed on July, 2015). *Investmentclaims.com* is accessible from http://www.investmentclaims.com (accessed on July, 2015).

51. Although the ICSID was established in 1966, ICSID arbitration was not used extensively before the early 1980s. Thus, I don't include ICSID litigation occurred in the 1960's and 1970's.

52. Even in the ICSID cases, not all litigation documents are publicly available because some litigants decide not to disclose their legal documents to outsiders. In addition, when cases do not reach to the arbitration stages due to early settlements or unilateral withdrawals by the claimants, detailed case information are not disclosed.

frequently appeared as defendants in ICSID adjudications are Argentina (32), Mexico (13), Ecuador (11), Egypt (7), Ukraine (7), Venezuela (7).[53] Table 3.1 shows all defendants in the sample. While many countries in Latin America are involved, countries in other regions also have appeared as defendants. Of industries involved in ICSID disputes in the sample, while industries that have typically been at the center of the expropriation debates (e.g., mining and extraction) are included, by no means do they dominate the caseload, which seems balanced across a number of issue areas.[54]

A data set is organized where the unit of observation is violation-year. Each observation begins when an investor finds a host-country's violation(s) of a BIT and it ends when the investor files the violation to the ICSID. The date of each litigation is taken from the ICSID website. Eventually, the data set includes 670 observations. Figure 3.2 shows the length of time between the occurrence of a BIT violation and the initiation of ICSID adjudication. Of 166 ICSID adjudications in the data set, BIT violations remained in effect for approximately 4.9 years on the average before being taken to the ICSID (with a minimum of 0 and a maximum of 18 years).[55]

— Table 3.1 about here —-

Since the data structure is not common in existing studies, it merits some discussions. One of the advantages of taking each violation as a unit is that we can focus more on the timing of when each violation is filed. An alternative data structure is the country-year, which includes all countries that have a potential to be filed at any time. When the country-year structure is

53. The numbers in the parenthesis show how many times each country appeared as a defendant.

54. The largest number of cases (34) is related to extraction of petroleum or natural gas, and involved metal ores. The second largest group of cases (22) is in electric power and other energy sectors. The third largest group of cases (18) involves water, sanitation and flood protection. Other disputes involves sectors including transportation (17), information and communication (13), tourism (11), finance (10), service and trade (10), construction (7), agriculture, fishing, and forestry (5), and other industries (12).

55. The maximum case is ARB/96/1 where an investor located in the United States filed Costa Rica in 1996.

chosen, there is a need to deal with the factors that affect the occurrences of BIT violations in addition to the factors that affect the investors' decisions of filing violations to the ICSID. However, it is difficult to control for all those factors due to limited availability of necessary data in the field of investment. Focusing on each violation, instead, allows us to investigate solely on investors' decisions to file BIT violations that they found.

Equally important, the country-year structure may pose some issues in analyzing the effects of a leader's support group change on the onset of ICSID litigation. This is because outgoing leaders may commit more violations when they know that they are going to lose the next election or lose constituency support. It is possible that these outgoing leaders try and shore up domestic support by committing lots of ICSID-worthy violations. If this is the case, we see those countries getting sued, not because of a leadership change, but because the impending leadership change has caused more investment-related crimes to be committed. Therefore, using a violation as the unit of analysis helps avoiding this concern.[56]

3.4.2 Dependent Variable

The dependent variable in this study is *Litigation*. This is a dummy variable capturing if a litigation has resulted from a BIT violation.

3.4.3 Independent Variables

Leader Changes with Support Coalition Changes

The primary interest in this study is the impact of a change in national leader's support coalition in a host country on an investor's decision to file its dispute to the ICSID. If the hypothesis

56. The third alternative is the leader-year level structure. However, this structure may not completely solve this concern. In addition, for this leader-level analysis, there is a need to take the average value of each control variable for each leader, which unavoidably lose variation in data and pose a problem especially for a leader who was in power for a long time.

is correct, a new leader with a new support coalition would have higher risk of getting sued by investors about BIT violations made by her predecessor who was supported by a different support coalition. To identify the change in leadership support coalition, the Change in Source of Leader Support (CHISOLS) data set (Mattes, Leeds and Carroll 2015) is drawn and the variable named *SOLS Change* is used. The CHISOLS data records the date of entry and exit of individual national leaders and whether the leadership turnover is accompanied by Source of Leader Support (SOLS) change for most nations from 1919 to 2008.

In democracies, the CHISOLS data codes a SOLS change whenever a leader with a different party affiliation comes to power. For example, a leadership change from Bill Clinton to George W. Bush in 1993 is coded as a SOLS change, while a leadership change from Ronald Reagan to George H.W. Bush in 1989 is not coded as a SOLS change because both leaders belonged to the Republican Party.[57] In parliamentary democracies, changes in the Prime Ministers are not coded as a SOLS change unless the party composition of the cabinet remains unchanged. In non-democracies, the CHISOLS builds on Geddes, Wright and Frantz (2014) classification of post-1945 autocracies as single-party, military, personalist, monarchical systems or combinations and develops rules for identifying SOLS change. Detail coding rules can be found in Mattes, Leeds and Matsumura (2015).

SOLS Change is a dummy variable that takes the value of 1, if any leader change occurs accompanied by a change in the societal support coalition. Following Leeds, Mattes and Vogel (2009:470), for cases in which a new leader who is supported by a different SOLS than her predecessor assumes power during the last three months of the year, I code the following year as a year of SOLS change as well. It is expected that there is a positive relationship between

57. In cases where a leader is an independent, it follows two rules: (1) if the new leader is the pre-designated successor of the old leader, it codes no SOLS change. Pre-designated successors are vice presidents, those appointed by the outgoing leader, or relatives (brother, son) of the old leader; (2) if the voters who elected both leaders are similar based on their regional, ethnic, class etc. characteristics, it codes no SOLS change.

SOLS Change and *Litigation*. Since I am only interested in leaders who have implications for effective policy decisions, interim leaders who do not represent any particular societal groups but rather are tasked with maintaining the status quo until a new regular leader takes office, are excluded. Similarly, leaders who are in power for less than 30 days are not included.[58]

Leader Changes without Support Coalition Changes

To examine the impact of changes in leader's support coalitions thoroughly, an additional dummy variable: *Leader-only Change* is prepared. This variable is coded 1 if a new leader who has the same societal support base as the outgoing leader comes to power. If there are multiple leader changes in the current or previous year then this variable is coded 1 only when none of the changes were associated with changes in the support coalition. Since I assume that what matters for investors' litigation decisions is not leaders, rather supporters for the leaders, there should be weak or null relationship between *Leader-only Change* and *Litigation*. The null finding also helps us to confirm that litigations are not results of the short length of previous leader's tenure, which does not leave enough time for investors to sue that leader while she is in office.

— Table 3.2 about here —-

In the end, *SOLS Change* and *Leader-only Change* are mutually exclusive variables. The data set includes a total of 176 leaders from 53 host-countries. Of the 670 dispute-years from 1983 to 2008, 95 are coded as *SOLS Change*, while 81 are coded as *Leader-only Change*. Table 3.2 shows when leaders make BIT violations in their tenure periods. Although the timing of violations varies widely among leaders, most leaders make policies for which investors

58. Following Mattes, Leeds and Carroll (2015), I aggregate major and minor SOLS changes in non-democracies and count both as SOLS changes. According to the authors, both minor and major SOLS changes in non-democratic systems can be considered to be meaningful. Minor SOLS changes in democracies (i.e., changes in parliamentary coalitions), however, may have a small impact on foreign policy change in comparison to major SOLS changes.

suspect BIT violations in the first few years in their time of office. Given the average tenure period of leaders in the data set is approximately 6.3 years (with a minimum of 1 year and a maximum of 47 years), it seems every leader tends to BIT-inconsistent policies in her early tenure years rather than in her later tenure years.

3.4.4 Control Variables

The argument is based on the idea that investors are more likely to file claims when they expect host countries will comply with adverse rulings. Thus, I control for other factors that influence host countries' propensities for ruling compliance and affect investors' decisions to use the ICSID.

First, a host country's domestic economic condition is an important factor. Investors may expect that a government facing deteriorating economic conditions is less likely to comply with ICSID rulings. A government in economic turmoil tends to exploit resentment toward foreign firms and violate BITs (e.g., Jensen 2008, Li and Resnick 2003). Thus, it is expected that the more favorable economic conditions are, the more incentives a host government may comply with adverse rulings, and so the more arbitral claims could be brought against it. *GDP Growth Rate* is identified as an indicator of the relative health of a country's domestic economy. This variable should have a positive effect on the probability of ICSID litigation. Data for this variable is obtained from Penn World Tables.[59]

In addition to domestic economic condition, a host country's external economic relationship may influence a host country's propensity of ruling compliance. According to Allee and Peinhardt (2010), disputable behaviors are likely to be lower for a country that depends heavily on FDI than a country for which FDI is an insignificant component of the national

59. Similar data is available from World Development Indicators (WDI). However, the temporal domain of WDI is limited to 10 years from 2004.

economy. This implies that higher dependence on FDI may encourage a country to comply with adverse rulings in order to recover reputation of how to treat investors. *Dependence* measures FDI inflows as a percentage of a host country's GDP. This variable is expected to have a positive effect on the probability of ICSID litigation. Data for FDI flow is taken from UNCTAD database and data for GDP is obtained from Penn World Tables.[60]

Second, aside from economic factors, a host country's domestic legal capacity affects compliance. Real *GDP per capita* is included to account for a host country's level of development. As a country develops, it often has stronger legal capacity to settle investment dispute and follows through international obligations. GDP *per capita* also indicates relative endowment of capital. Data for this variable is taken from Penn World Tables. I also control for a host country's institutional capacity. Freeman (2013:62) has found that "the number of arbitral disputes is likely to be significantly greater for countries which lack strong property rights institutions." *Law & Order* is an indicator of property rights protections. Data of this variable is taken from the International Country Risk Guide.[61] Similarly, a host country's regime type has been considered. *Democracy* is a dummy variable coded 1 if POLITY IV democracy score is 6 or above (Marshall and Jaggers 2002). As another way to capture a host country's legal capacity, *The Number of BITs* is included. This is the cumulative number of BITs that a country has joined and have entered into force. It is expected that the larger number of BITs indicates higher legal capacity. This variable also serves as a control for a host country's omitted characteristics, such as the quality of its domestic political and legal institutions. This variable is created based on the UNCTAD's Country-Specific Lists of BITs.[62]

60. The UNCTADSTAT provides data on annual inward and outward FDI flow (US Dollars at current prices and current exchange rates in millions) for the period of 1980-2010. FDI Inflows is the yearly amount of net direct investment inflows to a host country in current U.S. dollars. The UNCTADSTAT is accessible from http://unctadstat.unctad.org/TableViewer/tableView.aspx (accessed on July, 2015).

61. "Law and Order" measure is taken from POLCON dataset. However, the original source of this variable is the International Country Risk Guide.

62. UNCTAD provides the details of BITs for 198 economies. As of January 2015, 2924 BITs

Third, in addition to these country-specific characteristics, leader's (or government's) characteristics may be determining factors. For instance, a government's partisan ideology matters in regulating economic activities. Some scholars have argued that right parties tend to support private enterprise and market.[63] Investor-friendly policies, such as targeted tax cuts and balanced budgets can be found in right governments more often (Vaaler 2006).[64] *Right* is a dummy variable, coded 1 if the chief executive's party is rightist, 0 otherwise. Data for this variables is taken from the World Bank's Database of Political Institutions (Beck et al. 2001).[65] Another important leader specific characteristic is how many years a current leader is in power. It is possible that leaders can face litigations at the beginning of their tenures for several reasons other than leadership turnover. First, it is possible that a previous leader made BIT violations at the end of her tenure, which left no time for investors to take those violations to the ICSID within that leader's time in office and thus increases litigations that the next leader would face. Second, it is also possible that a new leader is simply inexperience and he can be easily targeted. *Time in Office* (in years) is the number of years under a current leader's rule.

Fourth, factors determining investors' filing decisions may relate to the ICSID' arbitration system itself. Yackee (2007:22) notes that investors have become keenly aware of the

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and 345 other international investment agreements (IIAs) are reported in UNCTAD database: http://investmentpolicyhub.unctad.org/IIA (accessed on July, 2015).

63. Similarly, Vaaler (2008) has found that MNCs perceive higher (lower) risk and announce fewer (more) investment projects as right-wing (left-wing) incumbents appear more likely to be replaced by left-wing (right wing) challengers. Left parties tend to see a general need for state intervention into the economic system and may advocate control over prices, wages, and profits (Weymouth and Broz 2013).

64. However, some scholars have argued that right governments actually do oppose FDIs, while left governments do support introducing FDIs depending on conditions (e.g., Li and Resnick 2003, Pinto 2003) Pinto (2003) claims that capital is likely to hurt from the inflows of investment, while labor is likely to benefit. There is empirical evidence that both skilled and unskilled workers tend to benefit from the inflows of FDIs (e.g., Lipsey 2004, Lipsey and Sjöholm 2005).

65. The DPI records the left-right orientation of the party heading the executive branch for 182 countries since 1975 to 2010. The DPI codes parties that differentiate themselves along economic lines either as "left (1)," "center (2)," or "right (3)" on the basis of party names and secondary sources. However, these two partisan orientation variables are crude in the sense that left-right dimension may not well capture ideological orientation of economic policies.

ICISD due to the rise in investment litigations and the coverage that ICSID disputes receive in the media. This implies that the investors' tendency to use the ICSID as a tool for settling dispute may be higher in the 2000s compared to 1960s when the ICSID was established. To account for the upward trend in the use of the ICSID over time, *ICSID Cases*, which measures the cumulative number of ICSID litigations is included. Finally, I control for possible time dependence by including the BIT violation years, BIT violation years squared, and BIT violation years in all models. These variables are named as *Time*, *Time Squared*, and *Time Cubed* respectively. Table 3.3 presents summary statistics of the variables.

— Table 3.3 [Summary Statistics] about here —-

Because the dependent variable is dichotomous, a logit analysis is used. Given that the argument is framed in terms of when a dispute filing is likely, one could argue that a more suitable estimation approach would be to use a duration model with a dispute as the unit of analysis. However, a duration model is not appropriate especially because the sample gathered does not include data on BIT violations that never get filed with the ICSID.

3.5 Empirical Results

3.5.1 Effect of SOLS Change

— Table 3.4 about here —-

Table 3.4 reports the results. I have a particular interest in whether an ICSID case is filed when a new leader comes to power with different social support from that of her predecessor who made BIT violations which lead to the ICSID case. The *SOLS Change* variable has a positive and statistically significant coefficient ($p<0.01$) in all models. This supports the hypothesis in this study. This suggests that new leaders who are supported by societal groups

that are different from those of old leaders are more likely to face ICSID litigations about violations made by those older leaders.

— Figure 3.3 about here —-

To provide a more substantive interpretation of the effect of *SOLS Change*, the predicted probability of ICSID litigation in a year when a leadership turnover is accompanied by a change in societal support groups, is computed. Using Model 2, Figure 3.3 demonstrates the changes in the probability of ICSID litigation about BIT volitions made by previous leaders. In Model 2, *SOLS Change* increases the probability of investors' ICSID litigation from 0.031 [0.016, 0.047] to 0.105 [0.050, 0.160].[66]

3.5.2 Effect of Leadership Turnover

How about the effect of mere leadership change? It is assumed that a leadership turnover in itself should not have a large impact of FDI policies except for cases in which new leaders depend on different social support groups. To see if this is the case, I test whether a leadership turnover that is not accompanied by societal support group changes is associated with ICSID litigations about BIT violations made by previous leaders. For this test, an additional dummy variable is created. *Leader-only Change* captures years in which a new leader comes to power who has the same societal support base as the outgoing leader. *SOLS Change* and *Leader-only Change* are mutually exclusive variables.

In contrast to the consistent positive and statistically significant coefficients of *SOLS Change*, while positive, the coefficients for *Leader-only Change* are not statistically significant and the size of the coefficients appear to be smaller than those of *SOLS Change* in all models in Table 3.4. The estimates in Model 2 indicate that the mere leader change increases

66. 95% confidence intervals are shown in the brackets.

the probability of ICSID litigation from 0.050 [0.027, 0.074] to 0.081 [0.005, 0.168] (See Figure 3.4). In Model 3, the coefficient for *Leader-only Change* is statistically significant ($p<0.10$). However, Model 3 is problematic due to the smaller number of observations. The inclusion of *Right* greatly reduces the number of observations. Model 3 only contains 388 observations compared with around 600 observations in the basic models. The loss of observations means that few instances of *SOLS Change* are left in the data.

To formally compare the effect of leadership turnover with support group change (*SOLS Change*) and leadership turnover without support group change (*Leader-only Change*) on ICSID litigation, a Wald test is conducted. The result shows that the two variables are statistically different from one another at conventional levels (p=0.056 for Model 1, p=0.039 for Model 2, and p=0.062 for Model 3). These findings confirm that only new leaders who have different support groups than those of previous leaders who made BIT violations at issue provides an opportunity for policy change. This leads the conclusion that a change in leader's support groups matters for investors' decisions on filing disputes more than a mere change in leaders. Equally important, this result rejects a possibility that investors could not sue given leaders' violations during their time in office because they stayed in power for a very short time.

— Figure 3.4 about here —-

Turning to other variables, *ICSID Litigations* is a strong predictor in all models. The positive signal of this relationship confirms the assumption that the use of ICSID adjudication is increasing with time due to increased familiarity with using international investment arbitration. *Time in Office* also exhibits strong negative effects, which corresponds with my expectation.

Host countries' dependence on FDI does not appear to be a significant determinant of whether or not investors bring claims to the ICSID. Although signed in the hypothesized

direction, this variable fails to achieve statistical significance. Similarly, *GDP Growth* and host countries' *GDP per capita* do not appear to affect investors' filing decisions. Overall, unlike my theoretical expectation, a slumping domestic economy may not affect investors' litigation decisions.

Interestingly, *Law & Order* exhibits a statistically significant negative effect. Unlike the expectation, host countries with a strong rule of law and minimal corruption face fewer arbitral disputes than countries with weak institutions. This result suggests that investors may use domestic courts to settle disputes when host countries have strong legal systems and rules of law. There is little evidence to suggest that the country's regime type is associated by ICSID litigation. Neither the partisan orientation of executives appear to be associated with investors' filing decisions.

3.6 Robustness Check

— Table 3.5 about here —-

To probe the robustness of the results, an additional model was estimated. It is important to ensure that the results of the analyses were not driven by an extreme outlier–Argentina, which has had an inordinately high number of arbitral claims brought against it between 2000 and 2004 due to its economic crisis. Thus, a re-run was made on all models by dropping Argentine cases from the data. The main concern about Argentinean cases is that a political or economical crisis in this period could cause both leadership turnovers and increase the number of BIT violations. If that is the case, leadership turnovers and the initiations of ICSID adjudication are correlated not because of a direct relationship, but due to a common cause.

Table 3.5 presents results. The results remain unchanged. Indeed, the estimates of *SOLS Change* tend to be stronger in most models in the data excluding Argentina. Regarding the effect of a mere leadership turnover, the coefficient for *Leader-only Change* is positive but not

statistically significant at the conventional levels. Therefore, *SOLS Change* is more consistently associated with ICSID litigation than other *Leader-only Change*.

3.7 Conclusion

International investment arbitration is an important tool for investors seeking to remedy violations of BITs by host countries. International arbitration mechanisms, along with dispute settlement provisions in BITs, are important sources of host countries' legal commitments. However, we know little about under what conditions investors decide to use those mechanisms. Compared to rich scholarship about the use of international dispute settlement mechanisms in the area of international trade (e.g., Bown 2004, Busch and Reinhardt 2002, Chaudoin 2014, Guzman and Simmons 2002), few scholars in international relations have treated investor-state arbitrations as an important dependent variable. One of the puzzling aspects of the international investment arbitration is that there is considerable variation in the timing of when investors use international arbitration.

This research approached the question of when investors file host countries' BIT violations. Doing so, I focused on foreign investors' expectations about policy change in host countries. Since an ultimate purpose to use international arbitration is to retrieve a compensation for damages or to enforce obligations promised in BITs, investors may not want to file disputes when adverse rulings are unlikely to be complied with by host countries. Thus, we can expect that investors are more likely to file disputes when they believe domestic conditions in host countries are favorable for ruling compliance or removing their violations. I argued that leadership turnovers accompanied by changes in leaders' societal support provide a window of opportunity for policy change and therefore ruling compliance. International arbitration also helps inducing favorable policy change in such circumstances.

Empirical analysis on investor-states disputes at the ICSID from 1985 to 2008 provided

evidence for this argument. It was found out that BIT violations made during the previous leaders' tenures are more likely to be litigated after new leaders take office with support from different societal groups. Investors may wait to file disputes until new leaders whose core constituencies are different from those of old leaders come to power in host countries, which maximizes the return from the initiation of litigations. The entry of new leaders who are supported by different constituencies from those of old leaders increase the likelihood that violations will be rectified, which in turn, encourages investors to use international arbitration courts.

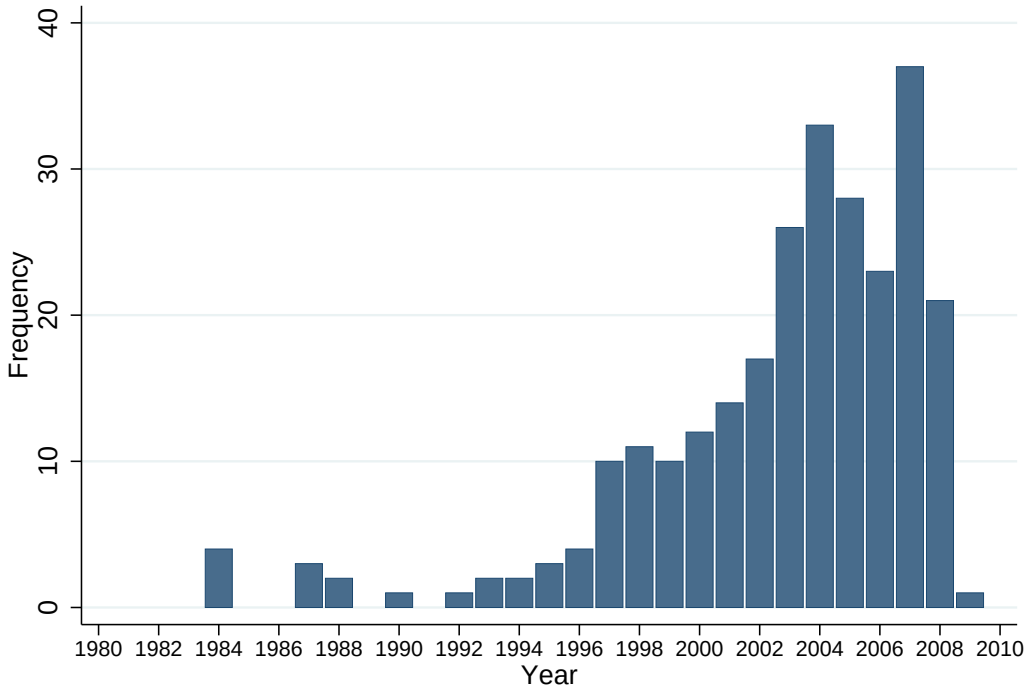
This study has implications for theories that examine the actors' use of international arbitration mechanisms or international organizations (IOs) in general. The findings suggest that the usefulness of IOs is not constant over time. Actors strategically decide when they use IOs. To do so, it appears that actors are considering domestic politics in respondent countries. This point contributes to important theoretical debates over the role of IOs in international relations scholarship. While existing scholarship has carefully examined domestic conditions in complainant countries as key determinants for actors' use of IOs, less attention has been paid to how domestic conditions in foreign/defendant countries affect the complainants' decisions to use IOs (see also Chaudoin 2014, Thompson 2010). These points, in turn, provide useful policy implications for how to design IOs. Considering how IOs can interact with domestic citizens of IO member states, we can create more effective IOs (e.g., by increasing transparency or participation of non-state actors). This also provides support for arguments about the domestic basis of compliance (Dai 2005, 2007).

This research also contributes to the literature on domestically motivated foreign policy changes. The findings add empirical support for arguments that shifts in foreign policy should be most likely when new leaders that represent different interests come to power (Leeds, Mattes and Vogel 2009, Mattes, Leeds and Carroll 2015). Not all leader transitions should

necessarily be treated equally when we explain foreign policy change. The study found that a shift in leaders' political support groups (rather than a leadership turnover itself), is an important factor that predicts when the initiation of international investment dispute arbitration is likely made.

3.8 Figures & Tables

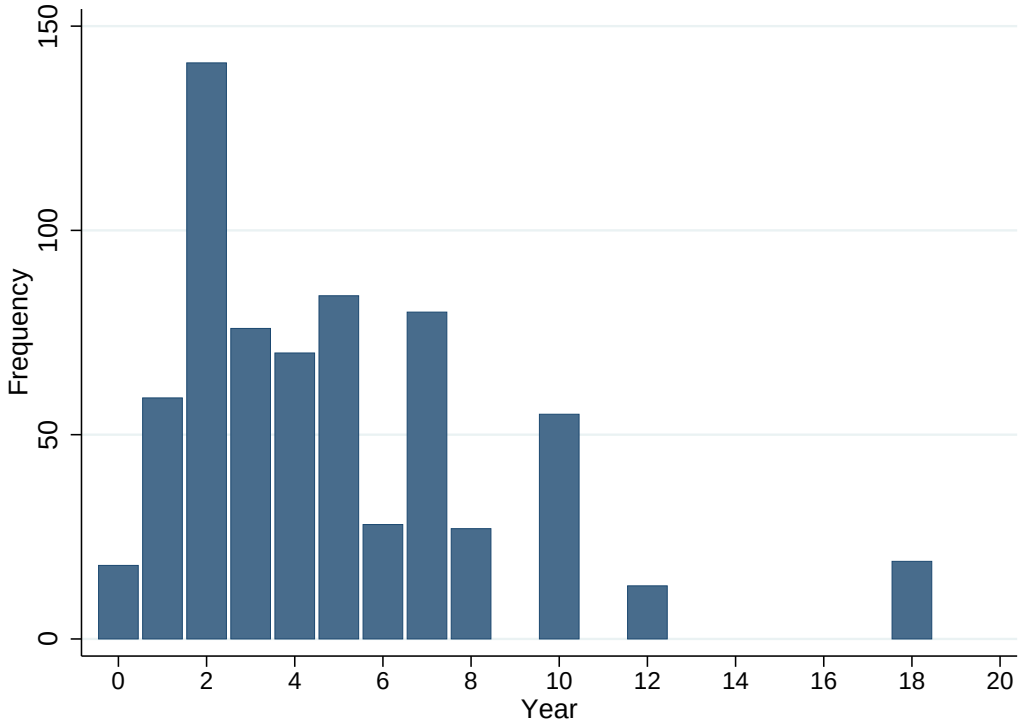
Figure 3.1 : Number of ICSID Adjudications (1980-2010)



NOTE: This figure does not include litigations occurred before 1984.

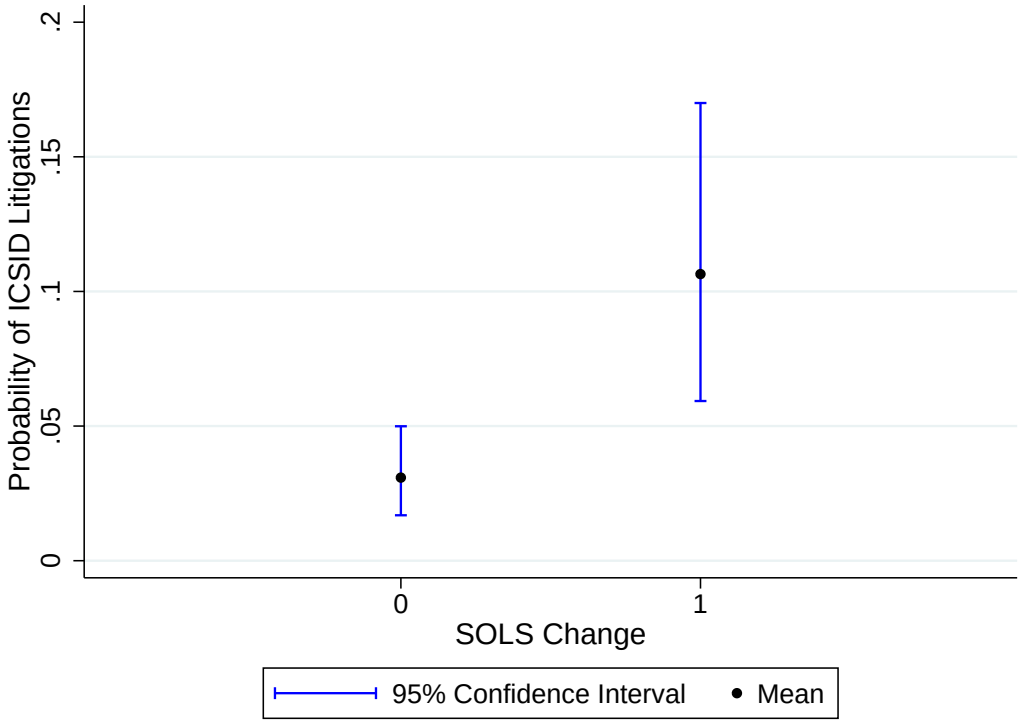
NOTE: This figure shows the frequency of ICSID litigations from 1980 to 2010. Although the ICSID was established in 1966, ICSID arbitration was not used extensively before the early 1980s. Thus, this figure excludes ICSID litigations occurred in the 1960s and 1970s. The height of the bars shows the number of litigations brought to the ICSID in a given year.

Figure 3.2 : Length of Years between BIT Violations and ICSID Adjuidcations



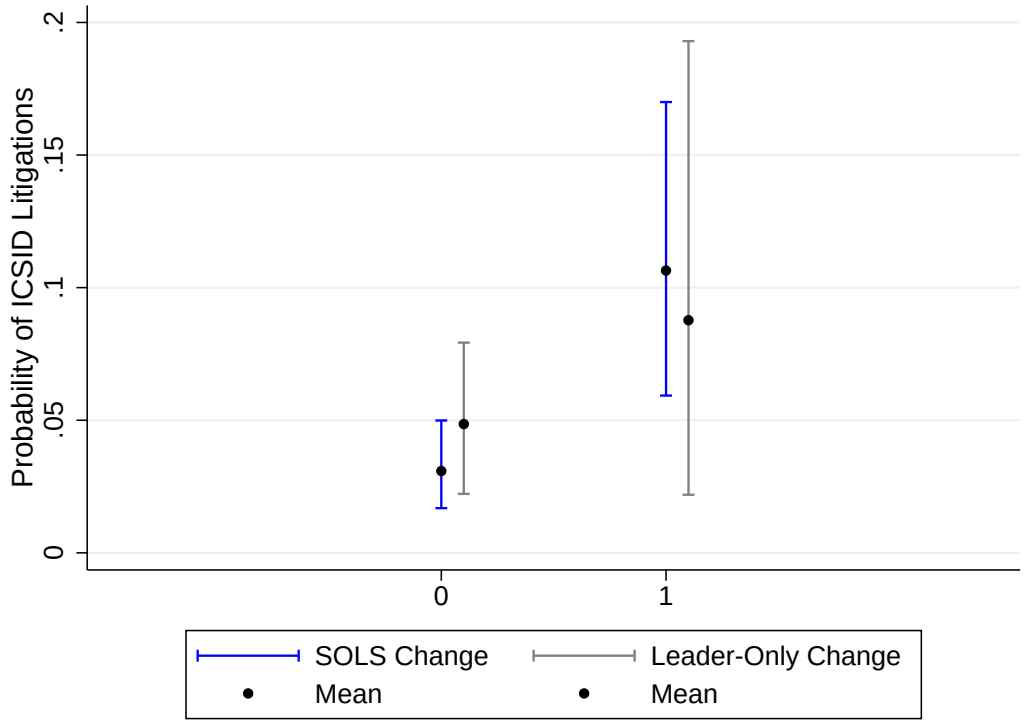
NOTE: This figure shows the length of time (in years) until the initiation of an ICSID adjudication after an investor found a host country's violation of BITs. The figure only includes 166 ICSID litigations in my data set.

Figure 3.3 : Effect of SOLS Change on the Probability of ICSID Adjudication



NOTE: This figure shows the estimated impacts of SOLS change on ICSID litigations along with 95% confidence bands. The vertical axis shows the predicted probabilities that an investor takes its claim to the ICSID. For computation, Clarify created by King, Tomz and Wittenberg (2000) is used. Variables other than *SOLS Change* are held at their means.

Figure 3.4 : Effect of SOLS Change and Leader-only Change on the Probability of ICSID Adjudication



NOTE: This figure shows the estimated impacts of SOLS change and Leader-only change on ICSID litigations along with 95% confidence bands. The vertical axis shows the predicted probabilities that an investor takes its claim to the ICSID. These comparisons are again made assuming all variables except key dependent variables are evaluated at their means.

Table 3.1 : Host Countries (or Defendants) in ICSID Adjudications

Country	Frequency	%	Country	Frequency	%
Argentina	32	19	Canada	1	1
Mexico	13	8	Trinidad & Tobago	1	1
Ecuador	11	7	Guatemala	1	1
Venezuela	7	4	Honduras	1	1
Ukraine	7	4	Panama	1	1
Egypt	7	4	Bolivia	1	1
Turkey	6	4	Spain	1	1
Costa Rica	4	2	Czech Republic	1	1
Hungary	4	2	Lithuania	1	1
Romania	4	2	Slovenia	1	1
Georgia	4	2	Bulgaria	1	1
Kazakhstan	4	2	Gambia	1	1
United States	3	2	Mali	1	1
Peru	3	2	Senegal	1	1
Paraguay	3	2	Kenya	1	1
DR Congo	3	2	Tanzania	1	1
Pakistan	3	2	Burundi	1	1
Jordan	3	2	Zimbabwe	1	1
Chile	3	2	South Africa	1	1
Albania	2	1	Morocco	1	1
Estonia	2	1	Algeria	1	1
Guinea	2	1	Lebanon	1	1
Ghana	2	1	Yemen	1	1
Bangladesh	2	1	New Zealand	1	1
Sri Lanka	2	1	United Arab Emirates	1	1
Malaysia	2	1	Kyrgyz Republic	1	1
Philippines	2	1			
Total				166	100

NOTE: Listed countries in this table are limited to the host countries in the sample gathered. Thus the table does not include all defendants in ICSID litigations that occurred in 1984-2008.

Table 3.2 : When Do Leaders Make BIT-inconsistent Policies?

Time in Office (Year)	Frequency	Percent
1	57.0	34.3
2	28.0	16.9
3	20.0	12.0
4	6.0	3.6
5	6.0	3.6
6	1.0	0.6
7	6.0	3.6
8	3.0	1.8
9	9.0	5.4
10	3.0	1.8
11 – 15	9.0	5.4
16 – 20	5.0	3.0
21 – 25	7.0	4.2
26 – 30	4.0	2.4
31 – 35	1.0	0.6
41 or more	1.0	0.6
Total	166.0	100.0

NOTE: This table presents when leaders in host countries make BIT violations in their tenure periods. Time in Office (Year)=1 shows that a leader made BIT violation(s) within a year since she came to the office. BIT violations included in this table are 166 in the sample gathered.

Table 3.3 : Summary Statistics

Variable	Mean	Std. Dev.	Min.	Max.	N
BIT Violation by Previous Leader	0.13	0.34	0	1	670
BIT Violation by Current Leader	0.11	0.32	0	1	670
SOLS Change	0.30	0.46	0	1	670
Other Leader Change	0.15	0.35	0	1	670
GDP Growth	3.72	4.94	-17	18.29	652
Dependence ($FDI \mid GDP$)	0.29	0.06	0.03	0.42	640
GDP *per capita*	7.90	1.06	4.63	10.7	652
Law & Order	3.41	1.11	0	6	629
Democracy	0.73	0.44	0	1	670
Ratified BITs (cumulative)	30.84	21.5	0	84	670
Right Leader	0.49	0.5	0	1	423
Leader's Time in Office	6.34	7.75	1	47	670
ICSID Litigations (cumulative)	106.13	72.89	0	264	670
Time	3.43	2.68	1	19	670
Time Squared	18.97	35.02	1	361	670
Time Cubed	151.53	514.20	1	6859	670

Table 3.4 : Effect of SOLS Change on ICSID Litigation (1983-2008), Logit Model

	Model 1	Model 2	Model 3
SOLS Change	1.31***	1.29***	1.94***
	(0.45)	(0.45)	(0.55)
Leader-only Change	0.56	0.52	1.07*
	(0.52)	(0.51)	(0.64)
GDP Growth	−0.01	−0.00	0.00
	(0.03)	(0.03)	(0.04)
Dependence	2.23	2.10	6.49
	(3.63)	(3.57)	(4.91)
GDP *per capita* (log)	0.45*	0.22	0.16
	(0.23)	(0.21)	(0.35)
Law & Order	−0.43***		−0.30
	(0.15)		(0.18)
Democracy	−0.60	−0.52	−0.73
	(0.48)	(0.45)	(0.79)
BITs (count)	0.01	0.00	0.01
	(0.01)	(0.01)	(0.01)
Time in Office	−0.14**	−0.16**	−0.05
	(0.06)	(0.06)	(0.07)
ICSID Litigations (count)	0.01**	0.01***	0.00
	(0.00)	(0.00)	(0.00)
Right			−0.32
			(0.40)
Time	1.63***	1.49***	2.14***
	(0.36)	(0.33)	(0.49)
Time Squared	−0.17***	−0.15***	−0.24***
	(0.05)	(0.05)	(0.07)
Time Cubed	0.01***	0.00***	0.01***
	(0.00)	(0.00)	(0.00)
Constant	−9.04***	−8.35***	−9.71***
	(1.63)	(1.52)	(2.17)
N	615	640	388

Standard errors in parentheses.
* p<0.10, ** p<0.05, *** p<0.01

Table 3.5 : Effect of SOLS Change on ICSID Litigation without Argentinean Cases (1983-1008), Logit Model

	Model 4	Model 5	Model 6
SOLS Change	1.06∗∗	1.07∗∗	1.60∗∗∗
	(0.47)	(0.47)	(0.60)
Leader-only Change	0.56	0.63	0.90
	(0.59)	(0.58)	(0.75)
GDP Growth	0.01	0.00	−0.00
	(0.06)	(0.06)	(0.08)
Dependence	5.82	6.46	11.68∗∗
	(4.05)	(3.98)	(5.79)
GDP *par capita*	0.07	0.01	−0.36
	(0.25)	(0.22)	(0.39)
Law & Order	−0.03		0.12
	(0.21)		(0.27)
Democracy	−0.54	−0.62	−0.60
	(0.47)	(0.46)	(0.81)
Cumulative BITs	−0.01	−0.01	−0.01
	(0.01)	(0.01)	(0.01)
Time in Office	−0.12∗∗	−0.13∗∗	−0.04
	(0.06)	(0.06)	(0.07)
ICSID Litigations	0.01∗∗∗	0.01∗∗∗	0.01∗∗
	(0.00)	(0.00)	(0.00)
Right			0.37
			(0.47)
Time	1.36∗∗∗	1.35∗∗∗	1.66∗∗∗
	(0.40)	(0.39)	(0.56)
Time Squared	−0.13∗∗	−0.13∗∗	−0.16∗∗
	(0.05)	(0.05)	(0.08)
Time Cubed	0.00∗	0.00∗	0.00∗
	(0.00)	(0.00)	(0.00)
Constant	−8.09∗∗∗	−7.92∗∗∗	−7.88∗∗∗
	(1.71)	(1.65)	(2.25)
N	516	541	289

Standard errors in parentheses.
* p<0.10, ** p<0.05, *** p<0.01

Chapter 4

How Do States Behave in An Overlapping Institutional Environment?: PTA Negotiations and Compliance with WTO Rulings

Chapter Abstract

This essay examines how states' memberships in preferential trade agreements (PTAs) influence their dispute settlement behavior at the World Trade Organization (WTO). I argue that PTA memberships change the costs associated with how a state settles a dispute at the WTO. Specifically, if a defendant state is in the middle of PTA negotiation(s) with a WTO member state(s), this institutional environment raises the defendant's cost of non-compliance with a WTO ruling. This is because non-cooperative behavior at the WTO would reveal the defendant as an unreliable PTA partner, which could threaten or protract ongoing PTA negotiations and delay ratification. Thus, the defendant may have an incentive to use its WTO ruling compliance to mitigate a potential partner's concern about how it will behave in another PTA, which may encourage ratification by the partner state(s). Empirical analysis of the defendant's compliance with WTO rulings (1995-2010) reveals that the increasing number of PTA negotiations that the defendant is involved in at the time of a ruling dramatically reduces its time to compliance, even after accounting for the selection of dispute escalation.

4.1 Introduction

It is well established that international institutions can create incentives for cooperation by helping to resolve distribution and enforcement problems, thus providing states the means to achieve beneficial policy coordination. Less well explored, however, is the effect of an institutional environment in which several functionally similar institutions co-exist. With the rapid proliferation of international institutions in the past few decades, it is common for a state to have memberships in multiple institutions whose functions are similar to one another. This overlapping institutional environment may generate incentives for a state to behave strategically in one institution in order to influence its ongoing bargaining in other institutions.

This essay attempts to provide an empirical investigation of how the rising density of international institutions affects a state's cooperative incentive, and therefore an outcome. In particular, I explore a state's incentive to use its behavior in one institutional institution as a signal. Functionally overlapping institutions help a state to learn about other states' behaviors from one institution and form reasonable expectations about those other states' cooperation in other institutions in the future. This, in turn, can create a state's incentive to utilize its behavior in an institution strategically to let other states learn about its cooperative intention in a similar institution.

To investigate a state's strategic incentive structured by an overlapping institutional environment, I examine the area of international trade in which a state often belongs to functionally similar institutions such as the World Trade Organization (WTO), free trade agreements, and other economic forums (Davis 2009). More specifically, I examine how memberships in preferential trade agreements (PTAs) affect a state's dispute settlement behavior at the WTO. One of the challenges that a state faces in negotiating a PTA is gaining ratification by its partner state(s), who may be suspicious about its commitment to the PTA once it forms. I argue that a state uses its dispute settlement behavior in the WTO in order to signal its willingness and

ability to liberalize trade, and thus reducing uncertainties about its commitment to a PTA. I hypothesize that a defendant state that is in the middle of PTA negotiations with a WTO member state(s) will be more likely to comply with a WTO ruling for the purpose of signaling its PTA commitment. Three distinctive characteristics of the WTO's dispute settlement mechanism: publicity in a settlement procedure, similarity in provisions, and the costliness of complying with a ruling, make it an effective signaling venue. Empirical analysis of the defendant's compliance with a WTO ruling (1995 to 2010) reveals that PTA negotiations shorten the duration of a defendant's time to compliance with a WTO ruling. The relationship is robust after controlling for non-random selection of dispute escalation.

The importance of this research lies in the following points. First, this essay shows the importance of taking an institutional environment into account in the analysis of international institutions. Going beyond examining a single institution, we can see a potential externality between institutions and subsequent strategic incentives that states might have within the environment. This essay provides evidence that a state does not make its compliance decision in the WTO in isolation of the status of its trade negotiations outside of the WTO. Second, this also provides insight for policy makers who attempt to design new international institutions. That is, cooperative outcomes can be generated more often by designing a new institution in coordination with existing institutions. Third, this paper highlights the possibility that an international agreement can exert an influence even before being ratified. Focusing on PTAs that are under negotiation, this essay shows that a desire to form agreements appears to exert influence on a state's behavior before the agreements come into effect.

This essay proceeds as follows. In the next section, I lay out a concept of the institutional environment and explain how an institutional environment may influence interactions among states. The third section develops an argument about a state's strategic incentive to use an overlapping institution as a signaling device. I first describe the nature of PTA negotiations

that are often hindered by uncertainties about a state's commitment to promised trade liberalization. I then explain how the WTO's dispute settlement mechanism can be used as a venue through which a state can show its commitment to its trade liberalization, thus reducing uncertainties about and facilitating ongoing PTA negotiations. This argument leads to my hypotheses. The fourth section outlines my research design and empirical strategies accounting for the selection of dispute escalation. The fifth section presents empirical tests. Finally, I offer concluding thoughts and policy implications.

4.2 Institutional Environment, Strategic Incentive, and Cooperation

International institutions influence how states interact. Scholars of international cooperation have shown that international institutions help states achieve the benefits from cooperation through reducing transaction costs, providing focal points, enhancing information, monitoring compliance, and assisting in sanctioning deviant behaviors. However, given the recent proliferation of international institutions, it is rare that states create new institutions whose functions are completely unique from existing ones. Rather, states' new cooperative endeavors tend to be located within an environment that consists of a lot of functionally overlapping institutions and similar members (Alter and Meunier 2009:21).

I define the set of regulatory institutions to which a state belongs as an institutional environment. While the word of "institutional environment" is not used frequently, the concept itself if not new at all. We can find the similar ideas in studies of regime complex (e.g., Alter and Meunier 2009, Gehring and Faude 2013, Keohane and Victor 2011, Raustiala and Victor 2004) and shared memberships in international organizations (e.g., Bearce and Omori 2005, Boehmer, Gartzke and Nordstrom 2004, Boehmer and Nordstrom 2008, Karreth and Tir 2013).[67] Investigating how international institutions relate to one another, these studies

67. Regime complexity is best understood as a system of functionally overlapping international institutions

have identified several pathways through which the set of institutions or shared institutional memberships may change the strategies and dynamics of interactions among states.

Regarding the effect of an institutional environment on international cooperation, there has been a debate between pessimists and optimists. Pessimists have argued that institutional overlapping encourages states to use trans-institutional strategies, which may bring negative consequences. For example, it has been argued that institutional overlaps provide forum-shopping opportunities, in which states seek out the forum most favorable to their interests (Busch 2007). The forum-shopping opportunities may allow states to switch institutions and defect from pre-existing inconvenient obligations (Drezner 2009:65). Others have pointed out the possibility that institutional overlapping is laden with policy inconsistencies or ambiguities because rules in one institution are rarely coordinated closely with overlapping rules in related institutions (Raustiala and Victor 2004).

Optimists, on the other hand, have suggested several positive consequences of institutional overlaps on international cooperation. Some scholars have paid attention to learning opportunities and feedback effects from functionally similar institutions. Keohane and Victor (2011) have argued that a given institution may help provide states with information that changes their incentives under other institutions. A functional similarity among institutions makes it possible for states to learn about other states' behaviors in one institution and form reasonable expectations about cooperation in other institutions. Similarly, Davis (2009) has suggested that institutional complexities may increase loyalty by increasing the reputation costs of breaking any one agreement. Analysing the area of international trade, Davis (2009:29) argues that "[The] close network of repeat players helps to uphold a common reputation for a state within the trade regime." Thus, an institutional environment may encourage a state to

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that continuously affect each other's operations (Gehring and Faude 2013:120). Keohane and Victor (2011:8) also argue that regime complexity is marked by connections between the specific and relatively narrow regimes but the absence of an overall architecture or hierarchy that structures the whole set.

behave nicely in order to gain a good reputation.

While the optimists' claims regarding feedback effects are insightful, the systematic investigation of their claims is scarce. This essay empirically explores the theoretical implications of the feedback effects generated in an overlapping institutional environment. In particular, I examine the possibility that a state uses overlapping institutions as signaling venues. If an overlapping institutional environment allows states to learn and form expectations about other states' behaviors, a state can have an incentive to utilize this environment strategically. For example, a state may use an functionally similar institution as a signaling device. A state may behave cooperatively in an institution in order to let other states learn about its cooperative intention in a similar institution. Doing so helps promote a state's ongoing bargaining with other states in other institutions.

In the following section, I empirically examine this possibility with a focus on the area of international trade. In this area, functionally similar institutions such as the World Trade Organization (WTO), free trade agreements, and other economic forums provide states many options for interacting with one another. I explore how memberships in preferential trade agreements (PTAs) affect a state's dispute settlement behavior at the WTO. Since WTO's dispute settlement mechanism often deals with violations in agreement provisions that are commonly found in PTAs, WTO interactions enable states in negotiations for new PTAs to learn about their partner's commitment to trade liberalization. In particular, a state's smooth compliance with a WTO ruling may serve as a reasonable indicator of how the state will behave when facing similar issues in its PTA. A state's compliance with an adverse WTO ruling suggests its higher commitment and ability to liberalize trade. If so, a state that is in the middle of PTA negotiations behave strategically in complying with a WTO ruling for the purpose of signaling its PTA commitment to its partner states, thus facilitating ongoing PTA negotiations.

4.3 PTA Negotiations, Uncertainties, and WTO Ruling Compliance

4.3.1 PTA Negotiations and Uncertainties

The proliferation of PTAs is one of the defining characteristics of the contemporary world economy. PTAs are a broad class of agreements that include common markets, customs unions, and free trade areas. PTAs help to secure preferential access to members' markets and deepen economic cooperation.[68] Generally, PTAs require member states to commit to more extensive trade liberalization than they can achieve through multilateral trade agreements based on the most favored nation clauses in the GATT-WTO framework.[69] Thus, the formation of PTAs is a complex procedure that requires members to mutually adjust their trade policies (Copelovitch and Ohls 2012:12). It is often the case, however, that as cooperation deepens states are increasingly unable to make reliable promises about exactly what they will be willing and able to implement.

Uncertainties about the prospect that signatories will actually implement agreed policies have crucial implications for forming PTAs. These uncertainties might delay the ratification of PTAs or even lead to the failure of agreement negotiations.[70] Several scholars have highlighted this issue of enforcement as a key to successful PTA formation. For instance, focusing on a state's enforcement capability, Baccini (2014) has found that the higher the quality of state's institutional control of corruption and enforcement of the rule of law, the more likely the state is to form and ratify trade agreements. Similarly, Rosales (2003:5) has pointed out

68. The beneÂŐfits of PTA membership grow if states fear that they will be left without adequate access to crucial international markets unless they belong to a preferential grouping (Mansfield and Pevehouse 2000:779).

69. Many post-NAFTA PTAs contain provisions on intellectual property rights, investments, public procurement, and more.

70. In more general context, Alter (2003) argues that if states are concerned about the credibility of promises to implement new policies, they may withhold ratification until they are convinced that the foreign partner has implemented the policies of interest. Without such reassurance, the foreign cooperation partner may refuse to participate in the cooperative effort.

the importance of state's domestic political institutions that ensure transparency in government decisions. Based on arguments concerning credible commitment, Mölders (2012) also has demonstrated that democracies are able to form and ratify trade agreements more easily and faster.[71]

Uncertainties about the credibility of promises to implement PTA policies are even more critical when partner states have strong domestic opposition against PTAs. As several scholars have pointed out, new agreements cause domestic policy adjustments, which are often difficult because of the opposition from domestic veto players (Mansfield and Milner 2012). Unless veto players can be persuaded, the ratification of PTAs will be delayed or will fail. In a similar vein, uncertainties about enforcement can affect firms' behaviors during PTA negotiations, which also influences the progress of negotiations. If firms are wary of PTA success, they will not begin to invest in trade with potential partners. This conservative investment behavior can further delay negotiations due to the inability to convey optimistic signals (Freund and McLaren 1999, Mölders and Volz 2011). Mölders (2012:7) argues that the mere announcement of trade liberalization may not be sufficient to generate anticipatory trade effects because of the lack of credibility of such an announcement.

Therefore, if a state wants to reap economic benefits from its PTAs, the state needs to make an effort to convince partners of its trustworthiness in order to encourage its partners to ratify the PTAs. A state that is in the middle of PTA negotiations, thus, is expected to have an incentive to minimize uncertainties about its implementation of trade policies stipulated in the PTA in order to convince partner states who are suspicious about its commitment to the PTA once it forms. If a state wants to increase the likelihood that partners' legislatures ratify the PTA, behaving cooperatively is a good strategy to persuade the opposition within the partner

71. Democratic leaders can be sanctioned and voted out of office if they renege on their promise to cooperate (e.g., Leeds 1999, Martin 2000, McGillivray and Smith 2008).

states. Cooperative behavior helps the executives in partner states gain support at home in order to ratify the PTAs much faster.

4.3.2 WTO Ruling Compliance as a Signal

How can a state reduce uncertainties about its prospect of policy implementation or send a signal of willingness to cooperate? Previous research on economic integration suggests that in deciding on ratification, states use information from prior policy adjustments to gauge the trustworthiness of the other side (Alter 2003). Also, it has been argued that a state complies with international agreements for the purpose of increasing its credibility that the state can commit to international obligations (Simmons 2000). Drawing upon these insights, it is possible that a state in the middle of PTA negotiations uses its behavior in existing trade institutions in order to signal its cooperative intentions.

While several institutions associated with international trade might be able to provide a venue for signaling, the WTO's dispute settlement mechanism has three important characteristics that make it an ideal signaling venue. The first advantage is its authority and publicity. As an institution with a legal authority, the WTO can identify and verify state's violations of trade agreements (Maggi 1999). Moreover, with its open nature, the WTO's dispute settlement process can provide information to all WTO member states about how a defendant behaves before and after a WTO ruling. Dispute processes are documented in detailed reports and publicized through media as well as via the WTO website. Accordingly, the defendant's WTO ruling compliance or subsequent policy adjustments is easily observable by all WTO member states that are not directly involved in the dispute (see Chaudoin 2014, Davis 2008). As a result, the WTO's dispute settlement process ensures that WTO members that are negotiating PTAs with a defendant can easily receive information.

The second advantage is similarities in agreement provisions between GATT-WTO agree-

ments and PTAs. For WTO ruling compliance to work as an effective signal, it should be informative enough to infer a defendant's future commitment to PTAs. If a defendant's violation were about an agreement provision that is unrelated to provisions in potential PTAs, the defendant's WTO ruling compliance would not be meaningful. In such a circumstance, the defendant's PTA partners could not make a reasonable inference about how the defendant would behave in their PTAs. However, since GATT-WTO agreements deal with similar provisions as most PTAs, WTO ruling compliance has an advantage. For instance, trade policies on tariff rates or domestic subsidies are popular themes in PTA negotiations as well as WTO dispute settlements. If a defendant removes illegal tariffs following a WTO ruling, this can mitigate the PTA partners' concern that it may not impose adequate regulations in similar situations at their PTA.

In addition, given that PTAs generally require higher levels of trade liberalization than GATT-WTO agreements, non-compliance with a WTO ruling highlights a defendant's inability to realize deeper trade liberalization. The negotiation for an economic partnership agreement between China and Japan illustrates this point. Davis (2009:29) suggests that the negotiations between China and Japan have been slowed by concerns that China's poor compliance with the WTO-TRIPS agreement make its compliance with any "WTO plus" commitments unlikely.

The third advantage is that WTO ruling compliance is costly. For a defendant's WTO ruling compliance to signal commitment effectively, it should be costly. Complying with a WTO ruling is costly in a sense that it requires a defendant to make policy adjustments that are unfavorable to its domestic industries that had been protected by the policies at issue. Given this potential for incurring political and economic costs, the defendant's voluntary ruling compliance can credibly inform partners that it can remove measures which are inconsistent with free trade provisions in GATT-WTO agreements and serve as a signal that demonstrates its

cooperative intention (Dunoff and Pollack 2012:540). Put differently, if a defendant chooses to defy a ruling, it signals to the potential PTA partners that it does not have an ability or willingness to liberalize trade policies.

4.3.3 Hypotheses: PTA Negotiations and WTO Ruling Compliance

With these three characteristics, the WTO's dispute settlement process can work as an ideal venue through which PTA partners send and receive important information. Complying or not complying with a WTO ruling provides information about expected practice in future PTAs. Thus, it is possible that the defendant state that is negotiating a PTA(s) with a WTO member state(s) should have an incentive to signal its commitment to its future PTA(s) by complying with a WTO ruling.

In particular, this signaling incentive should be high during the period between the initiation of PTA negotiations and ratification by partner states. After ratification by partner states, behaving nicely (i.e., complying with WTO rulings) brings little additional benefit in terms of opening and securing access to markets. Once a state establishes preferential access to each participant's market, there should be little fear of being excluded from membership.[72] Therefore, I hypothesize that a defendant in the middle of PTA negotiations with one or more WTO members has the strongest incentive to comply with a WTO ruling in order to facilitate the ratification by the PTA partners. This leads to the first hypothesis:

Hypothesis 1

A defendant is more likely to comply with a WTO ruling when it is in the middle of negotiating a PTA with WTO member state(s).

72. Several scholars have suggested that reforms may often be solidly in place before an agreement is ratified with little improvement in conditions afterwards (see Baccini and Urpelainen 2014, Kydd 2000, Mattli and Plümper 2004).

In addition, it might be the case that a defendant's incentive to comply with a WTO ruling increases as the number of PTA negotiations in which a defendant is engaged increases. A defendant may complete WTO ruling implementation much faster as the number of PTA negotiations increases. This leads to the second hypothesis:

Hypothesis 2

A defendant is more likely to comply with a WTO ruling as the number of PTAs that it is negotiating with WTO member states increases.

In concluding this section, it should be noted that there is one crucial question that I need to address: why do PTA member states escalate disputes if they care about their cooperative behaviors during their PTA negotiations? If a state would like to find a way to demonstrate to its partners its cooperative intention, one could wonder why the state would have disputes at all or publicize them by escalating disputes. Indeed, Baccini (2014) has found that trade disputes with potential PTA partners reduce the likelihood of PTA agreements and lengthen the duration of PTA negotiations, while disputes with third parties do not affect the probability or length of successful PTA negotiations.[73] Although the question of PTA members' propensity to initiate a dispute is not a primary question in this essay, the implication of this question should be taken into account in order to make correct inferences about the effect of PTA membership on defendant's behavior at the WTO. In the section on estimation strategies below, I discuss the issue of sample selection bias in detail.

73. Davis (2010:20, 42) examines the propensity that PTA members to initiate disputes against their partners. Her empirical results show that in dyadic analysis, PTA partners are significantly less likely to take trade problems forward for adjudication at the GATT/WTO. However, her focus is the effect of PTAs which have been established. She argues that PTAs may also reduce the need to adjudicate trade problems to the extent that trade barriers with important partners are removed as part of the PTA negotiations.

4.4 Research Design

4.4.1 Dependent Variable

I test my hypotheses on a data set of WTO disputes initiated from January 1, 1995 until December 31, 2010. My unit of analysis is the dispute dyad. The data are taken from Horn, Mavroidis and Nordström (2008) hosted by the World Bank, which I updated for post-2007 cases using the WTO database: *Dispute Settlement Gateway*.[74] There are cases where an outstanding issue is filed by the same complainant(s) against the same defendant later, which the WTO database code as a separate disputes. Thus, rather than inflating the number of observations by counting all dispute dyads, I eliminate redundancy in the list of dispute cases by collapsing related disputes into a single case if multiple disputes are initiated by the same complainant against the same respondent on the same or similar issues, as previous studies did (e.g., Bobick and Smith 2013, Busch and Reinhardt 2003). For example, both disputes DS 16 and DS 27 concern complaints by Ecuador, Guatemala, Honduras, Mexico and the US about the EU's restriction of trade in bananas. Since these disputes concern the same issues brought by the same complainants against the same respondent, these disputes are considered as a single case.[75] This aggregation of multiple complainants leaves 358 dispute cases in my data set.

74. The WTO website is available from this link: www.wto.org/english/tratop_e/dispu_e/dispu_e.htm (accessed on August 2015).

75. The disputes that are coded as single dispute cases include (DS16; DS27), (DS32; DS33), (DS44; DS45), (DS55; DS64),(DS62; DS67; DS68), (DS74; DS102), (DS82; DS115), (DS87; DS110), (DS101; DS132), (DS106; DS126),(DS124; DS125), (DS140; DS141), (DS171; DS196), (DS172; DS173), (DS182; DS191), (DS185; DS187), (DS228; DS230), (DS270; DS271), (DS300;DS302), and (DS325; DS344). There is one exception, however. That is, if the second dispute occurs after more than one year from the first dispute, I treat them as separate disputes even if they share the same complainants, respondents, and issues. Based on this within one year rule, the following dispute pairs are not coded as a single dispute: (DS3; DS41), (DS60; 156), (DS85; DS151), (DS149; DS279), (DS236; DS247; DS257; DS264; DS277; DS311), (DS270; DS271), (DS314; DS341), and (DS324; DS343). Regarding (DS236, DS247, DS257, DS264, DS277), I code (DS236; DS247(withdrawn); DS257) as a single case, while I code (DS257; DS264; DS277) as three separate cases). If disputes are coded as a single dispute, I use the data when the dispute that reached the highest status was initiated. If both disputes reach the same escalation level, we use the dispute that started later.

The dependent variable is defendant's compliance with a WTO ruling. Defining defendant's compliance, however, is not an easy task. Since most rulings eventually achieve compliance, little variation can be found if we use a simple binary variable of whether a defendant complies or not. To deal with this issue, I use the length of time until a defendant completes its implementation of a ruling.[76] *Time-to-Compliance* captures the number of days that elapse between the date on which the Dispute Settlement Panel (DSP) or Appellate Body (AB) issues its ruling and the date at which compliance is completed. Several scholars have pointed out that many defendants string out non-compliance as long as possible (Davey 2009, Hofmann and Kim 2009, Horlick and Coleman 2007). Thus, it seems reasonable to think that shorter duration of non-compliance suggests cooperative behavior of the defendant. The compliance date is defined as the date provided by the defendant in its compliance report to the WTO.[77] If compliance was not reported to the WTO by the end of 2013, I treat those observations as right-censored. That is, if compliance was not reported by December 31, 2013, non-compliance is considered ongoing. Among 153 litigated cases in my data set, 36 cases fall into this right-censored category. For the cases that are not right-censored, the mean of *Time-to-Compliance* is 616 days (with a minimum of 153 days and maximum of 2,455 days).

76. Given the fact that a losing defendant is frequently required to amend its domestic law in order to achieve implementation, which takes time, the WTO allows 15 months from a ruling as a grace period for implementing the ruling (Article 21.3(c) of the DSU). Indeed, although most rulings are implemented in the end, in 52% of those cases in which the rulings are complied with, compliance is achieved beyond 15 months after the ruling.

77. In some cases, a defendant's claim about implementation of the rulings can be contested. A complainant that has not been satisfied with the compliance report submitted by a defendant can request to establish the Compliance Panel to evaluate the defendant's compliance. In these contested cases, the compliance proceedings are considered to have ended when the Compliance Panel issues the final report of the defendant's compliance. In those cases, I use the date of compliance which is specified in the final report issued by the Compliance Panel; otherwise I use the date of compliance which is reported by the defendant.

4.4.2 Independent Variables

Central to my argument is the effect of a defendant's status in PTA(s). While the types of PTAs vary a lot depending on their terms of agreement reflecting the level of liberalization, including free trade areas (e.g. AFTA), common markets (e.g. NAFTA), customs unions (e.g. CARICOM), and economic monetary unions (e.g. the EU), I examine all types of preferential instruments without distinction between bilateral and regional agreements. However, I focus only on reciprocal PTAs, and I thereby exclude non-reciprocal agreements in which advanced industrialized countries unilaterally grant preferential market access to developing countries. My data set includes 433 PTAs which were notified to the GATT-WTO by the end of May 2013. Regarding regional or multilateral PTA agreements, I decompose those agreements into dyadic pairs of signatories.

The primary independent variable is *Defendant's PTA Negotiations (dummy)*, which captures whether a defendant is in negotiations to form a PTA with one or more WTO member state(s) (for testing Hypothesis 1). This is a binary indicator for whether PTA negotiations have already started but not yet concluded with the partner states' ratification by the time a ruling is issued, and thus, the defendant's ruling implementation period starts. I code this variable 1 if the defendant is conducting PTA negotiations with any WTO member state(s) when the ruling is issued, and 0 otherwise. Durations from the start of negotiations through ratification vary considerably. In my data set, the mean duration of defendant's PTA negotiations is 1,529 days (with a minimum of 229 days and maximum of 3,299 days). Also, I prepare a count variable for *Defendant's PTA Negotiations (count)* (for testing Hypothesis 2). The highest number of PTAs that a defendant was negotiating simultaneously is 28.[78] Figure 4.1 presents the number of PTA negotiations that a defendant has engaged when a ruling is issued. It appears that almost all defendants have engaged in at least one PTA negotiation at

78. This is Chile in 2008.

the time of ruling.

— Figure 4.1 about here —-

— Figure 4.2 about here —-

The data on PTA negotiations have primarily been complied by Mölders (2012). Mölders examines the negotiation processes of PTAs between 1945 and 2010 and codes when (1) the PTA was proposed/announced, (2) negotiations started, (3) negotiations ended, (4) agreements signed, and (5) agreements ratified by signatories. Based on *The Global Preferential Trade Agreements Database (GPTAD)* provided by the World Bank and secondary sources,[79] I update Mölders (2012) and add an additional 215 PTAs through May 2013. My data set includes 433 PTAs.[80] The events of most interest are the first mentioning of a potential PTA by any participating state in the PTA, which starts the negotiations, and the ratification of the PTA. In some cases, information on the exact date of the first announcement can only be obtained by assessing contradictory sources. In these cases, following Mölders (2012), I opt for the earliest announcement given that the first news article would be potentially correct, and that the other press releases were following up on it.

4.4.3 Control Variables

I control for a series of factors that influence the baseline prospects for a losing defendant's compliance. First, I control for the characteristics of a complainant and a defendant, and their relationship. As the managerial approach in the compliance literature suggests, a state's legal and economic capacity is crucial to implement a WTO ruling. *Defendant's GDP (Logged)* is

79. Besides *GPTAD* as my primary source, I use signatory governments' web sites, regional organizational web sites, and news sources for extending the data set.

80. Among the total 433 PTAs in my data set, 140 agreements are regional/multilateral PTAs, while 293 agreements are bilateral PTAs.

measured as the logged value of *per capita* gross domestic product (GDP) in constant year 2000 US dollars. Lower GDP indicates lower resources or capacities of compliance (Davis and Bermeo 2009). It is also important to note that the size and level of the development of countries positively affect their probability of forming PTAs (Baier and Bergstrand 2004).

On the other hand, the enforcement approach of compliance literature argues that a complainant's ability of retaliation is important driver of extracting compliance. Thus, I include a variable capturing relative economic power between a complainant and a defendant as well as *Complainant's GDP (Logged)*. *GDP Ratio* is operationalized as a ratio by taking the natural log of a complainant's *per capita* GDP over the natural log of a defendant's *per capita* GDP. *Defendant's Export Dependence (Logged)* accounts for defendant's trade dependence on a complainant. This variable is created by taking a defendant's exports to a complainant's market divided by the defendant's total exports. A defendant with high dependence on a complainant's market should be more interested in swift dispute settlement and quick compliance through a reputational or reciprocity concern (Hofmann and Kim 2009).[81] The data on GDP is taken from the *World Development Indicators*. The data on dyadic trade is taken from COW [v3.0]. Regarding the European Union, I add up data of all EU member states in given years and divide by the number of member states.[82]

Second, in addition to these economic variables, I control for political factors. Domestic institutions have been demonstrated to affect compliance (Johns and Rosendorff 2009). For example, a democratic defendant is expected to be less likely to comply because of domestic audience costs associated with necessary policy changes. *Defendant's Regime Type* measures if a defendant state is a democracy or not. Data on regime type are taken from the Polity IV

81. Empirical evidence shows that if a country is highly dependent on the trade relationship with the other(s), there is a higher likelihood of disputes between the parties in the future (Busch and Reinhardt 2006, Mansfield and Reinhardt 2003).

82. While individual EU member states have a WTO membership, the EU participates in WTO dispute settlement process as a single entity. Thus, when the EU is included in the analysis, I treat it as if it were a single nation.

Project by Marshall and Jaggers (2002). I code a democracy if the Polity IV score is greater than six, and a non-democracy otherwise. I code the EU as a democracy. It is also worth mentioning that democratic countries have stronger incentives to engage in trade cooperation, and therefore forming PTAs (Mansfield, Milner and Rosendorff 2002, Mansfield and Milner 2012).

Finally, I control for a series of dispute-specific factors. *Agricultural Cases* is a dummy variable coded 1 if the dispute case involves agricultural issues and 0 otherwise. I expect a defendant should be less likely to comply when agricultural issues are involved. Removing agricultural protections is often said to be difficult because of strong domestic opposition (Hofmann and Kim 2009). Agriculture disputes have long been considered as the most sensitive issue in the trade regime. The agricultural sector has a strong ability to organize politically and lobby for trade-restricting policies or practices. *US vs. EU Cases* is included to control for the disputes between the US and the EU. This variable is coded 1 for the case is initiated between the US and the EU, 0 otherwise. Transatlantic disputes may have different characteristics, ranging from the volume of trade at issue to the resources these members can expend litigating a larger variety of disputes (Busch and Reinhardt 2006). *Co-Complainants* is the number of states acting as co-complainants along with a primary complainant in a dispute. It has been shown that the number of co-complainants in a dispute makes a dispute more likely to escalate (Guzman and Simmons 2002). Table 4.1 presents summary statistics of the variables.

— Table 4.1 [Summary Statistics] about here —-

4.4.4 Estimation Strategies

Due to the potential for sample selection bias, I need to pay special attention to my estimation techniques. It is important to note that the defendant's compliance is only observable if a

dispute is escalated to the litigation phase, and the escalation of disputes is not a random event. This issue of sample selection is problematic. If only cases that are easy (or difficult) for a defendant to comply with escalate, the estimation based on the selected sample yields biased results.

In particular, according my argument, it is possible that a defendant who is negotiating a PTA might avoid escalating disputes in the first place, if the defendant would like to demonstrate its cooperative intentions. Given that a dispute escalates in the WTO only if a defendant fails to reach a settlement by bilateral consultation, a defendant that is in PTA negotiations may have an incentive to avoid escalating its dispute by choosing a negotiated settlement. If so, the disputes that we observe involving potential PTA members might be very hard (or easy) cases to settle in the first place, and therefore it is difficult (or easy) to comply with rulings. Also, my argument implies that a complainant who is in the middle of PTA negotiations with some WTO member states (including a defendant) might avoid escalating disputes in order to help forging amicable intention.[83]

To address these concerns, I use an estimator developed by Boehmke, Morey and Shannon (2006). This estimator allows us to correct and test for the presence of non-random sample selection in duration models.[84] In my selection duration model, the escalation of a dispute or the issuance of a ruling is the first stage outcome and the duration until compliance (or the "survival" of non-compliance) is set as the second stage outcome. In order to ensure that my model is identified appropriately, I add a variable: *Article XXIII Cases* in the selection equation, along with the same variables included in the outcome equation. It has been shown

83. Alternatively, however, it is possible that PTA negotiations give a complainant an advantage due to extended bargaining power. If so, a complainant that is stronger in terms of its bargaining leverage should be more likely to escalate a dispute. Davis (2010:33) finds that PTA membership increases the likelihood of being targeted as defendant.

84. Standard practice in duration models ignores the sorting process of sample (Ham and LaLonde 1996). However, it should be noted that one limiting characteristic of their estimator is the restriction $| \rho | \leq 0.25$. But, their Monte Carlo analysis shows that even when ρ is outside the range, their estimator provides a better approximation to the truth than ignoring the selection problem altogether.

that disputes brought with reference to the Article XXIII of the GATT are less likely to escalate to litigation (Johns and Pelc 2014), while there is not a theoretical rationale indicating that the Article XXIII disputes are especially hard to be complied with by a losing defendant.[85] Thus, this variable is a relevant identifier. In the second stage, I use a Weibull model.

4.5 Empirical Results

4.5.1 PTA Negotiations and Time-to-Compliance Duration

— Table 4.2 about here —-

I begin by assessing the impact of a defendant's PTA negotiation(s) on the length of time until a losing defendant completes its compliance with a WTO ruling (i.e., *Time-To-Compliance*). Table 4.2 presents the results of two-stage duration models with different operationaliztaion of the independent variable. Of most interest for this research are the results in the outcome stage (the upper half of the table). The estimates in Model 1 provide support for Hypothesis 1. Looking at the outcome stage, the estimated coefficient of *Defendant's PTA Negotiations (dummy)* is negative and significant at the 0.01-level. Negative values of coefficients correspond to decreasing survival rate of non-compliance, and therefore shorter duration of the defendant's *Time-to-Compliance*. This result indicates that a defendant under PTA negotiation(s) with one or more WTO member state(s) is more likely to comply with a WTO ruling in a shorter period of time.

Similarly, the results in Model 2 support Hypothesis 2. The estimated coefficient of *Defendant's PTA Negotiations (count)* is negative and statistically significant at the 0.01-level.

85. Complainant states can litigate their claims under either Article XXII:1 or Article XXIII:1 of GATT 1994. According to WTO (2015), the choice between Articles [XXII and XXIII] is "a strategic one, depending on whether the complainant wants to make it possible for other Members to participate." Indeed, the main difference between these two legal bases relates to the ability of other WTO Members to join as third parties. While Article XXII makes third party participation relatively easy, Article XXIII allows the complainant to to prevent the involvement in the consultations of third parties.

This shows that as a defendant has more ongoing PTA negotiations, the defendant completes its ruling implementation faster. Besides being in the middle of PTA negotiation(s), the number of PTA negotiations in which a defendant has engaged matters. In my data set, the highest number of a defendant's PTA negotiations is 28.[86] In order to account for this skewed nature of a simple count variable, I re-estimate the model with *Defendant's PTA Negotiation (logged)* as my independent variable (Model 3). The effects of the number of PTA negotiations hold.

— Figure 4.3 about here —-

In order to develop a better sense for the effect of PTA negotiations on the defendant's *Time-to-Compliance*, Figure 4.3 presents the substantive effects for the different numbers of PTA negotiations with 95 percent confidence intervals. This graph clearly indicates that if a defendant has more PTA negotiations, a shorter time seems necessary for the defendant to comply with a WTO ruling. For example, holding all other variables at their sample means, the defendant's predicted time to compliance is 820 days [669, 978] if the defendant has no PTA negotiation, while it is 618 days [538, 698] if the defendant has 4 PTA negotiations, which is the mean in my data set. If the defendant has 28 PTA negotiations, which is the maximum number of defendant's PTA negotiations in my data set, the defendant's time to compliance is shortened to 143 days [39, 341]. This is a significant reduction in non-compliance duration.[87]

— Table 4.3 about here —-

Next, I take the effect of a defendant's existing PTA membership(s) into account. While I argue that a defendant has an incentive to achieve ruling compliance smoothly for the purpose of signaling its PTA commitment, this incentive may be weakened if the defendant has several other signaling devices. For instance, a defendant's existing PTA(s) can be one of such useful

86. This is India in 2004.

87. I show 95% confidence intervals in brackets.

devices because having multiple PTAs indicates that the defendant is a reliable trading partner. Thus, if a defendant has ratified PTAs with WTO member states, the defendant may have less need to comply with a WTO ruling in order to inform and convince potential PTA partners of its reliability. *Defendant's PTA Memberships (count)* measures the number of PTAs to which a defendant belongs with any WTO member state(s) and that has entered into force by the time of ruling issued (see Figure 4.2).

The results are presented in Table 4.3. A defendant's existing membership in PTA(s) does not diminish the impact of PTA negotiations. The coefficient estimates of *Defendant's PTA Negotiations (dummy)*, *Defendant's PTA Negotiations (count)*, and *Defendant's PTA Negotiations (logged)* are still negative and statistically significant. The estimated coefficients are almost identical to those of equivalent variables in Table 4.2. This implies that a defendant in the middle of PTA negotiations pays attention to the impact of its WTO ruling compliance regardless of the PTA memberships that it already had. Regarding the effect of having PTA memberships on defendant's compliance, the results are mixed depending on operationalization. While *Defendant PTAs Membership (dummy)* shows positive estimates, while the count and logged count variables exhibit negative estimates.

Looking across the models in Tables 4.2 and 4.3, most control variables perform as expected in the outcome question. *Defendant's Regime Type* and dispute characteristics such as *Agricultural Cases* and *Co-Complainant* exhibit statistically significant positive effects on the defendant's *Time-to-Compliance*. The positive values of their coefficients suggest that these factors increase the survival rate, and therefore lengthen the duration of the defendant's non-compliance. A democratic defendant appears to have a difficult time to implement a ruling than a non-democratic counterpart. A dispute involving agricultural products which are political sensitive also lengthen the time to implement a WTO ruling. In addition, it seems that as the number of co-complainants involved in a dispute increases, the duration of the de-

fendant's non-compliance grows. Contrary to the theoretical expectation, *Defendant's Export Dependence* also appear to lengthen the defendant's non-compliance duration. It might be that a highly trade dependent defendant takes a posture that shows toughness since the higher export dependence implies a higher chance of being a target of litigation again in the future. *Defendant GDP*, *Complainant GDP*, and *GDP Ratio* exhibit no effect on the defendant's non-compliance duration.

4.5.2 PTA Negotiations and Dispute Escalation

It is worth considering why a state escalates a dispute if the state cares about its reputation as a cooperative PTA partner during PTA negotiations. If a state would like to find a way to demonstrate to its partners its cooperative intentions, one could expect that the state should not have disputes at all or publicize them by escalating disputes. The results in the selection equations in Tables 4.2 and 4.3 confirm this expectation. PTA negotiations appear to have negative effects on the likelihood of dispute escalation. The estimated coefficient of *Defendant's PTA Negotiations (count)* is negative and statistically significant in all models. This indicates that the more a defendant has ongoing PTA negotiations with WTO member states, the less likely a dispute escalates. The likelihood of dispute escalation is predicted to be 26% [20, 31] if a defendant is negotiating 4 PTAs, which is the mean in my data set, as opposed to 41% [33, 48] if the defendant does not engage in such negotiations.

It appears, on the other hand, that whether a complainant has ongoing PTA negotiations with WTO member state(s) does not affect its decision to escalate a dispute. The estimated coefficient of *Complainant's PTA Negotiations (count)* shows a positive association to dispute escalation, but it does not reach conventional levels of statistical significance. Although my argument suggests that a complainant who is in the middle of PTA negotiations with some WTO member states (including a defendant) may avoid escalating disputes for the same rea-

son that a defendant who is engaged in PTA negotiations tries not to escalate disputes, this is not the case.[88]

Regarding the control variables in the selection equation, *Article XXIII Cases* exhibits a negative and statistically significant estimate. This corresponds to the existing finding that disputes brought with reference to the Article XXIII of the GATT are less likely to escalate to litigation (Johns and Pelc 2014). Similarly, *EU-US Cases* appear to be less likely to escalate. This means that either the US or the EU is willing to settle its dispute by bilateral negotiation without using litigation. On the other hand, *Co-Complainant* and *Defendant's Export Dependence* have positive effects on dispute escalation. Disputes litigated by multiple complainants are more likely to experience escalation. It is possible that a larger number of complainants make dispute resolution more difficult to achieve. Also, a defendant that is highly dependent on the complainant's export market escalates disputes more likely. *Defendant's GDP*, *Complainant's GDP*, *GDP Ratio*, *Defendant's Regime Type*, and *Agricultural Cases* appear to have no effect on the likelihood of dispute escalation.

Finally, the selection model generates positive estimates of the correlation between the error terms of outcome and selection equation in my main modes (Table 4.2). The positive value of the correlation parameter (ρ) suggests that unobserved factors that increase the probability of dispute escalation also lead to longer than expected non-compliance periods. However, the estimates are statistically insignificant. The insignificant estimates of this parameter indicate that there is no sample selection bias under the present specification. Thus, there seems little risk of bias because of the sample selection.

88. Alternatively, it is possible that PTA negotiations give a complainant an advantage due to extended bargaining power. But, the statistically insignificant estimate shows that this is also not the case.

4.6 Robustness Checks

4.6.1 EU Disputes

In the analyses above, I treated the EU as a single nation, thereby, the EU is coded as a complainant in 85 WTO disputes and as a defendant in 92 WTO disputes.[89] While the EU is one of the main participants in WTO disputes, it may be the case that EU-related disputes have different characteristics, which may or may not cause biases in the analyses. For example, the EU as a defendant may not have a strong incentive to use WTO ruling compliance as a single for its PTA partners. To demonstrate that the empirical results are robust, I exclude dispute cases involving the EU as a defendant from the sample.

— Tables 4.4 and 4.5 about here —-

The results are shown in 4.4 and 4.5. Fortunately, the results are not sensitive to the inclusion/exclusion of the EU. As expected by the theory, PTA negotiations increase the likelihood that defendants will comply with WTO rulings.

4.6.2 Endogeneity Bias

One more concern with these findings needs to be addressed: PTA negotiations may be endogenous to the factors that also affect a defendant's compliance decision. Since I argue that PTA negotiations themselves serve as a causal variable affecting the outcome of defendant's ruling compliance, it is problematic if PTA negotiations are endogenous to the defendant's compliance. However, it is possible that WTO member states are interested in forming PTAs with a state who has a good record of compliance with WTO rulings. Alternatively, the correlation may be caused by unobservable cultural or historical characteristics of a defendant that

89. I left cases in which an individual EU member state is a defendant.

lead to the selection of both PTA formations and WTO ruling compliance, although there may be no direct relationship between the two. If so, we would not be able to ascertain whether the faster compliance was realized because of PTAs or because of underlying characteristics of a defendant that make it a desirable PTA partner. This endogenous selection bias would cause us to overestimate the effects of PTAs on compliance under these circumstances.

To put this concern to rest, I employ an instrumental variable (IV) approach. This approach allows us to obtain consistent estimation when the explanatory variables are correlated with the error terms of a regression relationship. The IV approach requires an instrument that predicts the endogenous variable (i.e., defendant's PTA negotiations) but is not associated with the outcome of interest (i.e., defendant's time-to-compliance). Following Karreth (2012), I use the number of defendant's neighbors as my IV (*Country Borders*). It is widely accepted that geographical proximity provides more opportunities for interaction. We can expect that it is much easier for a state to from PTAs or any agreements with its neighbors, and thus more neighbors provide more chances to form PTAs. Theoretically, however, there is no viable rationale for thinking that the defendant's compliance would be directly affected by the number of countries that are adjacent to the defendant. Empirically *Country Borders* correlates positively and significantly with the count number of PTA negotiations as well as my binary indictor of PTA negotiations, while it has a correlation with the defendant's *Time-to-Compliance* that is not significantly different from zero. This fact provides tentative evidence that my IV meets the requirements of a viable instrument.

Country Borders measures the number of contiguous states that the defendant had at the time of the ruling, including neighbors separated by less than 12 miles of sea. I operationalize this variable with the Correlates of War (COW) Direct Contiguity data set. With this IV, I conduct a two-stage analysis. In the first stage, I run a probit model to predict the probability of PTA negotiations. In the second stage, I run the Weibull duration model using a predicted

measure of PTA negotiations. The results of this analysis are displayed in Table 4.6.

— Table 4.6 about here —-

Accounting for potential endogeneity bias still produces support for the argument. In Table 4.6, the results are similar, albeit with different size of coefficients and slightly weaker statistical significance than in the previous analysis. Exogenously predicted cases of PTA negotiations increase the hazard of the defendant's *Time-to-Compliance*. Like in the previous analyses, *Defendant Export Dependence*, *Co-Complainant*, and *Agricultural Cases* make it longer for the defendant to achieve compliance. The findings from this analysis give me confidence that the results are not an artifact of endogeneity bias, although I leave an examination of more appropriate instruments and sensitivity analyses to future research.

4.7 Conclusion

With the rapid proliferation of international institutions, it is common for a state to have memberships in multiple institutions whose functions are similar to one another. Yet, there have been few empirical analysis that systematically examine how an institutional environment in which a state has multiple memberships in functionally similar institutions influence the strategies and dynamic interactions of states within it. This essay explores how overlapping institutions help generate cooperative behaviors among member states. I develop an argument that an overlapping institutional environment generates incentives for a state to behave strategically in one institution in order to influence its ongoing bargaining in other institutions.

Examining the area of international trade, this essay argues that a state in the middle of negotiating PTAs has an incentive to use its compliance with a WTO ruling to signal its commitment to its future PTAs, and thus encouraging its partner states to ratify the PTAs. Three properties make the WTO dispute settlement mechanism an effective signaling venue.

First, with its open and unbiased nature, the WTO dispute settlement process publicly reveals what kind of violations a defendant has committed and how it behaves before and after the ruling. Second, the WTO's dispute settlement mechanism often deals with violations in trade agreement provisions that are commonly found in PTAs. Thus, a defendant's compliance can give PTA partners a reasonable indicator of how a defendant will behave when facing similar issues in its PTA. Third, with its political and economic cost that a defendant have to pay to change its trade policies, WTO ruling compliance can serve as a credible signal.

Empirical analysis of the defendant's compliance with WTO rulings from 1995 to 2010 provides support for the argument that a defendant in the middle of PTA negotiations have an incentive to comply with WTO rulings as a signaling device in order to reduce uncertainties plagued with their future PTA commitments. It reveals that PTA negotiations shorten the duration of a defendant's time to compliance with a WTO ruling. Specifically, the more the defendant participates in PTA negotiations when it receives adverse rulings, the faster it completes the implementation of WTO rulings (or removes WTO-inconsistent trade policies). These findings highlight the possibly that a state does not make its policy decision in the WTO in isolation of the status of other trade negotiations outside of the WTO.

My findings on the effect of PTA negotiations have important implications. First, they suggest that an institutional environment in which a state is embedded may exercise a discernible influence on a state's cooperative behavior in a given institution through externalities. In order to fully understand the effect of institutions on international cooperation, it is important to explore how international institutions relate to one another in addition to how a single institution affects a state's behavior. While scholars in regime complex literature have provided useful typologies of how institutions interact or investigation at a theoretical level, there has been little systematic empirical research on the consequences of international regime complexity (Alter and Meunier 2009:14L).

Second, my findings imply that an international agreement can exert different influences before and after ratification. This provides important insight to our studies of the effect of international institutions in general. When it comes to examining the effect of international institutions, we have often encountered the issue of endogeneity. Since states with no additional cost in entering into institutions tend to enter into them, it is difficult to observe whether states change their behaviors because of the independent effects of the institutions. However, this argument only focuses on the effects of international institutions once they form. My findings suggest that a desire to form agreements can exert influence on the states' behavior before the agreements come into effect. Being involved in PTA negotiations exerts a strong dampening effect on non-compliance duration, which we do not observe about having established PTA memberships. In future research, one could study this further by taking duration dependence of PTA negotiations into account. Defendants' sensitivity about their cooperative behavior might depend on the different stages of a negotiation.

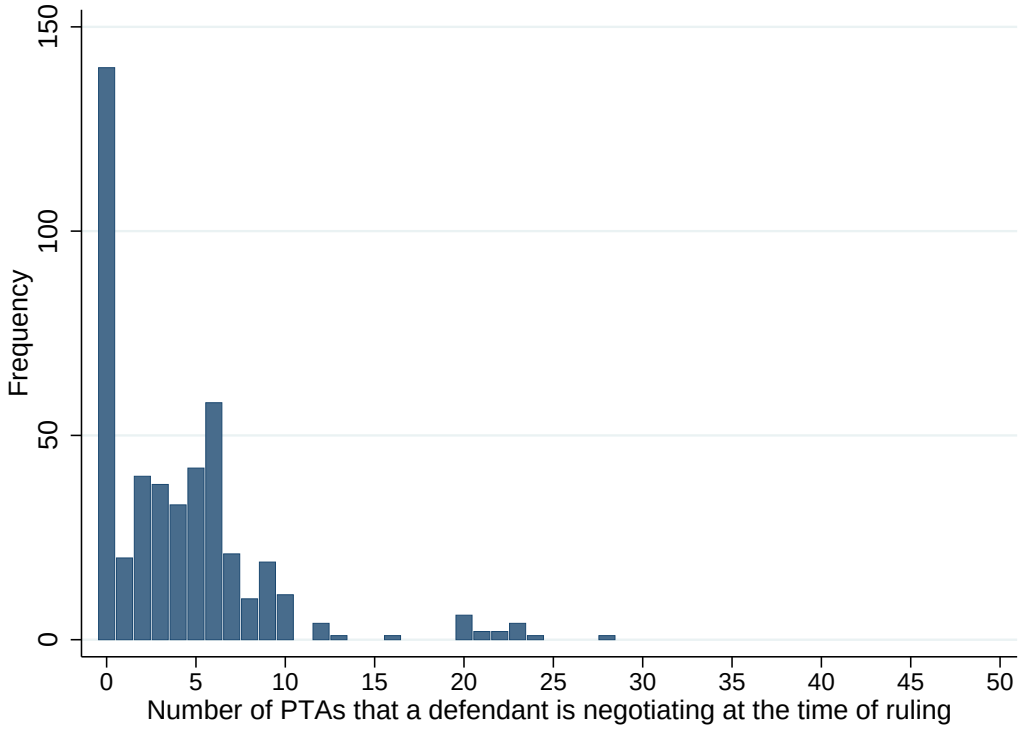
Third, my findings also provides a new focus to studies of dispute settlement at the WTO. Scholarship on the politics of compliance in WTO disputes would benefit greatly from considering the institutional environment in which WTO members situate. It seems that a defendant does not make its compliance decision in isolation of the status of its trade negotiations outside of the WTO. This point is suggestive to current debates about how to design international institutions in order to enhance international cooperation. For example, there have been some concerns that a proliferation of free trade agreements which discriminate member states from non-members may jeopardize the WTO framework. However, this essay suggests that we do not need to worry too much about the possibility that PTAs might reduce the effect of WTO in terms of trade liberalization. My findings suggest that PTAs may encourage WTO members to behave consistently with GATT-WTO agreements.

In refining the range of explanatory variables that capture the type of PTA negotiations,

future research can identify specific factors that reduce the duration of non-compliance in WTO disputes. In particular, elaboration of the specific provisions of PTAs and their correspondence to given WTO disputes can provide a better perspective of overlapping function and its effect. Similarly, since the argument in this research is based on an assumption that unsuccessful PTA negotiations may impose costs or withhold benefits, a future test should distinguish types or institutionalization of PTAs. Finally, future research should involve in depth case studies that investigate actual cases that indicate the defendant's reputational concerns in the WTO or the failure of PTA negotiations.

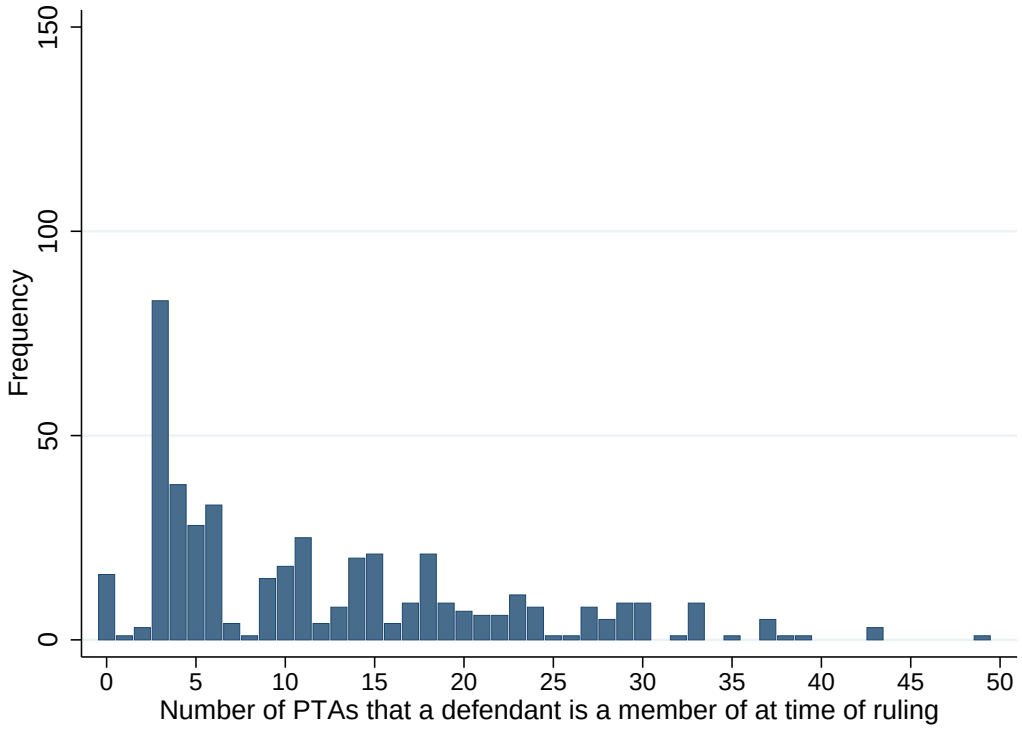
4.8 Figures & Tables

Figure 4.1 : Defendant's Ongoing PTA Negotiations



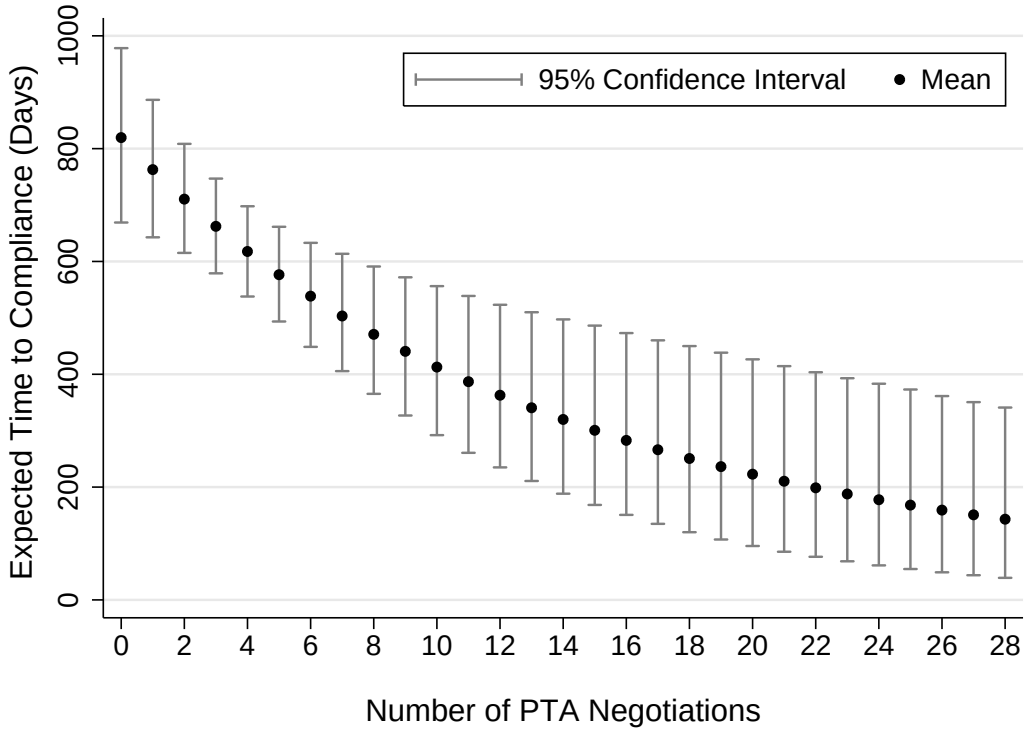
NOTE: This figure shows the number of PTA negotiations that a defendant has engaged with any WTO member state(s) when a ruling is issued. Regarding regional or multilateral PTA agreements, I decomposed those agreements into dyadic pairs of signatories.

Figure 4.2 : Defendant's Existing PTA Memberships



NOTE: This figure shows the number of PTAs to which a defendant belongs with any WTO member state(s) and that has entered into force by the time of ruling issued.

Figure 4.3 : Effect of PTA Negotiations on Defendant's Non-Compliance Duration



NOTE: This figure shows the estimated impacts of PTA negotiations that a defendant has engaged with any WTO member state(s) on the defendant's time to compliance along with 95 % confidence bands. The vertical axis shows the predicted time to compliance with a WTO ruling (in days), and the horizontal axes show the number of PTA negotiations.

Table 4.1 : Summary Statistics

Variable	Mean	Std. Dev.	Min.	Max.	N
Defendant's PTA Negotiations (count)	4.05	4.65	0	28	454
Defendant's PTA Negotiations (dummy)	0.69	0.46	0	1	454
Defendant's PTA Memberships (count)	12.05	9.77	0	49	454
Defendant's PTA Memberships (dummy)	0.97	0.19	0	1	454
Complainant's PTA Negotiations (count)	4.04	4.83	0	28	453
Complainant's PTA Negotiations (dummy)	0.66	0.47	0	1	453
Defendant's GDP per capita (logged)	9.25	1.29	5.9	11.26	450
Complainant's GDP per capita (logged)	9.35	1.25	6.01	10.83	454
GDP Ratio (Complainant's GDP/Defendant's GDP)	9.35	25.33	0.001	267.19	450
Defendant's Export Dependence	0	0	0	0.001	428
Defendant's Regime Type (dummy)	0.87	0.33	0	1	454
Agricultural Cases (dummy)	0.16	0.37	0	1	454
EU vs. US Cases (dummy)	0.14	0.34	0	1	454
Co-Complainant (count)	1.37	1.41	0	9	454
Article XXIII Cases (dummy)	0.21	0.41	0	1	454
Dispute Escalation (dummy)	0.35	0.48	0	1	454
Time-to-Compliance (days)	615.67	572.05	0	2455	153

Table 4.2 : Effect of PTA Negotiations on Time to Compliance (1995-2010), Duration-Section Model

	Model 1		Model 2		Model 3	
Defendant's Time to Compliance						
Defendant's PTA Negotiations (dummy)	−5.18***	(1.42)				
Defendant's PTA Negotiations (count)			−0.10***	(0.03)		
Defendant's PTA Negotiations (logged)					−0.56***	(0.18)
Defendant's GDP	1.42	(3.48)	−0.51	(5.74)	−1.78	(7.49)
Complainant's GDP	−1.51	(3.49)	0.45	(5.75)	1.74	(7.51)
GDP Ratio	1.42	(3.47)	−0.56	(5.72)	−1.86	(7.46)
Defendant's Export Dependence	6697.86*	(3605.70)	7034.22	(4820.78)	6649.60	(4344.72)
Defendant's Regime Type	1.62***	(0.44)	1.36***	(0.47)	1.35**	(0.56)
Agricultural Cases	7.64***	(2.01)	7.31***	(2.02)	6.38***	(1.58)
US vs. EU Cases	−1.00**	(0.50)	−0.58	(0.72)	−0.70	(0.69)
Co-Compliant	4.77***	(1.70)	4.78***	(1.48)	3.78***	(1.42)
Constant	13.34***	(2.29)	8.30***	(1.86)	7.98***	(1.99)
Dispute Escalation						
Defendant's PTA Negotiations (count)	−0.03*	(0.02)	−0.03*	(0.02)	−0.03*	(0.02)
Complainant's PTA Negotiations (count)	0.01	(0.02)	0.01	(0.02)	0.01	(0.02)
Defendant's GDP	0.69	(1.59)	0.70	(1.59)	0.70	(1.59)
Complainant's GDP	−0.51	(1.58)	−0.52	(1.58)	−0.51	(1.58)
GDP Ratio	0.50	(1.57)	0.51	(1.57)	0.51	(1.58)
Defendant's Export Dependence	1017.74*	(559.72)	1015.77*	(560.00)	1018.15*	(559.85)
Defendant's Regime Type	0.03	(0.28)	0.03	(0.28)	0.03	(0.28)
Agricultural Cases	−0.05	(0.18)	−0.05	(0.18)	−0.05	(0.18)
US vs. EU Cases	−0.65***	(0.22)	−0.65***	(0.22)	−0.65***	(0.22)
Co-Compliant	0.17***	(0.05)	0.17***	(0.05)	0.17***	(0.05)
Article XXIII Cases	−0.47***	(0.18)	−0.48***	(0.17)	−0.47***	(0.17)
Constant	−5.15***	(1.53)	−5.17***	(1.53)	−5.15***	(1.53)
ρ (Error Correlation)	1.00	(0.14)	0.13	(0.23)	0.06	(0.41)
p (Duration Dependence)	2.72***	(0.89)	2.51***	(0.74)	2.52***	(0.78)
N	417		417		417	
Log Likelihood	−308.58		−310.27		−309.61	
χ^2	45.66		45.97		45.77	

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 4.3 : Effect of PTA Negotiations on Time to Compliance (1995-2010), Duration-Section Model

	Model 4		Model 5		Model 6	
Defendant's Time to Compliance						
Defendant's PTA Negotiations (dummy)	−5.53***	(1.46)				
Defendant's PTA Memberships (dummy)	1.36***	(0.47)				
Defendant's PTA Negotiations (count)			−0.09**	(0.04)		
Defendant's PTA Memberships (count)			−0.04***	(0.02)		
Defendant's PTA Negotiations (logged)					−0.41**	(0.21)
Defendant's PTA Memberships (logged)					−0.43*	(0.23)
Defendant's GDP	1.57	(3.24)	3.81	(4.64)	4.22	(8.23)
Complainant's GDP	−1.68	(3.25)	−3.85	(4.66)	−4.25	(8.24)
GDP Ratio	1.58	(3.22)	3.78	(4.62)	4.13	(8.15)
Defendant's Export Dependence	6552.74**	(3238.57)	3151.66	(2702.48)	5993.33*	(3209.26)
Defendant's Regime Type	1.59***	(0.46)	1.35***	(0.36)	1.35***	(0.48)
Agricultural Cases	8.25***	(2.16)	6.74***	(2.03)	4.82***	(1.34)
US vs. EU Cases	−0.91*	(0.53)	−0.71	(0.50)	−0.74	(0.73)
Co-Compliant	5.08***	(1.71)	5.88***	(1.32)	4.25***	(1.47)
Constant	13.16***	(2.84)	8.24***	(1.61)	8.50***	(1.68)
Dispute Escalation						
Defendant's PTA Negotiations (count)	−0.03*	(0.02)	−0.03*	(0.02)	−0.03*	(0.02)
Complainant's PTA Negotiations (count)	0.01	(0.02)	0.01	(0.02)	0.01	(0.02)
Defendant's GDP	0.71	(1.59)	0.70	(1.59)	0.69	(1.59)
Complainant's GDP	−0.52	(1.58)	−0.52	(1.58)	−0.50	(1.58)
GDP Ratio	0.51	(1.57)	0.51	(1.57)	0.50	(1.58)
Defendant's Export Dependence	1016.10*	(560.06)	1016.48*	(560.14)	1017.49*	(559.94)
Defendant's Regime Type	0.03	(0.28)	0.03	(0.28)	0.03	(0.28)
Agricultural Cases	−0.05	(0.18)	−0.05	(0.18)	−0.05	(0.18)
US vs. EU Cases	−0.65***	(0.22)	−0.65***	(0.22)	−0.65***	(0.22)
Co-Compliant	0.17***	(0.05)	0.17***	(0.05)	0.17***	(0.05)
Article XXIII Cases	−0.48***	(0.17)	−0.48***	(0.17)	−0.48***	(0.17)
Constant	−5.16***	(1.53)	−5.16***	(1.53)	−5.16***	(1.53)
ρ (Error Correlation)	−0.25***	(0.00)	−0.25***	(0.00)	−0.25***	(0.00)
p (Duration Dependence)	2.86***	(0.88)	3.18**	(1.10)	2.84***	(0.84)
N	417		417		417	
Log Likelihood	−308.62		−309.05		−308.90	
χ^2	45.95		45.95		45.97	

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 4.4 : Effect of PTA Negotiations on Time to Compliance (1995-2010), Duration-Section Model without the EU as Defendant

	Model 7		Model 8		Model 9	
Defendant's Time to Compliance						
Defendant's PTA Negotiations (dummy)	−5.75**	(2.70)				
Defendant's PTA Negotiations (count)			−0.10***	(0.03)		
Defendant's PTA Negotiations (logged)					−0.62**	(0.25)
Defendant's GDP (logged)	1.83	(6.52)	6.05	(6.26)	9.21	(5.69)
Complainant's GDP (logged)	−1.88	(6.45)	−6.04	(6.20)	−9.18	(5.65)
GDP Ratio	−1.84	(6.39)	−6.04	(6.18)	−9.20	(5.62)
Defendant's Export Dependence	3838.32	(2994.30)	3943.35	(4464.13)	3253.74	(3849.02)
Defendant's Regime Type	1.74***	(0.60)	1.59***	(0.52)	1.69***	(0.52)
Agricultural Cases	6.54**	(3.23)	4.43*	(2.34)	6.52*	(3.47)
Co-Compliant	4.50**	(2.29)	3.13	(1.99)	4.73	(2.92)
Constant	13.25***	(4.77)	6.67***	(2.52)	6.17***	(1.91)
Dispute Escalation						
Defendant's PTA Negotiations (count)	−0.03*	(0.02)	−0.03*	(0.02)	−0.03*	(0.02)
Complainant's PTA Negotiations (count)	−0.01	(0.02)	−0.01	(0.02)	−0.01	(0.02)
Defendant's GDP (logged)	−0.41	(2.00)	−0.42	(2.00)	−0.32	(2.01)
Complainant's GDP (logged)	0.54	(2.00)	0.54	(2.00)	0.44	(2.01)
GDP Ratio	0.36	(1.98)	0.37	(1.98)	0.26	(2.00)
Defendant's Export Dependence	1249.98**	(593.34)	1248.67**	(593.30)	1229.17**	(591.31)
Defendant's Regime Type	0.02	(0.27)	0.02	(0.27)	0.02	(0.27)
Agricultural Cases	−0.51**	(0.21)	−0.51**	(0.21)	−0.51**	(0.21)
Co-Compliant	0.22***	(0.06)	0.22***	(0.06)	0.22***	(0.06)
Article XXIII Cases	−0.65***	(0.22)	−0.65***	(0.22)	−0.65***	(0.22)
Constant	−3.24**	(1.49)	−3.25**	(1.49)	−3.33**	(1.48)
ρ (Error Correlation)	−0.25***	(0.00)	−0.25***	(0.00)	0.24***	(0.00)
p (Duration Dependence)	2.85*	(1.39)	3.04*	(1.72)	2.64*	(1.54)
N	331		331		331	
Log Likelihood	−236.75		−237.20		−236.40	
χ^2	50.78		50.76		50.92	

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 4.5 : Effect of PTA Negotiations on Time to Compliance (1995-2010), Duration-Section Model without the EU as Defendant

	Model 10		Model 11		Model 12	
Defendant's Time to Compliance						
Defendant's PTA Negotiations (dummy)	−5.45**	(2.71)				
Defendant's PTA Memberships (dummy)	0.47	(0.69)				
Defendant's PTA Negotiations (count)			−0.10***	(0.04)		
Defendant's PTA Memberships (count)			−0.04***	(0.01)		
Defendant's PTA Negotiations (logged)					−0.57**	(0.25)
Defendant's PTA Negotiations (logged)					−0.55***	(0.21)
Defendant's GDP (logged)	3.09	(5.47)	3.51	(5.15)	7.14	(7.84)
Complainant's GDP (logged)	−3.12	(5.42)	−3.52	(5.08)	−7.08	(7.78)
GDP Ratio	−3.09	(5.36)	−3.46	(5.06)	−7.09	(7.72)
Defendant's Export Dependence	3788.75	(2993.84)	2476.64	(3437.42)	3333.25	(3535.70)
Defendant's Regime Type	1.90***	(0.51)	1.52***	(0.40)	1.76***	(0.50)
Agricultural Cases	20.02	(.)	4.83**	(2.14)	8.71***	(0.40)
Co-Compliant	12.12	(.)	2.85	(1.96)	5.91	(4.17)
Constant	11.53**	(4.65)	7.64***	(2.31)	5.92***	(2.10)
Dispute Escalation						
Defendant's PTA Negotiations (count)	−0.03	(0.02)	−0.03*	(0.02)	−0.03*	(0.02)
Complainant's PTA Negotiations (count)	−0.01	(0.02)	−0.01	(0.02)	−0.01	(0.02)
Defendant's GDP (logged)	−0.36	(2.01)	−0.42	(2.00)	−0.34	(2.01)
Complainant's GDP (logged)	0.48	(2.01)	0.54	(2.00)	0.46	(2.01)
GDP Ratio	0.31	(1.99)	0.37	(1.98)	0.29	(2.00)
Defendant's Export Dependence	1226.96**	(591.33)	1248.80**	(593.34)	1228.41**	(591.82)
Defendant's Regime Type	0.01	(0.27)	0.02	(0.27)	0.02	(0.27)
Agricultural Cases	−0.51**	(0.21)	−0.51**	(0.21)	−0.51**	(0.21)
Co-Compliant	0.22***	(0.06)	0.22***	(0.06)	0.22***	(0.06)
Article XXIII Cases	−0.66***	(0.22)	−0.65***	(0.22)	−0.66***	(0.22)
Constant	−3.31**	(1.48)	−3.25**	(1.49)	−3.33**	(1.48)
ρ (Error Correlation)	−0.24***	(0.00)	−0.25***	(0.00)	0.25***	(0.00)
p (Duration Dependence)	2.56*	(1.37)	3.43*	(1.93)	2.86	(178)
N	331		331		331	
Log Likelihood	−236.30		−236.49		−235.68	
χ^2	50.98		50.77		51.17	

Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 4.6 : Instrumented PTA Negotiations and Time-to-Compliance (1995-2010)

	IV Duration Time-to-Compliance	
Defendant's PTA Negotiations (Instrumented)	-1.70^{*}	(0.96)
Defendant's GDP per capita (Log)	-0.24	(3.37)
Complainant's GDP per capita (Log)	0.31	(3.40)
GDP Ratio	-0.37	(3.39)
Defendant's Export Dependance	10.74^{**}	(4.76)
Joint Democracy	0.05	(0.28)
Co-Compliant	0.10^{*}	(0.05)
Article XXIII Cases	0.06	(0.28)
Agricultural Cases	0.88^{**}	(0.28)
Sensitive Cases	-1.02	(0.92)
Discriminatory Measures	0.77	(0.88)
Constant	5.80^{***}	(1.45)
p (Duration Dependence)	0.25^{***}	(0.07)
N	152	
Log likelihood	-186.9	

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.001$

Chapter 5

Conclusion

This dissertation has engaged in important ongoing debates about the efficacy of international organizations (IOs) by investigating questions of why and when states, as well as non-state actors, use international dispute settlement mechanisms to resolve disputes. Recently we have witnessed the proliferation of those mechanisms across issue areas ranging from human rights and territorial disputes, to commercial disputes such as trade and investment disputes. While many of those mechanisms are created in the hopes of promoting cooperation among member states, not all of them have been always used by actors as a means of settling their disputes. Additionally, even when actors use dispute settlement mechanisms, there has been significant variation in the timing of when actors file their disputes and when they comply with IO rulings.

Motivated by this question, this dissertation has sought to identify the conditions under which actors are more likely to use international dispute settlement mechanisms in IOs. In doing so, it looked at the influence of IO dispute settlement processes on the behavior of domestic and foreign audiences. In particular, I argued that IO dispute settlement provides two types of information to domestic and foreign audiences: information about violations that have occurred and information about the willingness and ability of parties to comply with settlement obligations. Potential plaintiffs may have incentives to employ public dispute settlement mechanisms to reveal violations and mobilize pro-compliance constituencies. Defendants, on the other hand, may benefit from the ability to showcase publicly their ability and willingness to comply with judgments. Thus, both plaintiffs and defendants can, under some conditions, benefit from settling their disputes through these public quasi-courts.

The first two essays (Chapter 2 and 3) explored the decision of plaintiffs to file their disputes. I argued that the timing of dispute filing is a strategic choice by plaintiffs, who estimate the effects of dispute filing on foreign domestic audiences. I claimed that a plaintiff is more likely to file a dispute in an IO when pro-compliance groups in a defendant state can work as domestic enforcers. Since an actor wants to file a dispute when compliance with a WTO ruling is more likely to be forthcoming, the actor evaluates when pro-compliance citizens in a defendant country can work as domestic enforcers. In particular, I focused on a leadership turnover in a defendant country that replaced an old leader who caused a violation at issue with a new leader who has a different policy preference. Under such a circumstance, pro-compliance citizens in a defendant country are expected to be more influential over their government's policy making, which opens up a chance to mobilize them by providing information using IOs. My empirical analyses, one concerning the World Trade Organization (Chapter 2) and one concerning the International Centre for Settlement of Investment Dispute (Chapter3), have provided supportive evidence for my theoretical arguments.

In addition to foreign citizens, other IO member states are also important audiences that receive information. The third essay (Chapter 4) focused on a state's incentive to use behavior within an IO to signal its commitment to international obligations outside of a given IO. Using data from international trade, I examined the possibility that a defendant state uses WTO ruling compliance to inform other WTO member states of its incentive and ability to liberalize trade through other preferential trade agreements (PTAs). My analysis showed that a state is more likely to comply with a WTO ruling when it is in the middle of negotiations for PTAs. This research highlights that defendants can also benefit from acting through these public quasi-courts, which in turn leads to defendants' incentives to comply with adverse judgments issued by IOs .

This dissertation could contribute to our understanding of the efficacy of IOs in facili-

tating cooperation among members. First, this dissertation suggests the mechanisms through which IOs enhance states' commitments to international obligations. This dissertation showed that IO's lack of enforcement capacity can be subsided by foreign audiences. Increasing media coverage and public attention to defendants' violations of international obligations, international arbitration can mobilize foreign audiences that prefer defendants to comply with international obligations. While IOs cannot enforce their rulings, IOs can activate foreign audiences which directly influence defendants' policies. This unique function of IOs leads to actors' incentive to use IOs to influence such foreign audiences. This possibility will advance an important scholarship that theorizes the role of IOs as information providers (e.g., Carrubba 2005, Chapman and Reiter 2004, Chapman 2012, Chaudoin 2014, Dai 2007, Fang 2008, Thompson 2010).[90]

Second, this dissertation showed it is important to consider the selection of disputes settled through IOs is important. This is because a plaintiff's filing decision may be a function of that plaintiff's expectation about a defendant's compliance with an adverse ruling. Revisiting the incentive of a potential plaintiff who may not want to waste its litigation efforts by filing a dispute when a defendant state is less likely to comply with an IO ruling, this dissertation elucidated a link between a plaintiff's filing decision and a defendant's domestic politics. In particular, this dissertation provided indirect evidence that who caused treaty violations may affect a potential plaintiff's expectation of who will rectify those violations. Since some treaty violations result from national leaders' necessity to protect their own constituencies, there is little chance that those violations will be removed while those leaders stay in power. If so, an opportunity that treaty violations are removed will come when the leaders who caused those violations are replaced by new leaders who are supported by different constituencies. This

90. However, this promise also highlights a limitation of IOs. That is, whether or not they can influence defendants are depends on the existence of foreign audiences that support dependents' compliance with international obligations or punish defendants' defections from international obligations.

type of leadership change in a defendant state can affect a potential plaintiff's filing decision through its expectation of a new leader's compliance with an adverse ruling. This suggests that it is important to examine how treaty violations are made in the first place when we study international adjudication.[91]

5.1 Future Extension

There are limitations in this dissertation. First, despite that I argued that information transmitted through IOs would play a crucial role in mobilizing reactions from foreign audiences, I did not directly test whether domestic and international pro-compliance audiences actually pay attention to the information and exert lobbying pressures against defendants. While I found statistical evidence that supports my arguments in each chapter, it is not quite a complete test for that assertion. Actual audience reactions should be examined using different methods such as survey experiments or much closer case studies.

Similarly, while I argued that domestic politics in a defendant state affect a plaintiff's filing decision through its expectation of a defendant's compliance with adverse IO rulings, I did not test this argument itself. Future research should examine whether a defendant's ruling compliance will be more likely when there is a leadership turnover that replaces a leader who caused a violation at issue.

Second, all chapters confront barriers to detailed causal inference. For example, I must admit that the key explanatory variable in Chapters 2 and 3; the leader's support group change, is an aggregated measurement for testing my theoretical arguments. My argument rests on the idea that a leader's support coalition contains some domestic groups that have been affected, positively or negatively, by the violations of international agreements (e.g., GATT-

91. However, one of the implications of my finding is that violators are less likely to be punished during their time in office. If leaders expect little chance to be sued due to their own violations, the existence of international arbitration has little preventive effect of occurrence of violations.

WTO agreements or BITs), and those groups enter or exit when the leader changes. Ideally, it was preferable to measure detail features of those affected domestic groups, and confirm whether those groups exist in a leader's support coalition. However, the cross-country analyses in Chapters 2 and 3 made this difficult. In addition, if there were readily-available data sets that contain information changing monthly or daily as to states' economy and commercial activities as well as information about firms' characteristics, I could construct more refined statistical models to examine my theoretical arguments.

Third, a limited number of countries in my sample gathered prevented me from investigating potential interactive effects of countries' regime types. Regime type is frequently linked to cross-national variation in the degree to which governments care about domestic constituencies. For instance, pro-compliance citizens' demands can be more represented in democracies than non-democracies. If so, actors' decisions to use IOs as information transmitters may be limited to the disputes where potential defendants are democracies. On the other hand, however, drawing upon an implication from the selectorate theory by Bueno de Mesquita et al. (2005), leadership turnover may lead significant change in leader's support coalition in non-democracies than democracies. If so, a large degree of policy change may provide a clear chance of removal of treaty violations in autocratic countries than democracies. In addition, it is interesting to examine how the predictability of leadership turnover (e.g., election cycle in democracies) or expected length of each leader's tenure may affect actors' strategic use of IOs.

Beyond those limitations due to data availability, my future research should examine the processes by which policies get made and therefore the compliance of IO rulings are supplied. While I assumed that executive leaders have power over countries' compliance decisions regardless of policy areas, the governments' supply of compliance may vary by issue areas. For instance, in WTO disputes, some trade remedies such as the application of safeguards, anti-

dumping duties, and countervailing duties, the executive or executive agencies have nearly complete discretion in resolving disputes.[92] However, other remedies such as agriculture subsidies or intellectual property law require legislative actions including the amendments of domestic laws. In such cases, executive leaders' power over compliance decisions may be limited. In the area of investment, BITs violations sometimes arise as a result of conducts by sub-national actors such as governors, state assemblies, and town councils. Where there is poor communication among these sub-nation actors and a central government, it may be challenging to engage in effective dispute resolution (Franck 2007*b*:200).

Nevertheless, I hope this dissertation could provide an important step towards exploring the efficacy of international organizations in managing international cooperation.

92. For instance, in the United States, the Commerce Department issues rules regarding the methodology for dumping and countervailing duty determinations that have led to adverse WTO decisions against the U.S. In these remedy areas, the president has an independent authority to act, either because it falls within the executive branch's constitutional powers or because of delegated power from Congress (Chilton 2013:122-123).

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