

Forum Choice in Trade Disputes: WTO Adjudication, Negotiation, and U.S. Trade Policy

Christina Davis

Department of Politics
Princeton University

November 10, 2007

Overview

- Multiple negotiation venues and choice of trade strategies
- Interest group pressure as selection mechanism in choice of forum
- Analysis of U.S. trade negotiation strategies
 - Data on trade barriers as *potential disputes*
 - Political contributions influence selection of WTO disputes
 - Conditioning on selection, WTO adjudication is effective

Forum Choice in Trade Policy

- Selection dynamic for when to use an institutional forum
 - Many trade problems could be raised in several different fora
 - If only easy issues are raised in institutional setting, biases research that examines cooperation supported by institutions
 - Need to understand selection process
- *Why do governments choose to use WTO adjudication for some trade disputes but not others?*

Interest Group Pressure

- Lobbying for influence
 - Industries offer political contributions in exchange for commitment from politicians to promote exports
- Government unable to credibly commit to deliver market access
 - Policy change depends upon negotiation and foreign government implementation, which is hard to monitor
 - Interest groups suspect government gives in too easily
- Export industries will be less likely to make contributions without measures to increase certainty of market access gains

Forum choice as a costly signal of commitment

- Litigation *increases* costs:
 - resources for legal case
 - risk of harm to diplomatic relations
 - raises audience costs against compromise
- Self-imposed costs form a costly signal that increases credibility
- Government can use WTO complaint to signal to domestic and foreign groups that the issue receives high priority
- ***Interest Group Hypothesis:***
Trade disputes involving strong interest group pressure are more likely to be raised in WTO adjudication
- Measuring interest group pressure
 - Complainant: Export industry political contributions & organization
 - Respondent: Import industry import penetration ratio & employment

Trade Barrier Data

- To address selection, one needs *potential disputes*
- USTR National Trade Estimate Reports provide politically relevant set of trade barriers harmful to U.S. exports
 - Annual reports mandated by Congress in 1974 Trade Act
 - List complaints about trade barriers and report government actions
- Trade barriers of 9 major trade partners
 - Canada, EU, Japan, Korea, Mexico, Brazil, India, Malaysia, and Singapore
 - 1995 to 2004
- 401 industry specific trade barriers

Measuring Influence on Choice of Forum

- Political contributions data by industry
- Section 301 petition (17 cases)
- U.S. economic interest controls (production, employment, exports)
- Trade barrier controls (import policies, distortion, tariff)
- Partner industry demand (import penetration, employment)
- Partner fixed effects
- Duration of dispute

U.S. Choice of Forum

Negotiation strategy	frequency	percent
No action	158	38.5
Negotiation	217	52.9
WTO adjudication	35	8.5
Total cases	410	100.00

Variables**Model 1 (Negotiation as base category)**

	WTO adjudication		No action	
Contributions	0.851 * **	(0.199)	-0.047	(0.14)
Section 301	3.346 * **	(1.096)		
Production (log)	-0.534 * *	(0.238)	0.447 * *	(0.21)
Exports (log)	0.332	(0.217)	-0.213 * **	(0.07)
MPEN (partner)	0.020 * **	(0.008)	0.009	(0.00)
Import policy	0.646 * **	(0.223)	0.108	(0.19)
Distortion	1.332 * **	(0.400)	0.486 * **	(0.17)
EU	0.579 * *	(0.273)	-0.120	(0.55)
Japan	-0.715	(0.676)	-2.695 * **	(0.71)
Mexico	0.161	(0.495)	-0.621*	(0.34)
Korea	-1.003	(0.940)	-2.085 * **	(0.42)
Non-OECD	-0.042	(1.054)	0.554	(0.51)
Duration	0.157 * **	(0.049)	-0.101 * *	(0.04)
Intercept	-15.096 * **	(5.150)	-2.471	(2.55)
Pseudo R squared	0.257			
N	410			

Support for Interest Group Pressure Hypothesis

- *Political contributions* shift of one standard deviation from \$21 million to \$43 million while holding all other variables constant
 - increases probability of initiating WTO dispute from 0.04 to 0.12
- *Organization* shift from 5 to 42 associations
 - increases probability of initiating WTO dispute from 0.04 to 0.17
- *Section 301* shift from 0 to 1
 - increases probability of initiating WTO dispute from 0.05 to 0.69
- *Import penetration ratio* of trade partner shift from 20 to 40
 - increases probability of initiating WTO dispute from 0.05 to 0.21

How Effective is WTO Adjudication?

- Evaluate outcome in terms of resolution for trade complaint
 - Measure whether NTE describes progress to reduce barrier
 - On average, progress variable corresponds with increase of trade
- Compare effectiveness of WTO adjudication relative to negotiation
- Control for factors that influence selection of WTO adjudication

Descriptive Inference

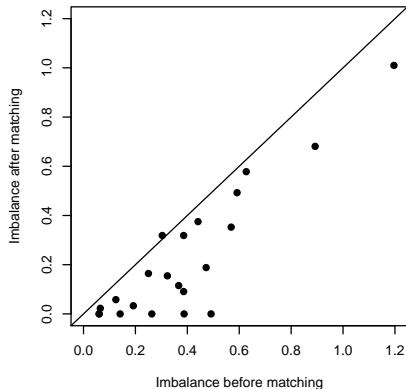
Dispute Outcome	WTO DS	Negotiation	All cases
No Progress (percent)	13 (37.1)	100 (46.1)	113 (44.8)
Progress (percent)	22 (62.9)	117 (53.9)	139 (55.2)
Total cases	35	217	252

- Adjudication seems to help, but difference is not statistically significant
- Need to consider selection mechanism

Causal Inference

- Problem: cannot randomly assign trade complaints to different strategies
 - Treatment group (WTO disputes) differs from control group (negotiation cases)
- Use statistical technique of matching to bring observational data closer to comparison of cases similar in all but treatment
 - Preprocessing data to reduce model dependence and bias by removing observations that lack common support (Ho et al, 2007)
 - Include covariates that were important in forum choice decision

Imbalance Before and After Matching



- Three-to-one nearest neighbor matching with exact restriction on trade partner
- Substantially improves covariate balance in matched sample of 127 barriers

Variable	Model 1	
	Coefficient	(Std. Err.)
WTO DS	0.763 * *	(0.313)
Contributions	-0.665*	(0.365)
Section 301	-0.421	(0.807)
Production (log)	1.788 * **	(0.448)
Exports (log)	-0.198	(0.625)
MPEN (partner)	0.015	(0.015)
Import policy	-0.005	(0.253)
Distortion	-0.170	(0.557)
EU	-1.343	(0.860)
Japan	0.058	(0.581)
Mexico	-0.443	(0.503)
Korea	0.243	(0.469)
Non-OECD	-0.027	(0.492)
Duration	0.021	(0.056)
Propensity score	-0.688	(1.476)
Intercept	-8.754	(7.106)

Evidence for Effectiveness of WTO DS

- Dispute settlement increases predicted probability of progress resolving complaint by 17 percentage points (ci 0.03 to 0.30)
- Model correctly predicts progress 77 percent of time
- WTO DS is significantly more effective relative to negotiation after taking into account selection process in forum choice

Conclusion

- Selection of WTO disputes by United States follows political logic
 - Favors industries that make large political contributions
 - More likely when strong resistance by trade partner
- WTO DS has been remarkably successful considering selection mechanism favors *difficult* cooperation issues
 - 262 distinct dispute complaints filed (351 actual complaint requests)
 - 96 disputes with adopted panel report, 89% with violation finding
 - 14 compliance disputes
 - *noncompliance is relatively rare*
- Adjudication system serves domestic political function and enforcement role for multilateral rules
- The WTO is an effective conflict resolution mechanism