

Public versus Private Enforcement of Trade Agreements

Evidence from China's Trade with the U.S., Japan and South Korea

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Abstract

What accounts for governments' choice across different enforcement mechanisms for international economic agreements? This paper investigates this question with a focus on the Chinese government's choice of enforcement mechanisms for export restraint agreements with the United States, Japan, and South Korea since 1995. Contrary to the conventional wisdom that a government chooses an enforcement mechanism that maximizes political gains or minimizes retaliation risks, this paper demonstrates that the Chinese government's choices are driven by a different motive—to deter collusion between politically powerful industries and local-level governments. The government is more likely to use a transparent and private enforcement mechanism (i.e., the open quota bidding system) for politically powerful industries, and a discretionary and public enforcement mechanism for industries with little political influence. To test this argument, the paper introduces a new commodity-level dataset that records the government's choice of enforcement mechanisms since 1995 along a combination of two dimensions: (i) multilateral vs. bilateral and (ii) public vs. private enforcement mechanisms (i.e., a government enforces the agreement vs. private firms participate in the enforcement process via open quota bidding). The results lend strong support to the argument.

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Introduction

What accounts for governments' choice across different enforcement mechanisms for international economic agreements? Increasing numbers of multilateral, bilateral, and regional agreements regulate cross-border movements of goods, capital, and labor today. Yet these differ considerably in how the specifics of the agreements are enforced by governments (Sykes 2005). In the realm of trade agreements, the enforcement could be done legally by establishing punishment for breach of obligations *ex ante* (e.g, anti-dumping duty specified under WTO), or, informally via bilateral diplomacy, threat of retaliation, or close monitoring (Grief 1993, 1994; Tallberg 2003; Dixit 2004; Gawande and Hansen 1999). Some agreements, moreover, grant private actors—such as firms—rights to bring complaints before an adjudicative body (“private enforcement”), while others only allow governments to be the agents of enforcement (“public enforcement”)(Sykes 2005).

Among major international trade agreements, for instance, the EC treaty at European Union allows private firms to bring violation cases to the courts of member states (Sykes 2005:7), while the WTO only allows governments to be the agents of enforcement.¹ While theoretical progress has been made to understand the role of enforcement in international negotiations and agreements (Chays and Chays 1993; Downs et al 1996; Fearon 1998), systematic empirical research has lagged far behind theories. Emerging empirical research, moreover, has tended to study the causes of varying *levels* of enforcement (Simmons 2003; Von Stein 2005; Dai 2005), rather than a *choice* across different enforcement mechanisms. The question of choice is important as these mechanisms differ substantially in (i) who bears the costs of enforcement and (ii) the extent to which an enforcement process generates political gains. These variations provide an opportunity to understand how governments weigh political gains and enforcement costs in choosing a mechanism of enforcement.

This paper investigates this question with a focus on the Chinese government's choice of enforcement mechanisms for export restraint agreements with the United States,

¹ Of course, this does not mean that industries and firms do not have any influence on the government's enforcement decision. They may influence the enforcement decisions via lobbying the government. See Dai (2005).

Japan, and South Korea since 1990. Since its economic opening in 1979, the Chinese government has been involved in numerous trade conflicts in which agreements were made to restrain its exports. In some cases, such as textile disputes with the United States in 2006, the Chinese government bilaterally agreed to restrain export and enforced it successfully by using an open quota bidding system in which firms competitively bid for export quotas and are obligated to commit to the assigned quantity and price (Naoui 2007). In other cases, such as the honey dispute with the U.S. during 2000-2001, the Chinese government agreed to restrain exports yet did not enforce the agreement—which eventually led to the U.S. to adopt an anti-dumping duty (Rosendorff 1996).²

China's choice of enforcement mechanism also varies for the same commodity vis-à-vis different countries. During garlic disputes with South Korea and Japan, the Chinese government used a quota bidding system to enforce the VERs agreement with South Korea but not with Japan. Why did the Chinese government use a private enforcement mechanism which subjects Chinese exporters to export quota bidding in the South Korean case, but not in the Japanese case? What accounts for the Chinese government's decision to engage in bilateral, informal agreements to restrain exports in some cases, but not others? And its decision to use the open quota bidding system to enforce VERs agreements for some industry cases but not others?

Contrary to the conventional wisdom that a government chooses an enforcement mechanism that maximizes political gains or minimizes retaliation risk (Krueger 1974; Hillman and Ursprung 1988; Dai 2005; Sykes 2005), this paper demonstrates that the Chinese government's choices are driven by a different motive—to deter collusion between politically powerful industries and local-level governments. The government is more likely to use a transparent and private enforcement mechanism (i.e., the open quota bidding system) for politically powerful industries, and a discretionary and public enforcement mechanism for industries with little political influence. To test this argument, the paper introduces a new commodity-level dataset that records the government's choice of enforcement mechanisms since 1995 along a combination of two dimensions: (i) multilateral vs. bilateral and (ii) public vs. private enforcement mechanisms (i.e., a

² These failed VERs cases were likely to escalate into the use of WTO rules by China's trading partners—such as anti-dumping or escape clause actions—which eventually led to reduction in Chinese export. I will address how such sequential decision-making by governments could generate a selection effect in my data.

government enforces the agreement vs. private firms participate in the enforcement process via open quota bidding). The results lend strong support to the argument.

This paper aims to make four contributions. First, the literature on trade agreements tends to analyze either how agreements are made or the effect of agreements on economic outcomes (Mansfield, Milner and Rosendorff 2003; Davis 2004). The politics after the agreements are made—battles over enforcement—is generally missing from the literature. Second, an emerging literature on enforcement of international agreements tends to theorize governments' enforcement decisions as a function of interstate bargaining (Fearon 1998), political regime types and institutions (Simmons 2003; Von Stein 2005), or, domestic distributive politics (Dai 2005). This paper brings in one of the institutional elements that has been understudied in the enforcement literature—multi-layered enforcement authorities in federations—as a key to understand the Chinese government's enforcement decisions. When the central government anticipates that local governments will collude with politically powerful industries and breach the agreement, it attempts to preempt this by using an instrument of enforcement that allows it to expose violators (i.e., firms and local governments) to the public and foreign governments.

Third, this paper demonstrates a motivation for an authoritarian government to increase transparency in the economic policy-making process that has not been discussed in the past: to counter-act powerful private actors and to hold them accountable for the breach of international agreements. Finally, this paper leverages the case of China—one of the most well-known cases for the lack of enforcement of international agreements—to demonstrate that the government strategically chooses whether or not and how to enforce the agreements. This finding contributes to the debates concerning whether China lacks will or capacity to enforce international agreements (Mertha 2005).

Section 1: The Puzzle

Developing countries today face various external pressures to restrain exports. China is the most targeted emerging economy in this sense. Since its economic opening in 1979, 34 countries and regions launched a total of 665 antidumping duty, counter-veiling duty, and safeguard investigations against Chinese products at the GATT and WTO. Outside of multilateral arenas, moreover, China was involved in numerous

bilateral negotiations for voluntary export restraints (VERs) with countries such as the United States, Europe, and Japan, to name but a few.

The ways in which these trade conflicts were settled, however, substantially differ across cases. Some of these conflicts were settled by bilateral VERs agreements, while others were escalated to the use of GATT/WTO-legal anti-dumping and safeguard measures by China's trading partners. Even when bilateral VERs agreements were made, Chinese government enforced the agreements with the use of open quota bidding system in some cases, but not in others. In addition to the variations in the enforcement choice described above, the introduction of open quota bidding system in 1994 itself poses several puzzles.

The Open Quota Bidding System

Before 1994, the decision-making process of setting and allocating export quotas to exporters in China was centralized and controlled by the central government's agency (the MOFERT) which discretionally decided quota allocations in consultation with provincial officials. The quota allocation system became more open and institutionalized during the 1990s. In particular, the open quota bidding system was introduced in 1994 by the Chinese Ministry of Commerce in order to address, according to the Ministry's officials, two issues: to regulate the over-competition among Chinese exporters to undercut price which have led to anti-dumping suits by foreign governments and to equalize the power imbalance between producers and exporters.³ These rationales appear consistent with the two prevailing accounts for the governments enforcement choice in the literature that emphasize the role of retaliation risks and domestic distributive demands (Fearon 1998; Gawande and Hansen 1996; Dai 2005), yet as I demonstrate later, a systematic empirical test lends only a partial support to these arguments.

The quota bidding is an open and transparent process in which the Chinese Ministry of Commerce announces a minimum bidding price and the quantity of exports which should be subject to bidding. Foreign Trade Corporations (FTCs) that will participate in the bid need to submit their past record of export revenues and quantity.

³ Another rationale that was reported in the media was to increase revenues for Ministry of Commerce.

Information regarding when and how the bidding is done, its participants, minimum bidding prices, and who won how much of the bids is made available to the public on the website of the Ministry of Commerce. The bidding and its enforcement process is decentralized in that locally-owned FTCs submit applications to local governments,⁴ while centrally-managed corporations apply directly to the same commission at the level of the central government.

The government's introduction of the open quota bidding system is puzzling in two respects. First, compared to the previous export quota system in which the Chinese government discretionally allocated quotas, the open quota bidding system is more democratic, transparent, and market-driven mechanism to determine the recipients of quotas. Why did the Chinese government give up the discretionary policy instrument that allows her to manipulate rents and replace it with a more transparent and market-driven instrument? Second, the open quota bidding system also exposes information to foreign governments and foreign firms regarding which firms are assigned what quantity and price. The results of quota bidding are published on the Ministry of Commerce's Website and anyone could easily obtain such information. Why did the Chinese government voluntarily lower the information costs for foreign governments so that they have an easier time identifying violations such as over-exporting or price dumping?

Section 2: Argument and Hypotheses

Incentives to Enforce vs. Breach—the Role of Decentralization

This paper argues that China's enforcement choice is driven by the central government's motive to deter collusion between powerful industries and local-level officials. By replacing the discretionary instrument with a more transparent and market-driven mechanism (*i.e.*, open quota bidding), the central government seeks to deter local-level authorities from colluding with powerful industries to breach the agreement *ex ante* and expose violations to the public and foreign governments for punishment *ex post*.

I develop the logic of this argument in three steps and derive testable hypotheses. First, seminal works in trade economics have shown that the central government, local

⁴ Specifically, applications are submitted to local branches of the Ministry of Foreign Economic Relations and Trade Commission.

governments and exporters are all better off committing and enforcing the VERs agreements than provoking foreign governments' retaliation (e.g., the use of anti-dumping or safeguard measures) (Bhagwati 1963; Krueger 1974). This is so because the VERs creates rents through the allocation of export quotas and licenses to exporting firms. The VERs also represents a more temporal form of export regulation than tariffs. Third, VERs give exporters an opportunity to collude with importing companies abroad by setting the price higher than before the VERs (Hillman and Ursprung 1988). Finally, governments generally prefer bilateral diplomacy to multilateralism because the former allows governments to link trade policy with other diplomatic goals and claim credit for the policy outcome (Milner 2007).⁵ Thus, the central and local-level governments and exporters are all better off by enforcing the bilateral VERs agreement with trading partners.

Second, although all the actors are better off by enforcing the VERs agreement, however, under a fiscally and politically decentralized system in which local governments compete for higher export share, local officials face strong incentives to breach the agreement. Specifically, the local-level officials' incentives to breach come from the following three sources that were brought by fiscal and political decentralization reforms in China.

Local Governments as Agents and Bosses

China's export administration has undergone a series of decentralization reforms which encourage local governments to compete for higher export share and in effect to breach the agreement. These reforms granted provinces and municipalities authorities to promote and regulate exports in three respects: (i) the ownership and management structure of foreign trade corporations (FTCs), (ii) the fiscal system in which localities and central government share gains from foreign trade, and (iii) the decision-making and enforcement process of export quota and licensing.

First, the ownership structure of foreign trade corporations (FTCs) has become decentralized. Before China's open policy was adopted in 1978, only a dozen nationally-

⁵ This is of course not the case when the policy outcome is unpopular among the public. For instance, Milner (2007) shows that governments will prefer to delegate decisions to allocate foreign aid to multilateral institutions when the public support for aid is low.

owned FTCs monopolized foreign trade. Within a decade, the number of local FTCs increased dramatically to approximately six thousand. Yet until 1985, the central government's agency, the Ministry of Foreign Economic Relations and Trade (MOFERT) regulated trade composition and flows by issuing export licenses and subsidizing their activities. Under centralized control by the central government, FTCs had a strong incentive to comply with the assigned quotas because the central government was the source of subsidies and permission to engage in foreign trade. In 1985, local FTCs were granted autonomy to engage in foreign trade and came under the control of provincial and municipal governments.⁶ As a result, FTCs have weaker incentive to comply with the central government after the reform.

Second, a decentralized fiscal contracting system was adopted between 1980 and 1994 under which provincial governments could retain tax revenues from local enterprises (Wang, 1997: 2001). The foreign exchange contract system (*waihui baogan*) also gave an incentive to local governments to promote exports because they could retain up to 80 percent of such earnings under the assigned quota system. As a result, local governments play a dual role. In addition to being agents of the central government that enforce the export restraints, they are independent actors that seek to maximize gains from foreign trade. Local FTCs owned by provincial and municipal governments also face the same dilemma. They are encouraged to compete against one another to win export contracts with producers but once the government agrees to VERs they need to restrict their exports under the assigned quota.

Finally, a decentralization reform was also adopted at the enforcement stages of export regulation. This is so for two major policy instruments for export regulation: export licensing and export quotas. The authority to issue export licenses to FTCs was extended from the central government to branches of various provinces, autonomous regions, and municipalities in 1996.⁷ Another instrument of export regulation, the export quota system, has been the subject of decentralization reforms as well. The quota bidding and its enforcement process is decentralized in that local governments decide quota allocation and enforce the agreement.

⁶ An increasing number of local FTCs also entered into joint ventures with foreign companies.

⁷ In 2001, the central office of the Ministry of Commerce issued approximately 15 percent of the newly-licensed export commodities, while local authorities issued approximately 85 percent.

In sum, under the decentralized system, the local-level officials have to play a dual role of promoting export as a boss of its local economy and enforcing the VERs agreement as an agent of the central government. The question then is under what conditions, local governments are more likely to breach than enforce, and how the central government chooses an enforcement mechanism to prevent the breach to occur. The open quota bidding system lowers information costs and allows both Chinese and foreign governments to identify who violates the assigned quota and price and to hold firms and local government officials, rather than the central government, accountable for breaching the agreement. This leads to the following proposition and hypotheses.

Proposition 1: Chinese government is more likely to use bilateral and private enforcement mechanism (i.e., open quota bidding system) when an industry has higher probability of colluding with local officials.

H1: The government is more likely to use bilateral and private enforcement mechanism when an industry is characterized by a large employment size, high degree of geographic concentration, and strong political connection with the central government.

H2: The government is more likely to use bilateral and public enforcement mechanism when an industry has little political importance.

If the government's choice between public and private enforcement mechanism is driven by a motive to deter collusion between industries and local-level officials, then, what accounts for its choice between entering a bilateral VERs agreement and let a dispute case escalated to the use of WTO contingent protection measures by a foreign government? There are two possibilities that are consistent with the logic of my argument: either that a dispute case is impossible to solve with VERs due to the enforcement difficulty, or, a size of China's export sector that will be harmed by the contingent protection is small and thus Chinese government simply shifts the costs of enforcing the VERs agreement to foreign governments.

H3: The government is less likely to enter bilateral VERs agreement when an exporting industry is diffused across different provinces (low *Geo Con*) and/or a size of given export industry is small (low *Employment Size*).

Next section will discuss data and methods to test these hypotheses.

Section 3: Data and Methods

Identifying the Universe of Cases: Addressing the Selection Effects

While the question of enforcement seems only relevant when the bilateral agreements are made, we need to consider selection effects in identifying the universe of cases (Fearon 1998). Chart 1 in appendix describes possible enforcement outcomes and a potential sequence of governments' decisions during a trade conflict. It suggests that there may be selection effects in which only cases that have some potential to be enforced would enter the bilateral agreements, while other cases without such potential will lead to the use of GATT/WTO-legal measures by China's trading partners. There are many cases, for instance, in which governments resorted to the use of GATT/WTO-legal measures after the failed VERs enforcement. There are also cases in which governments used GATT/WTO-legal protection measures *before* attempting to make bilateral agreements with China in anticipation that the agreement would not be enforced. While the decision not to enter the bilateral agreement is hard to observe, I infer that governments' decisions to use GATT/WTO-legal measures (anti-dumping, safeguard, and counter-veiling duties) encompass the cases of the failed VERs enforcement or the cases in which governments anticipated that China's VERs enforcement would fail. Thus, the universe of cases analyzed in this paper includes all the dispute cases that ended with bilateral agreements as well as cases that ended with China's trading partners' use of GATT/WTO-legal protection measures.

I gathered information on all the trade conflicts between China and the U.S., Japan, and South Korea since 1995 in which China was positioned as an exporter. This paper focused on the three dyads instead of the entire universe of China's trade partners for two reasons. First, informal, bilateral agreements for VERs are generally not recorded in the official documents or GATT/WTO publications. Hence this paper uses newspaper archives and industry reports to identify these informal cases. Such information is difficult to collect for the entire universe of China's trade partners. Second, the three dyads give sufficient variation to test two alternative hypotheses regarding China's enforcement choice and retaliation risks. The size of China's export market (*i.e.*, expected retaliation damages for Chinese exporters) varies across the three countries,

which allows us to test the effect of expected retaliation damages on China's enforcement choice. Third, the three dyads also differ in their propensity to use GATT/WTO-legal measures to protect domestic industries in the past (Naohi 2007). This variation allows us to test the relative validity of my argument vis-à-vis the retaliation risk argument. Finally, a few scholars have argued that Asian governments are more likely to use informal, bilateral agreements to solve trade disputes. The three dyads allow us to test this claim systematically as well.

Data Source

I used English, Chinese, and Japanese-language newspaper archives, government memoranda and publications, and industry reports to identify all the bilateral agreements including government-to-government and firm-to-firm agreements made to restrain China's exports since 1995. What complicates the data collection is that member governments' involvement in bilateral VERs negotiations or agreements is prohibited under a new WTO rule. This suggests that some of the bilateral agreements may not be reported in the news, or, some of the agreements were initiated and enforced by industries rather than governments. Despite the new WTO rule, indeed, newspaper articles and memoranda issued by governments have revealed at least 35 cases where VERs agreements were made since 1995. This gives us a total of 94 disputes which involves around 70 commodities since 1995. Then I used official data available from the WTO's database and Chad Bown's anti-dumping database to identify all dispute cases which ended in China's trading partners using GATT/WTO-legal measures to protect domestic industries (anti-dumping, safeguard, and counter-veiling duties).

Coding the Choice of Enforcement Mechanism

Next I coded the outcome of each dispute as one of four possible outcomes along two dimensions: (i) whether it ended with bilateral agreements or with the use of WTO rules by foreign governments, (ii) whether or not Chinese government used open quota bidding system to enforce VERs. When the government's decisions are sequential, (i.e., the failed attempt to enforce a bilateral agreement led to China's trading partner's use of

GATT/WTO-legal measures), I count them as separate cases.⁸ When a dispute lasts for multiple years with an identical choice of enforcement mechanism, I take the first year if the dispute as the data point. Table 1 presents the distribution of the cases across the four outcomes and examples of actual cases are described in parentheses.

Table 1: The Choice of Enforcement Mechanisms, 1995-2006

	Bilateral/Informal	GATT/WTO-rules
Open Quota Bidding	12	1
(Private Enforcement)	(textile w/U.S., garlic w/S.Korea,)	(rush w/Japan)
No Open Quota Bidding	23	58
(Public Enforcement)	(garlic, eel, seaweed w/Japan)	(honey w/U.S., steel w/U.S.)

The Dependent Variable: the Enforcement Choice

There are two ways to estimate the probability of the Chinese government’s choice of enforcement mechanism. One is to treat China’s enforcement choice as independent of other available choices (i.e., independence of irrelevant alternatives— I.I.A.) and estimate the three categorical outcomes with a multinomial probit estimation. The other is to consider the possibility that the Chinese government’s choice is nested or sequential with other available choices. For the latter case, a multinomial probit model will not be appropriate as it violates the I.I.A. assumption (Hausman and McFadden 1984; Hansen 1990). Instead, we would want to treat each of the three outcomes as a binary choice made by the government and estimate the probability of each outcome (0-1 choice) using the same co-variates.⁹ Not only does the latter treatment conform to reality, but also the Hausman test revealed that the I.I.A. assumption is inconsistent with the data. Thus I treated each enforcement outcome as a binary choice and estimate the probability of a government choosing each of the three outcomes using the same co-variates.

The estimated model has a following structure:

⁸ There is one case that fits this pattern (honey case with the U.S.) and another case in which the reverse has happened (garlic case with South Korea).

⁹ Another solution is to explicitly model the dependence by using a nested logit framework. See Hansen (1990).

$$Y(\text{PR}|\text{ENFORCEMENT CHOICE}_{i,t}=1) = \beta_1 \text{POLITICAL INFLUENCE}_{i,t} + \beta_2 \text{ENFORCEMENT COSTS}_{i,t} + \beta_3 \text{RETALIATION RISK}_{i,t} + \beta_4 \text{DISTRIBUTIVE POLITICS}_{i,t} + \beta_5 \text{CONTROLS}_{i,t} + e_{i,t}$$

Proxies for Political Clout in an Authoritarian Context

In the context of democracies, three measurements are commonly used to proxy the political influence of industries: size of employment, geographic concentration, and size of campaign donations (Alt et al. 1999, Busch and Reinhardt 2003, Broz 2005). Finding proxies of political influence for an authoritarian regime without democratic elections is not an exact task. I use three measures that capture the likelihood that an industry has political influence over local-level officials. *Employment Size* is a variable that records the size of workforce in a given industry i in year t . The logic is straightforward—even without democratic elections, Chinese local government officials should care more about industries with a larger employment than those with a smaller workforce as higher levels of unemployment can cause social and economic instability.

Geo Con is the percentage of export share of the province with the highest export values per total export of a given commodity i in year t .¹⁰ Even without democratic elections, the geographic concentration of industry should affect its collective action capacity vis-à-vis the local officials and hence influence local officials' decisions to stall the central government's effort to enforce the export restraint agreements.¹¹ I expect that the higher the level of geographic concentration is, the more likely that the Chinese government uses an open quota bidding system.

Province CCM is the number of the Central Committee Members of the Chinese Communist Party who held high positions in the past in the province with the highest share of export of a commodity i in year t . I expect that the higher *Province CCM* is, the

¹⁰ When provincial-level export data is not available for a given commodity, I used production data instead.

¹¹ If the level of export competition among localities affects local-level officials' incentive to breach the agreement, then industries with high geographic concentration may be the ones that comply with the agreement more. This is because the degree of geographic concentration is an inverse proxy for the level of export competition among the provinces. The more diffused an industry's export activities are across different provinces (i.e., the low *Geo Con*), the higher export competition among the local governments and hence the stronger the incentives of local government officials to breach the agreement (i.e., over-export). The results discussed later, however, do not lend support to this argument.

stronger political connection a province has with the central government. This could mean that local officials have stronger incentives to enforce the VERs agreement to demonstrate their loyalty to the center, although whether the higher provincial representations in the Central Committee make the local officials comply more with the central government's policy is still highly debated (Huang 1999; Sheng 2004) and thus requires an empirical testing.

Alternative Hypotheses and Controls

In order to demonstrate the relative validity of my argument, this paper tests two alternative hypotheses. First, the Chinese government's decision to use open quota bidding may not be to deter "local collusion," but rather to avoid provoking retaliation by a foreign government. To address this possibility, *Retaliation Risk* is a percentage variable capturing the size of the export market to a given trading partner per China's total export in year t .

The second alternative hypothesis is that the government's decision to enforce agreements or not is consistent with a larger pattern of distributive politics (Dai 2005). Rather than deterring local collusion, it may be that the central government plays favorites by rigorously restricting export from some provinces or industries but not others. In order to test this possibility, I include a variable *Net Transfer PC* which is net transfer per capita from the central government to province i in year t . If the government's decision to enforce an agreement is consistent with a larger pattern of distributive politics in China, I expect this variable to have a statistically significant, positive effect on the government's choice of enforcement mechanisms.¹²

I also include a battery of controls. The government's enforcement choice may simply be a function of characteristics specific to industries or trading countries. To address the first possibility, four dummy variables *Textile*, *Chemical*, *Steel*, and *Agriculture* are assigned to each commodity case i . These dummy variables take a value of one if a commodity i falls into a category and zero otherwise. I include a country

¹² The two policy instruments, the transfer allocation and quota allocation could also be substitutive. If this is the case, I expect to see a statistically significant and negative effect of *Net Transfer PC* on the government's enforcement choice.

dummy, *US_dummy* which takes a value of one when dispute cases involved the U.S. and zero otherwise. Other country dummies are not included as *Retaliation Risk* varies significantly across the U.S., Japan, and South Korea.

Section 5: Results

Table 2 presents descriptive statistics and Table 3 shows the results of the probit analysis. The results lend strong support to my argument. Chinese government uses bilateral and private enforcement mechanism for politically powerful industries that are likely to collude with local officials and breach the agreement. The government is likely to use an open quota bidding system when industries are geographically concentrated, the size of employment is large, and an exporting province is well-connected with the central government.

The two alternative hypotheses only find partial and moderate support. The higher *Retaliation Risk* is associated with the higher probability that the government uses bilateral and private enforcement mechanism as expected. The higher *Retaliation risk*, on the other hand, is associated with the lower probability of multilateral settlements such as the use of anti-dumping measure by a foreign government. The government's choice across different enforcement mechanisms is not consistent with a larger pattern of distributive politics operationalized as the central government's net transfer per capita to provinces, either.

The most of the control variables do not prove to have systematic effects. Two findings are worth discussing, however. Trade conflicts which involve textile or agricultural commodities are more likely to be settled bilaterally and enforced solely by governments without the use of open quota bidding system.

Conclusion

This paper has demonstrated that a key to understand Chinese government's choice of enforcement mechanism is multi-layered enforcement authorities in federations. The government's enforcement choice is not driven by distributive concerns or retaliation risks, but rather driven by a motive to deter collusion between the powerful industries and local-level officials to breach the agreement *ex ante* and to expose violators to the

Chinese and foreign governments *ex post*. The open quota bidding system introduced in 1994 also holds private actors and local-level officials accountable to the breach of the agreements.

To what extent these findings discussed in this paper are generalizable beyond the Chinese case? At least three conditions are necessary in order for my argument to hold: one is the existence of multi-layered enforcement authorities in federations and the second is misalignment of incentives across different levels of enforcement authorities. Coexistence of the two conditions makes enforcement of international agreements harder for the central government. Finally, the central government is considered less political and more insulated from industry groups than the local-level officials.

Second, the findings of this paper suggest that governments' use of WTO-legal safeguard and anti-dumping measures may better be understood as the failed cases of bilateral VERs enforcement. While the existing literature has modeled governments' use of contingent protection measures as domestic political battle or inter-state bargaining over trade policy outcome (i.e., free trade vs. protectionism), this paper has shown that the probability of the target state's bilateral enforcement (in this context, China) looms large in the government's decision to use WTO rules. This perspective provides a novel interpretation for the empirical observation that federal states tend to be more aggressive users of contingent protection measures at GATT and WTO. The findings also suggest that we need to pay more attention to domestic institutions and the politics of the target--in particular, its enforcement capability and instrument choices--when analyzing governments' use of contingent protection at GATT/WTO (Hansen 1990; Tharakan 1995; Rosendorff and Milner 2001; Allee 2003).

Third, this paper has shown a motive of an authoritarian government to increase transparency in economic policy making process that has not been discussed in the past: to hold powerful private actors and local-level officials accountable to the international agreement and to lower the information cost of identifying violators for domestic and foreign governments. While the finding is generally consistent with the literature that emphasizes the role of globalization and international organizations in pressuring authoritarian governments to increase transparency (Mitchell 1998; Rosendorff and Vreeland 2006), this paper has shown that the source of this pressure may in fact come

from the authoritarian government itself in an effort to enforce international agreements and to deter breach in the face of powerful private actors. Fragmented enforcement authorities in federations also play an important role in the government's decision to increase transparency.

Finally, the findings of this paper speak to an important and unsettled debate concerning whether China lacks will or capacity to enforce international agreements. The analysis of this paper suggests that China strategically chooses whether or not and how to enforce the agreement which suggests the importance of analyzing strategic calculus of an authoritarian government (Mertha 2005).

Appendix

Chart 1: Possible Enforcement Outcomes

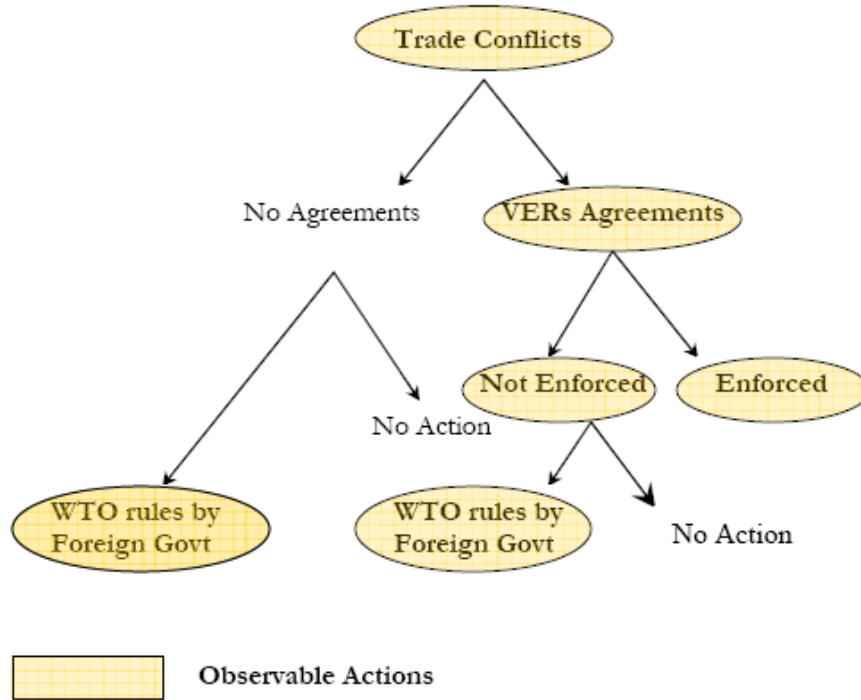


Table 2: Descriptive Statistics

Variable	Obs	Mean	Std. Dev.	Min	Max
bi_bidding	94	.1276596	.3354997	0	1
bi_nobidding	94	.2446809	.4322029	0	1
multi_nobidding	94	.606383	.4911712	0	1
Geo Con	94	.3401244	.1786531	.1564	.96
Province CCM	94	2.573034	1.468515	0	8
ln_employment	94	14.21629	2.580052	8.850087	19.59894
Chemical	94	.2340426	.4256692	0	1
Textile	94	.1808511	.3869585	0	1
Agriculture	94	.2446809	.4322029	0	1
US_dummy	94	.5913978	.4942398	0	1
Pcnettransfer	94	.0219935	.0107245	-.0083222	.0770624
Export share	94	26.7183	27.67091	.13	100

Table 3: The Probit Estimates of the Enforcement Choice

	(1) Bilateral w/bidding	(2) Bilateral_no_bidding	(3) Multi_nobidding
<i>Political Clout</i>			
Geo Con	29.705 (1.94)*	-7.887 (0.54)	3.754 (0.70)
Central Committee Members	2.626 (1.99)**	-0.433 (0.27)	0.092 (0.14)
Geocon_CCM	-8.473 (1.85)	-0.111 (0.01)	-0.807 (0.41)
ln_employment	1.001 (2.34)***	-0.063 (0.37)	-0.450 (2.73)***
<i>Alternative Hypotheses</i>			
Retaliation Risk	0.043 (2.26)***	-0.017 (1.01)	-0.048 (2.27)***
<i>Distributive Politics</i>			
Net Transfer_PC	49.864 (1.15)	18.556 (0.71)	-33.106 (1.59)
<i>Controls</i>			
Chemical	0.454 (0.29)		0.403 (0.52)
Textile	0.392 (0.30)	3.790 (4.12)***	-3.116 (3.87)***
Agriculture	-6.964 (1.88)	2.403 (2.47)***	-0.390 (0.44)
US_dummy	-0.899 (0.63)	-0.046 (0.06)	1.173 (1.73)
Constant	-25.863 (2.48)***	1.081 (0.24)	6.605 (1.97)**
Observations	94	94	94

Absolute value of z statistics in parentheses

* significant at 10%; ** significant at 5%; *** significant at 1%

References

Baldwin, R. E. (1985) *The Political Economy of U.S. Import Policy*, Cambridge, MA: MIT Press.
—— (1989) *The Political Economy of Trade Policy: Integrating the Perspectives of Economists and Political Scientists*, Cambridge, MA and London: MIT Press.

Becker, G. (1976) “Toward a more general theory of regulation”, *Journal of Law and Economics*, 19 (2, Conference on the Economics of Politics and Regulation): 245–8.

Busch, M. L. and Reinhardt, L. (1999) “Industrial location and protection: the political and economic geography of U.S. non-tariff barriers”, *American Journal of Political Science*, 43 (4): 1028–50.

—— (2000) “Geography, international trade, and political mobilization in U.S. industries”, *American Journal of Political Science*, 44 (4): 703–19.

—— (2003) “Developing countries and general agreement on tariffs and trade/world trade organization dispute settlement”, *Journal of World Trade*, 37 (4): 719–35.

Campos, J. E. L. (1989) “Legislative institutions, lobbying, and the endogenous choice of regulatory instruments: a political economy approach to instrument choice”, *Journal of Law, Economics, and Organization*, 5 (2): 333–53.

China Statistical Yearbook (2005) Beijing: National Bureau of Statistics of China. Chinaningbo (2004) “Tatami exports to Japan face pressure” (*woguo lincaoxi chukou riben jiang shou chongji*) 12 January, Available online: http://chinaningbo.com/detail_new.php?newId=17182

Dixit, A. (2004) *Lawlessness and Economics: Alternative Modes of Governance*. Princeton University Press.

Dai, X. (2005) “Why Comply? The Domestic Constituency Mechanism,” *International Organization*, Spring 2005.

Davis, C. L. (2003) *Food Fights Over Free Trade: How International Institutions Promote Agricultural Trade Liberalization*, Princeton, NJ: Princeton University Press.

Fearon, J. D. (1998) “Bargaining, Enforcement, and International Cooperation,” *International Organization*, Vol. 52, No. 2 (Spring 1998), pp.269-306

Fiorina, M. P. (1982) “Legislative choice of regulatory forms: legal process or administrative process?” *Public Choice*, 39 (1): 33–66.

Gawande, K. and Hansen, W. (1999). “Retaliation, Bargaining, and the Pursuit of ‘Free and Fair’ Trade,” *International Organization*, vol. 53(1), pages 117-59, Winter.

Goldstein, J. and Martin, L. L. (2000) “Legalization, trade liberalization, and domestic politics: a cautionary note”, *International Organization* 54 (3): 603–32.

Goldstein, J. (1996) “International law and domestic institutions: reconciling North American ‘unfair’ trade laws ”, *International Organization*, 50 (4): 541–64.

Grief, A., Milgrom P. and Weingast, B. (1994) "Coordination, Commitment and Enforcement: The Case of the Merchant Guild." *The Journal of Political Economy*, vol. 102, No. 4 (August 1994).

Grief, A., "Cultural Beliefs and the Organization of Society: A Historical and Theoretical Reflection on Collectivist and Individualist Societies." *The Journal of Political Economy*, vol. 102, No.5 (October 1994): pp. 912-50.

Grossman, G. M. and Helpman, E. (1994) "Protection for sale", *American Economic Review*, 84 (4): 833–50.

Hillman, A. L. and Ursprung H. W. (1988) "Domestic politics, foreign interests, and international trade policy", *American Economic Review*, 78 (4): 729–45.

Japan Fisheries Cooperatives (JF) (2001) "On Japan–China industry-level negotiation on seaweed", an internal document obtained at headquarter of the JF, 15 June.

Kahler, M. (2000) "Legalization as strategy: The Asia-Pacific case", *International Organization*, 54 (3): 549–71.

Kono, D. (2006) "Optimal Obfuscation: Democracy and Trade Policy Transparency", *American Political Science Review* 100(3) (August 2006): 369-384.

Krueger, A. O. (1974) "The political economy of rent-seeking", *American Economic Review*, 3: 291–303.

Lardy, N. R. (1992) *Foreign Trade and Economic Reform in China: 1978–1990*, Cambridge: Cambridge University Press.

Mainichi Daily News (2001) "Seaweed farming: China decided to VERs — Japan and China reached a broad agreement", *Mainichi Daily News*, 15 June.

Martin, L. L. and Beth S. A. (1998) "Theories of empirical studies of international institutions", *International Organization*, 52 (4): 729–57.

Mattli, W. (2001) "Private justice in a global economy: from litigation to arbitration", *International Organization*, 55 (4): 919–47.

Metals Week (1995) "China setting quotas this week", *Metals Week*, 66: 50 (18 December).

Milner, H. V. (1988) *Resisting Protectionism : Global Industries and the Politics of International Trade*, Princeton, NJ: Princeton University Press.

----- (2007) Why Multilateralism? Foreign Aid and Domestic Principal-Agent Problems. Working Paper. .

Ministry of Agriculture, Forestry, and Fisheries of Japan (2001) "*Igusa Tatami Omote no Kouzou Kaikaku Taisaku*" ("A plan for structural reform for *tatami* industry"), unpublished document, 17 September.

Ministry of Commerce (2001a) "Year 2001: List of Commodities That Are Managed by Export License (*chukou xuke zheng guanli shangpin mulu*)."

—— (2001b) "Method of Managing Export Commodity Quota Allocation" (*chukou*

shangpin peie guanli banfa), Paper 4, Section 13.

—— (2001c) “Method of Managing Export Commodity Quota”, 12th Order.

—— (2001d) “Announcement of the First Invitation to Bid for Export Quota on Rush and Rush-woven Products for the Year 2002” (*lincao ji qizhipin chukou peie dyici xieyi zhaobiao gonggao*), 3 December.

Ministry of Foreign Economic Relations and Trade (MOFERT) (1996) Article 3 of “Several Provisions on the Administration of Export License”, 2 January.

Moore, M. O. and Suranovic, S. M. (1993) “A welfare comparison between VERS and tariffs under the GATT”, *Canadian Journal of Economics*, 26 (2): 447–56.

Naoi, M. (2007) “Shopping for Protection: the Politics of Choosing Trade Instruments in a Partially Legalized World” manuscript under review.

Naoi, M. (2007) “Decentralization, Industrial Geography, and the Politics of Export Regulation: the Case of Sino-Japan Trade Disputes,” in Ka Zeng (ed.), *China's Foreign Trade Policy: New Constituencies*. Routledge.

Olson, M. (1965) *The Logic of Collective Action*, Cambridge: Harvard University Press.

Ostrom, E. (1990) *Governing the Commons*, Cambridge: Cambridge University Press.

Peltzman, S. (1976) “Toward a more general theory of regulation”, *Journal of Law and Economics*, 19 (2): 211–40.

People’s Daily (2004) “China suffers the most in anti-dumping disputes for nine consecutive years”, *People’s Daily*, 26 October.

Prusa, T. J. (1999) “On the spread and impact of antidumping”, NBER Working Paper 7404.

Ray, E. J. (1981) “The determinants of tariff and nontariff trade restrictions in the United States”, *Journal of Political Economy*, 89 (1): 105–21.

Rodrik, D. (1997) *Has Globalization Gone Too Far?* Washington, DC: Institute of International Economics.

Rosendorff, P. B. (1996) “Voluntary export restraints, antidumping procedure, and domestic politics”, *American Economic Review*, 86 (3): 544–61.

Rosendorff, P. B. and Milner, H.V. (2001) “The optimal design of international trade institutions: uncertainty and escape”, *International Organization*, Vol.55 (4).

Simmons, B. A. (2000) “The legalization of international monetary affairs”, *International Organization*, 54 (3): 189–218.

Stigler, G. J. (1971) “The theory of economic regulation”, *Bell Journal of Economics and Management Science*, 2 (1): 3–21.

Sykes, A. (2005) “Public vs. Private Enforcement of International Economic Law: Of Standing and Remedy”, U Chicago Law & Economics, Olin Working Paper No. 235.

Tharakan, P. K. M. (1995) “Political economy of contingent protection”, *Economic Journal*, 105 (433): 1550–64.

Viscusi, W. K., Vernon, J. M. and Harrington, J. E. (2000) “Introduction to economic regulation”, in W. K. Viscusi, Vernon, J. M. and Harrington, J. E., *Economics of Regulation and Antitrust*, 3rd edn, Cambridge, MA: MIT Press: 297–336.

Von Stein, J. (2005) “Do Treaties Constrain or Screen? Selection Bias and Treaty Compliance.” *American Political Science Review*, 99 (4).

Wang, S. (1997) “China’s 1994 fiscal reform: an initial assessment”, *Asian Survey*, 37 (9): 801–17.

World Trade Organization (1994a) *Agreement on Safeguards*, Article 11: Prohibition and Elimination of Certain Measures.

—— (1994b) *Agreement on Safeguards*, Article 8: Level of Concessions and Other Obligations.

Yoshimatsu, H. (2001) “Social demand, state capability and globalization: Japan–China trade friction over safeguards”, *Pacific Review*, 15 (3): 381–408.

Zeng, K. eds. (2007) *China’s Foreign Trade Policy: The New Constituencies*. Routledge Contemporary China Series.

Zhang, S. (2005) “Probing Sino-Japanese trade conflicts: how should China deal with trade conflicts?” (*toushi zhongri maoyi zhengduan: jiantan woguo ruhe yingdui maoyi zhengduan*) *Journal of Japan Studies*, May.

Zweig, D. (2002) *Internationalizing China: Domestic Interests and Global Linkages*, Ithaca, NY: Cornell University Press.