

# How Do Global Trade Rules Evolve? Strategic Sequencing In International Economic Law\*

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## Abstract

How and why do global trade rules evolve? When the EU revised the investment chapter of its recent trade deal with Canada it was widely believed that the amendments were motivated by concern over the design of another agreement: the yet-to-be-completed Transatlantic Trade and Investment Partnership with the United States. Yet, there is no formal link between those two agreements. Indeed, the literature generally sees preferential trade agreements (PTAs) as products of signatories' bilateral relations. This article challenges this view. I argue that past agreements create precedent that shapes subsequent agreements, and that policymakers act accordingly. Specifically, I argue that the sticky nature of legal commitments creates incentives for states to sequence agreements, signing ambitious PTAs with less important partners to establish model agreements for use with more important partners. A two-stage regression analysis on the sequencing and design of bilateral PTAs from 1965 to 2016 supports this argument. For states that care most about enforcing global trade rules, agreements that are under-predicted by an economic and political gravity model tend to be more ambitious, and signed sooner. These same states are more likely to 'ratchet' agreements, progressively increasing the depth of their agreements over time. This is further borne out in evidence from recent agreements negotiated by the EU and New Zealand: agreements with less-important partners have been seized on as opportunities to innovate. Legal language has a way of sticking around, and negotiators know it. Thus, states sign agreements with an eye to the future.

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# 1 Introduction

Trade and trade agreements have become among the most electorally salient issues of the early 21st century. Twin political upheavals in 2016 (Brexit/Trump) harnessed populist and anti-globalist sentiment in Britain and the United States (US). Mobilization against ‘mega-regional’ trade agreements has stretched from the European Union (EU), through North America, to the Asia-Pacific. This opposition comes as trade agreements have expanded in both number and scope. The number of regional agreements notified to the multilateral General Agreement on Tariffs and Trade (GATT) and World Trade Organization (WTO) rose from 124 in 1994 to over 659 in 2017.<sup>1</sup> In the past two decades, trade deals have also progressively dealt with non-trade areas of international commerce such as foreign investment, intellectual property, and domestic standards regimes. These are areas of traditional domestic authority, and regulating these new issues has proven politically sensitive. In the EU, domestic pushback against the EU-US Transatlantic Trade and Investment Partnership (TTIP) and the EU-Canada Comprehensive Economic and Trade Agreement (CETA) centered on the regulation of foreign investment. Around the Pacific rim, opponents of the 12-member Trans-Pacific Partnership (TPP) mobilized against intellectual property issues like the length of pharmaceutical patents.

Yet, these issues have been included in trade agreements before. How have trade negotiators been able to innovate in the past without provoking such a public backlash? How should we understand the evolution of the trade regime? International agreements are not negotiated from a blank slate, but use past deals as a starting point. Negotiators therefore have incentives to ‘sequence’ agreements: to take advantage of negotiations with less-important or less-threatening partners to establish favourable precedent to use in later deals. These negotiations provide an opportunity to institutionalize domestically hard-won negotiating positions, in order to improve the odds of replicating preferred terms with more economically or strategically important partners. In international negotiations, precedent provides negotiators with a credible argument that past agreements represent what is politically necessary for domestic ratification. Domestically, precedent arms politicians with a rationale for including otherwise-contentious clauses in agreements, which through reciprocity enables negotiators to push for deeper concessions from their partners. Legal

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<sup>1</sup>The WTO was established in 1995. These agreements include now-inactive agreements: [https://www.wto.org/english/tratop\\_e/region\\_e/regfac\\_e.htm](https://www.wto.org/english/tratop_e/region_e/regfac_e.htm).

commitments have a way of sticking around, and negotiators know it.

Recent events in Europe illustrate this attention to precedent. In late 2015, European Union (EU) trade officials approached their Canadian counterparts to request the renegotiation of the investor-state clause in the CETA.<sup>2</sup> When the Canadian Broadcasting Company (CBC) broke the news, the reason cited for the re-negotiation was not just concern over CETA itself, but over another agreement, yet to be concluded: the TTIP with the United States (US). A member of Ontario’s legal team during the CETA talks, Mark Warner, commented that should Canada agree to reform the investor-state dispute clause in CETA, “the Americans will be pretty pissed off at us”. The CBC quoted Warner to suggest that “[i]f Canada agrees to a compromise the U.S. doesn’t want, ‘it’s like throwing a finger into their eye.’”<sup>3</sup> But there is no formal link between CETA and TTIP. Although the renegotiation came in the context of sustained public debate over the appropriate scope of European trade agreements in general, the conventional view in the literature on the motivation for and design of trade agreements sees agreements largely as a function of signatories’ economic and political ties with one another.<sup>4</sup> Why would Canadian negotiators be concerned about what policymakers in the US would think of a Canada-EU deal? The potential for CETA’s terms to set a precedent for later European and Canadian negotiations (including TTIP) helps to explain this otherwise puzzling reference to a non-signatory. Indeed, in a perfect illustration of the potential of the CETA precedent, Canadian negotiators later proposed the same international investment court referenced in the revised CETA during renegotiations for the North American Free Trade Agreement (NAFTA).

Does this anecdote reveal a wider pattern of sequencing? How would we know? If states sign agreements with less valuable economic partners partly in order to establish favourable precedent, then agreements that are less well-predicted by economic and political factors should, counter-intuitively, be *more*, not less, ambitious in their scope. Furthermore, we should expect that when countries innovate—when they regulate new issues in trade agreements for the first time—they should do so with less-important trade partners. Yet states are not equally likely to sequence. The states most likely to sequence are those that have strong preferences about global trade rules, and which

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<sup>2</sup>The EU’s reformed approach to investor-state arbitration was also included in the EU-Vietnam FTA, negotiations for which were concluded in December 2015.

<sup>3</sup>McGregor (2016).

<sup>4</sup>This is best illustrated by economic and political ‘gravity models’ of trade and trade agreements: Mansfield and Milner (2012); Baier and Bergstrand (2004).

have the legal capacity to proactively advance their preferences through the negotiation of international economic agreements. This would suggest that sequencing has distributional consequences: wealthier states with developed trade bureaucracies are more likely to see their preferred agreement design taken up by the wider membership of the international trade and investment regime. Moreover, since power remains central to bargaining outcomes in international politics, precedent is likely to be disproportionately beneficial to negotiators from powerful states.

I test the argument quantitatively using data on countries' trade agreement negotiations from 1965 to 2015. I first use a political and economic gravity model to predict a country-pair signing a preferential trade agreement (PTA).<sup>5</sup> I use predicted probabilities from the first stage regressions to identify PTAs that are poorly predicted by economic and political variables. Taking inspiration from Baier and Bergstrand (2004), I identify these PTAs as cases of EXCESSIVE BILATERALISM. I find EXCESSIVE BILATERALISM correlates positively with agreement depth. Using two-stage regression analysis I find that excessive PTAs are *more ambitious* and *signed earlier* for states that have strong preferences over global trade rules, as proxied by country participation as interested third parties in the WTO's dispute settlement system. These same states are more likely to 'ratchet' agreements, progressively increasing the depth of their agreements over time. I then compare the factors predicting PTA signature and those predicting 'innovative' agreements where states sign a deeper agreement for the first time. Relative to other agreements, innovative agreements are associated with lower trade values and greater differences in the GDP of signatories, suggesting that they are signed with less important economic partners, as compared with non-innovative agreements. Moreover, EXCESSIVE BILATERALISM predicts innovative PTAs: excessive PTAs are more likely to be innovative. This evidence is consistent with the argument that governments are aware of the precedent that agreements set for future negotiations and that they seek to use precedent to their advantage. Governments sign innovative agreements with less important economic partners in order to improve the odds of subsequently achieving similarly ambitious agreements with more important partners. I then turn to qualitative evidence. Despite marked differences in bargaining power, New Zealand and the European Union have both attempted to use negotiations to set a precedent for future deals. This qualitative evidence shows, however, that states' success in using precedent to achieve desired outcomes is conditioned by bargaining

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<sup>5</sup>Baier and Bergstrand (2004); Baier, Bergstrand, and Mariutto (2014); Mansfield and Milner (2012).

power. This suggests that the power of precedent may be strongest where it relates to the limits on trade policy set by domestic politics: past agreements credibly communicate the level of trade liberalization that is politically possible.

Section 2 outlines a theory of PTA sequencing, and places it in the context of current explanations for the entry into PTAs. Section 3 describes the data and measures, and the analytical approach used to test the argument. Section 4 presents the results from this quantitative analysis, while section 5 presents qualitative evidence drawn from the recent experiences of the EU and New Zealand. Precedent may help negotiators in later agreements, but domestic actors are not dupes. The public backlash against new trade issues suggests that even as precedent arms policymakers and officials for future negotiations, the potential for precedent-setting creates new cause for political mobilization. Precedent cuts both ways.

## 2 Sequencing in international economic law

### 2.1 Motivations for PTAs

What explains PTAs? In political science and economics, the standard view is that signature is a function of states' domestic political economies and of the relationships between countries. The most common version of this perspective sees PTAs as commitment devices. Country leaders give up some policy autonomy (e.g., the ability to increase barriers to international commerce), in order to achieve a policy objective that might be undone as a result of leaders' susceptibility to political mobilization. PTAs thereby balance benefits and costs that relate to the conflict between the winners and losers from freer trade. Under free trade, exporters improve their market access into partner economies, and consumers of foreign products benefit from lower-priced foreign goods. Yet import-competing groups lose market share to more competitive foreign producers. This distribution of gains and losses translates into domestic political support for, and opposition to, trade liberalization. Added to this are potential costs to the government of reduced policy space, whether that involves the ability to raise trade barriers, to grant preferential treatment to domestic service-providers, or to adopt policies in line with domestic preferences, where such measures prohibited by an agreement.

Political pressure from the losers of free trade is central to 'credible commitment' explana-

tions for PTAs. According to this explanation, governments sign PTAs to pre-empt the temptation to give in to pressure from domestic interests that might suffer from foreign competition. By signing agreements, governments signal to their constituents their ‘promise’ of economic policy that will benefit consumers and exporters through free trade, and make themselves subject to an ‘alarm’ that will ring if they violate those promises and cave in to protectionist demands.<sup>6</sup> Similarly, governments’ attempts to cement policy reform involve removing the option of subsequently giving in to domestic groups who would seek a return to the status quo ante.<sup>7</sup> In other political economy explanations for PTAs, trade policy reflects the lobbying efforts of social actors’ who want to internalize the economic externalities created by barriers to trade.<sup>8</sup> Here, the explanatory power rests more with political pressure from the beneficiaries of free trade.

The makeup of trade specific partners, say, the United States, Mexico and Canada, determines who benefits and suffers from trade liberalization in that context. In trade economics and political science, a common approach is therefore to view agreements as a function of the economic and political relationship between countries. The best example of this is the economic and political ‘gravity model’ approach.<sup>9</sup> As well as predicting PTA partners, this perspective on trade agreements also helps to predict the scope of agreements. As agreements go deeper into the domestic policy realm, they limit increasing amounts of policy autonomy. This is politically costly for governments. To offset this cost, greater commitment should be balanced by greater economic gain.<sup>10</sup> Viewing PTAs as credible commitments to secure market access suggests that cost and benefit should be positively correlated. Those agreements that have the greatest scope should be signed with the most important economic partners.

Of course, trade agreements may not respond to a strict economic logic.<sup>11</sup> They may also be signed for strategic reasons. Since trade agreements are understood to be economically beneficial, allies have incentives to sign agreements among themselves.<sup>12</sup> Powerful states may also use agreements to secure foreign policy concessions from allies and adversaries.<sup>13</sup> Here as well

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<sup>6</sup>Mansfield, Milner, and Rosendorff (2002); Mansfield and Milner (2012).

<sup>7</sup>Baccini and Urpelainen (2014); Whalley (1998).

<sup>8</sup>Baldwin (1997); Mattli (1999); Moravcsik (1998); Mayer and Ottaviano (2007); Osgood et al. (2017); Osgood (2016).

<sup>9</sup>Mansfield and Milner (2012); Baier and Bergstrand (2004); Baier, Bergstrand, and Mariutto (2014).

<sup>10</sup>Baldwin (2012).

<sup>11</sup>Aggarwal (2013).

<sup>12</sup>Gowa (1994); Gowa and Mansfield (1993).

<sup>13</sup>Feinberg (2003).

though, it is the relationship between signatories that remains analytically important.

Bilateral relations are understood to determine PTA entry and scope. What about innovation—the regulation of new issues? Explanations for the rise of new issue-areas in the trade regime also emphasise the direct gains from liberalization between signatories in light of the changing nature of international economic exchange. Thus, Manger explains PTAs between the developed North and developing South as a result of the lobbying efforts of firms from developed economies that wish to invest in developing economies and export goods back to the developed home country.<sup>14</sup> The expansion of PTAs to cover investment (a relatively new innovation) creates a privileged relationship between North-South signatories that benefits firms from capital-exporting countries. Similarly, Baccini and co-authors point to the rising importance of the services sector in the US economy to explain why PTAs have become deeper, regulating issues behind national borders.<sup>15</sup> Again, it is the opportunities for market access in PTA partners that drives the expansion of international agreements into new issue-areas.

## 2.2 Precedent and diffusion

The motivations for trade liberalization outlined above explain agreements as a result of the economic and political relationship between trading partners. Without doubt, this is a central explanation for trade agreements. Yet we also know that policy enacted in one location may be influenced by policy adopted elsewhere because of diffusion processes.<sup>16</sup> This insight echoes through work on sociological and historical institutionalism in comparative politics,<sup>17</sup> to a more recent literature on the diffusion of international economic agreements. Diffusion processes have been described in investment regulation,<sup>18</sup> as well as in trade and investment agreements.<sup>19</sup> The adoption of policy is explained in part by previous policy, whether it be through competition effects, consensus on best practice, emulation, coercion, or as is likely, a combination of these mechanisms.<sup>20</sup> Legal formulations established in agreements tend to be reproduced.<sup>21</sup> In the trade (and investment) regime, the

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<sup>14</sup>Manger (2009).

<sup>15</sup>Baccini, Osgood, and Weymouth (2017).

<sup>16</sup>Ross and Homer (1976).

<sup>17</sup>See especially Pierson (2004).

<sup>18</sup>Elkins, Guzman, and Simmons (2006); Elkins and Simmons (2005); Jandhyala, Henisz, and Mansfield (2011); Simmons and Elkins (2004).

<sup>19</sup>Baccini, Dür, and Haftel (2014); Baccini and Dür (2012, 2015); Morin and Gold (2014); Leslie (2015*b*).

<sup>20</sup>Morin and Gold (2014).

<sup>21</sup>Allee and Lugg (2016); Alschner (2013); Alschner and Skougarevskiy (2015); Pauwelyn and Alschner (2015).

large number of PTAs in force suggest that their signatories are likely to take existing agreements into account. For example, Morin, Pauwelyn and Hollway use the imagery of a ‘complex adaptive system’ to describe how the trade and investment regime has remained relatively stable over time, despite its growth. Even as negotiators begin to explore new areas of legal innovation, they also draw on past legal norms.<sup>22</sup>

Studies of diffusion generally seek to explain present policy as a function of previous (exogenous) policy.<sup>23</sup> Yet future policy may also motivate the design of present policy. The notion of precedent is key to the argument. Past practice wields a powerful influence over the actions people take in the present, perhaps especially in highly legalised contexts. Moreover, actors (like negotiators, judges, or panelists in the WTO’s dispute settlement system) can manipulate precedent strategically, setting and exploiting legal norms to their advantage. International courts and arbitral institutions are not formally bound by precedent. Nevertheless, international judges and arbitrators often do rely on ‘de facto’ precedent, or precedential reasoning, in reaching decisions<sup>24</sup>—including at the WTO.<sup>25</sup> Even more strikingly, it appears that (some) WTO members manipulate the power of precedent. The EU has been shown to establish, and subsequently exploit, de facto legal precedent in WTO jurisprudence by winning small claims in policy areas where a favourable precedent would subsequently enable commercially important claims.<sup>26</sup>

The notion of precedent is not limited to the trade regime, however, and can also be used to understand the evolution of global trade rules. This understanding of precedent aligns with how people refer to precedent in ordinary usage, as in actors avoiding behaviour that might ‘set a bad precedent’, or justifying actions on the basis of past behavior. As Hawkins discusses, this use of precedent to understand behavior within international organizations has a long history.<sup>27</sup> The normative pull of precedent means that states are likely to continue to behave as they have done in the past, even absent a functional rationale for such behavior.<sup>28</sup> Thus, negotiators who are aware of the complex legal environment in which they operate may seek to craft current rules with a view

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<sup>22</sup>Morin, Pauwelyn, and Hollway (2017). See also Alter and Meunier (2009); Meunier and Morin (Forthcoming); Pauwelyn (2014).

<sup>23</sup>Although importantly, see Meunier and Morin (2015).

<sup>24</sup>Lauterpacht (1982).

<sup>25</sup>Busch and Pelc (2010); Bhala (1998-1999).

<sup>26</sup>Pelc (2014).

<sup>27</sup>Hawkins (2004), 786-787.

<sup>28</sup>Hawkins (2004), 786; also Finnemore (1996).



to setting a precedent for future negotiations.<sup>29</sup>

Precedent matters for trade policy because previous agreements indicate what has proven politically possible in the past. Governments have ‘offensive’ and ‘defensive’ interests in trade agreements—areas where they seek better access to foreign markets, and areas where for political reasons they find it more difficult to grant access. Because agreements involve reciprocally agreeing to lower barriers to trade and other forms of international commerce, PTAs create winners (where offensive goals are met) and losers (where defensive interests are compromised). Accordingly, reaching domestic agreement on trade policy is a difficult political process; any agreement negotiated internationally must also be ratified domestically.<sup>30</sup>

After the implementation of an agreement, domestic groups resistant to trade liberalization (like import-competing producers) must adjust to greater foreign competition. This may make them less able or motivated to oppose later agreements that follow the same course. Similarly, the position of pro-trade interests is strengthened as these interests gain political power in line with their material gains from freer trade. This distribution of gains and losses sits behind trade economist Richard Baldwin’s ‘juggernaut’ explanation of the spread of regionalism,<sup>31</sup> as well as recent insights into the firm-level distributional effects of trade agreements.<sup>32</sup> Past deals reveal the faultlines of the domestic political contestation over trade policy.

These changes in the domestic political economy affect the scope conditions for negotiating agreements. As New Zealand’s High Commissioner to Shanghai puts it in the context of the high standard set by the Trans-Pacific Partnership, “once a country has found its way to kind of accommodate that kind of ambition... why go backwards? You’ve gone through a certain amount of political pain to get there.”<sup>33</sup> Other countries know this, and invoke precedent to push for greater advantages during the rhetorical process of negotiations. Consider Australia’s recent experience. Chapter 11 of the Australia-US FTA (AUSFTA) included investment commitments whereby US firms could invest up to A\$1.062 billion in non-sensitive areas without needing the approval of Australia’s Foreign Investment Review Board (FIRB). South Korea, China, and Japan all later sought the same limit that had been extended to the US, with South Korea reportedly “setting

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<sup>29</sup>Meunier and Morin (2015).

<sup>30</sup>Putnam (1988).

<sup>31</sup>Baldwin and Robert-Nicoud (2015).

<sup>32</sup>Baccini, Pinto, and Weymouth (2017). See also Melitz (2003).

<sup>33</sup>Interview with Guergana Guermanoff, Shanghai, 19th June 2017.

[the limit] as a non-negotiable condition of completing a free trade agreement”.<sup>34</sup> Australia’s previous agreement with the United States established a baseline sought by subsequent partners. New Zealand’s High Commissioner agrees with this dynamic: “if another party negotiates an agreement, then you want to match it in your own, so that’s your precedent.”<sup>35</sup>

Conversely, precedent may shield negotiators from having to make concessions. The same hard-fought negotiating positions institutionalised in previous agreements suggest not only what is politically achievable, but also the limits of what is possible. Japan’s defence of a non-zero tariff on beef in its agreement with Australia sends a credible signal to later negotiating partners (like New Zealand and the US in TPP negotiations) that reducing beef tariffs to zero is politically impossible.<sup>36</sup> One can easily imagine frustration in Wellington and Washington on learning about the tariff schedule in the Japan-Australia deal.

So far, this discussion suggests that negotiators are likely to draw on the precedent of past deals. What would it mean to be strategic about setting precedent in the text of trade agreements? In the case of a country’s defensive interests-sensitive areas—negotiators may wish to deny later partners a precedent to prevent a concession being sought by others. Hoadley describes how New Zealand negotiators’ attempted in the mid- to late-1970s to exchange fishing rights for improved access to the Japanese agricultural market. Frustrated with separate meetings with relevant Japanese government departments, in 1976 New Zealand officials suggested inter-departmental meetings. They were rebuffed, partly due to Japanese officials’ “[r]eluctance to set a precedent that they would have to be extended to other trade partners...”.<sup>37</sup> Or, during US Congressional debates in 2011 over revised agreements with South Korea, Colombia, and Panama, Democratic Senator Sander Levin argued that the implementing bill for the revised Colombia FTA should refer to the Colombian government’s recent Action Plan on Labor Rights. Levin first appealed to the precedent set by implementing legislation for the Korea-US FTA and NAFTA, and went on to suggest that the US needed to sustain this practice in light of ongoing and future negotiations. Levine cautioned that “some of the issues relating to Colombia are arising in trade agreements now being negotiated,

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<sup>34</sup>Toh, Han Shih. 2013. ‘China to Push Australia on “Fairer” FTA Terms Amid Perceptions of Bias, Beijing Will Press Canberra for Equal Treatment with US Firms to Clear the Way for Free-Trade Deal, Analysts Say.’ South China Morning Post, Dec 06, 2. <https://search.proquest.com/docview/1465089340?accountid=12339>.

<sup>35</sup>Interview with Guergana Guermanoff, Shanghai, 19th June 2017.

<sup>36</sup>This was a sticking point in negotiations for the Japan-Australia FTA and for the TPP.

<sup>37</sup>Hoadley (2017), 99.

including Transpacific [sic] Partnership (TPP) ... There will be a need to resist pressures to weaken our approach to workers rights as well as the environment as well as other May 10th issues.”<sup>38</sup> This linkage had also been established in the 2000 US-Jordan agreement signed by President Clinton, at which time the Associated Press reported that “The [Clinton] administration viewed the pact as a way to bolster a principal partner in the Middle East peace process and at the same time set the labor-environment precedent for a trade deal. Clinton wanted to do that with last year’s failed effort by the World Trade Organization to launch new global trade talks in Seattle.”<sup>39</sup>

Because negotiating trade agreements involves making reciprocal concessions for market access, it is perhaps not difficult to envisage how negotiators might seek to avoid setting a precedent that future partners might exploit. Yet precedent might also be used to secure offensive interests. Mindful of the difficulty in achieving domestic agreement on negotiating positions, governments may exploit negotiations with relatively unthreatening (or likeminded) partners, in order to establish a model agreement they hope to use again in later negotiations. This appeared to partly motivate ambitious standards for trade in services under the Japan-Switzerland FTA. A Joint Study Group (JSG) report archived by the Swiss State Secretariat for Economic Affairs (SECO) notes that a highly-developed services sector makes up a large proportion of the Swiss and Japanese economies, and that both countries generally aim at services-trade liberalization during negotiations. The report went on to note that “In light of the above, the JSG noted that a possible FTA/EPA [Economic Partnership Agreement] between Japan and Switzerland could bring about a comprehensive and high standard framework for bilateral trade in services... Japan and Switzerland could use such a bilateral agreement when negotiating with other partners as a benchmark, both overall and in respect of specific issues of key interest for Japanese or Swiss business.”<sup>40</sup> Even where negotiators are not able to create a template, domestic actors will be forced to adjust to increased competition as a result of integration. Because of this, negotiators may hope that relatively small adjustments with a small partner may reduce domestic opposition to later deals, enabling negotiators to push for a more ambitious agreement overall.

Finally, countries may hope that an ambitious agreement encourages others to liberalize.

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<sup>38</sup>Levine (2011). The May 10th Agreement involved a compromise between the Bush Administration and the Democrat-controlled Congress whereby trade agreements would include reference to labor and environmental issues.

<sup>39</sup>Associated Press (2000).

<sup>40</sup>Japan-Switzerland Joint Governmental Study Group (2007).

This seemed in part to motivate New Zealand and Australia’s agreement with the Association of Southeast Asian Nations, for instance.<sup>41</sup> We observe attempts to set precedents in agreement design in political rhetoric that legitimates a particular model of treaty-making. During its negotiation, the TPP’s ‘gold standard’ moniker expressly implied that it would set a high bar for agreements that would follow. Even following the US withdrawal, other signatories continue to hold it up as an exemplar. New Zealand’s High Commissioner to Shanghai affirms “I think it is the gold standard. And it’s not to say that every agreement since is going to reach that standard, but why not, if it can?”<sup>42</sup> If a certain approach becomes viewed as best practice, it is likely to be replicated in subsequent agreements, even where, as in the case of the TPP, the original agreement has not (yet) created legal or political economy motivations for continuing with an established approach. Legitimacy at least partially motivates state behavior.

The relevance of precedent has sharpened in an era of innovative PTAs that regulate issues such as intellectual property and foreign investment, as well as non-trade issues such as human rights and environmental standards.<sup>43</sup> These ‘new’ issue-areas have proven particularly political, as the backlash against non-trade issues in the TTIP, CETA, and the TPP suggest. To provide one illustration, agreements that touch on ‘new’ issues are more likely to be the subject of leaked negotiation documents.<sup>44</sup> The novelty of regulating these issue areas creates an increased payoff to actors whose preferred rules become widely accepted—similar to the first-mover advantages in standard-setting.<sup>45</sup>

Even if all negotiators are aware of the precedent set by trade agreements, it is unlikely that all negotiators would act on this knowledge. Trade negotiations are costly. It is more likely that states that have high legal capacity and developed trade bureaucracies will attempt to use precedent to influence the design of future trade laws. This would be in line with the motivating example of the EU presented in the introduction: the EU is often seen as a ‘normative power’ or more recently a ‘market power’.<sup>46</sup>

Power matters in international negotiations, even in legalized contexts that proclaim formal

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<sup>41</sup>Castle (2017), 15.

<sup>42</sup>Interview with Guergana Guermanoff, Shanghai, 19th June 2017. Guermanoff clarified that New Zealand did not seek agreements with unimportant partners, and rather went for agreements with its most relevant trade partners.

<sup>43</sup>Milewicz et al. (2016).

<sup>44</sup>Castle and Pelc (2017).

<sup>45</sup>Mattli and Büthe (2003); Drezner (2007).

<sup>46</sup>Damro (2012).

equality between members.<sup>47</sup> As such, the capacity to exploit precedent is also unlikely to be equal among states. For most states, precedent is unlikely to grant much of an advantage in subsequent negotiations with a major partner if the issue is an important one: the US is unlikely to accept New Zealand’s preferences on pharmaceutical patent periods simply because New Zealand and Australia have already done things a certain way.<sup>48</sup> If states are limited in their ability to influence agreements by drawing on preferred models, precedent may be most important in the context of governments’ engagement with their own domestic constituents.

Innovation is also likely to take place in circumstances where agreements are well predicted by trade ties. NAFTA is frequently regarded as the source of considerable innovation in the design of trade agreements (for instance in the inclusion of side agreements on labor and the environment), as are the agreements underpinning European integration. In these contexts, intra-regional trade is high and agreements are likely. The argument is not that states only use under-predicted PTAs to set favourable precedents. It is rather that the precedential benefits of sequencing provide an additional motivation for signing agreements, even where economic and political benefits are less compelling.

### 2.3 Testable implications

I expect that states should seek to sign ambitious agreements earlier with economies with which they are able to experiment with design features of international agreements. While liberalization with these states may be inherently beneficial, the economic gains that motivate these agreements also stem from liberalization envisaged with other states.

*H1: Agreements that are not well predicted by the economic and political relationship between their members are more ambitious in scope, and are signed earlier, than better-predicted agreements.*

Deeper commitments entail greater political costs for governments in terms of the loss of policy space; this cost should be offset by greater gain. If agreements are signed to liberalize economic exchange between their partners, then we should expect agreements that are poorly predicted by the economic relationship between members to be less ambitious (since less economi-

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<sup>47</sup>Steinberg (2002); Finnemore (2009).

<sup>48</sup>Despite this, precedent clearly motivates negotiators. This is apparent in remarks by New Zealand officials regarding piloting certain approaches with China in the hope that this would then be replicated in concurrent negotiations for the 16-nation RCEP. Interview with Guergana Guermanoff, Shanghai, 19th June 2017.

cally beneficial). If H1 is confirmed, it would suggest that poorly predicted agreements deliver an alternative benefit.

Of course, if PTAs are not economically well-predicted, incentives for both use and enforcement may be lower and therefore the cost of deep agreement may be lower (although not absent) for less well-predicted PTAs. Yet, signing up to an ambitious PTA where there is no expectation of honouring its commitments remains puzzling behaviour. Moreover, if there is no intention to honour PTA commitments, we may equally expect the resulting agreement to be shallow. Finding that less well-predicted PTAs are systematically deeper would therefore suggest that they provide a benefit in line with the theory presented here.

I expect states that have the strongest preferences over the legal content of the trade regime will be more likely to sequence. I use countries' participation as third parties in the WTO's dispute settlement system to identify which states are most active in making their preferences known to the wider membership about how particular issue-areas in international trade are regulated.

I also have expectations concerning the mechanism at play in sequencing. If signing excessive PTAs presents an opportunity for negotiators to introduce innovations, excessive PTAs should be associated with an increase in depth relative to previous agreements. Furthermore, since the logic of sequencing relies on establishing precedent, I have expectations about the general behaviour of states that I expect to sequence. I expect states that are more active as third parties in WTO disputes to be consistent in the depth of agreements they sign. By hewing to established practice, precedent will more effectively communicate the domestic constraints on trade negotiators and to establish the legitimacy of templates. This would suggest that states that are likely to sequence should 'ratchet' agreement depth, successively signing more ambitious agreements.

### **3 Data and method**

I use a gravity dataset built at the dyad-year level. I use a directed dataset in which each observation corresponds to a country-pair (dyad) for a single year. Because my theory is based on individual state calculations, each country-pair appears twice. This section describes the data and the empirical approach used to test my hypotheses.

### 3.1 Data

The gravity dataset is constructed using annual import and export figures from the IMF’s Direction of Trade Statistics (DOTS), which range from 1950 to 2015.<sup>49</sup> For data on GDP, GDP per-capita and other country-level economic variables I use the World Development Indicators (WDI) from the World Bank.<sup>50</sup> Distance and other geographic measures are from the CEPII database,<sup>51</sup> regime type is measured using Polity 4;<sup>52</sup> and data on PTAs uses the Design of Trade Agreements (DESTA) dataset.<sup>53</sup> Following Mansfield and Milner,<sup>54</sup> I use a gravity model that includes political as well as economic variables. Data on countries’ alliances is from version 4.1 of the Correlates of War alliance data;<sup>55</sup> and data on disputes is from version 4.1 of the Militarized Interstate Disputes (MID) data, also from the Correlates of War project.<sup>56</sup> I also include a measure of global economic business cycles,<sup>57</sup> measured by the year-to-year change in global economic output. Data on countries’ participation in the WTO’s dispute settlement system is retrieved from the country pages of the WTO website,<sup>58</sup> and is supplemented by additional data on whether third parties make their position on a given issue-area known, or whether they participate silently.<sup>59</sup>

### 3.2 Analytical approach

I first establish baseline predictions for entry into a bilateral PTA for a given dyad. I estimate a logit model using economic and political variables, which approximates the approach of Baier and coauthors, and Mansfield and Milner.<sup>60</sup> Using this model, I calculate predictive probabilities for the entry into a PTA for each directed dyad-year. From this I derive a binary variable, coded 1 if countries are predicted to enter into a PTA, and 0 if not. Comparing this to actual PTA entry, I identify signed, but non-predicted, PTAs as instances of ‘excessive bilateralism’.<sup>61</sup> As Baier, Bergstrand and Mariutto discuss, there are differing approaches to establishing whether

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<sup>49</sup><http://data.imf.org/dot>

<sup>50</sup><http://data.worldbank.org/data-catalog/world-development-indicators>

<sup>51</sup>Mayer and Zignago (2011).

<sup>52</sup>Marshall, Gurr, and Jaggers (2016).

<sup>53</sup>Dür, Baccini, and Elsig (2014).

<sup>54</sup>Mansfield and Milner (2012).

<sup>55</sup>Gibler (2009).

<sup>56</sup>Palmer et al. (2015).

<sup>57</sup>Mansfield and Milner (2012), 75.

<sup>58</sup><https://www.wto.org>.

<sup>59</sup>I am grateful to Krzysztof Pelc for sharing this data.

<sup>60</sup>Baier, Bergstrand, and Mariutto (2014) and Mansfield and Milner (2012).

<sup>61</sup>Baier and Bergstrand (2004).

or not a PTA is well-predicted. Earlier approaches commonly use a cut-off of  $p = 0.5$ .<sup>62</sup> Yet, PTAs are rare events. In my dataset, I record 6,898 instances of dyadic PTA signature from a possible 628,732 dyad-year observations used in my main logit model.<sup>63</sup> This amounts to 1.10% of observations. Establishing a predicted probability of 0.5 as a cut-off would misleadingly inflate the number of non-PTAs (0s) correctly predicted, inflate instances of ‘excessive bilateralism’, and correctly predict a negligible number of PTAs.

Accordingly, I follow Baier, Bergstrand and Mariutto and use the distribution of PTAs as a guide to the predicted probability. Yet, I also cannot simply create a time-invariant threshold of  $p = 0.011$ . This would inflate instances of EXCESSIVE BILATERALISM in earlier years given that the number of PTAs has increased over time. I establish a time-variant threshold by examining the number of instances of a dyad entering into a PTA in a given year as a proportion of the number of dyads in that year. When running the model for all states, this approach correctly predicts 4,539 of 6,898 (65.8%) entries into a PTA, and identifies 2,359 of 6,898 (34.2%) instances of ‘excessive bilateralism’. For subsequent analysis, the main result of this analysis is the EXCESSIVE BILATERALISM variable, which identifies 2,359 PTA signatures that are *under*-predicted based on economic and political variables. My theory predicts these under-predicted PTAs will be over-represented in agreements where establishing precedent in agreement design is an additional motivation for signature. To test the hypothesis that excessive PTAs to be *more ambitious* and to be *signed sooner* than other PTAs, I use EXCESSIVE BILATERALISM as a dummy independent variable, and use it to predict AGREEMENT DEPTH. In order to avoid omitted variable bias, I include the first-stage regression variables in the second stage regression.

I collect data on country participation in the WTO’s dispute settlement system, and count each instance of country participation either as a complainant, respondent or third party. I expect that states that elect to participate as third parties in WTO disputes demonstrate a stronger interest in the legal content of the global trade regime. While this is also captured by states’ participation as complainants, the latter is driven in large part by countries’ legal capacity.

Moreover, certain countries—particularly rising powers such as India—have strong preferences

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<sup>62</sup>Baier, Bergstrand, and Mariutto (2014), pp.37-40. See Baier and Bergstrand (2004); Egger and Larch (2008); Chen and Joshi (2010).

<sup>63</sup>The number of PTAs in the dataset is far fewer; a single PTA appears in the dataset once for each directed-dyad signatory.



about global trade rules, but have historically been less active in multilateral institutions like the WTO. Using third party submissions more clearly captures countries' interest in the systemic impact of WTO rulings, and does not bias the selection towards countries with an historically higher standing in the WTO. Yet, because the cost of participation as a third party is so low,<sup>64</sup> I distinguish between countries that choose to participate without making a submission about the case at hand, and those that do make a submission.

I extend this data by taking the proportion of disputes in which a country made a submission over the total number of disputes in which that country has appeared as a third party, and multiply this ratio by the total number of disputes in which a country has appeared as a third party. I identify the top quartile of the resulting distribution as HIGH THIRD PARTY states, with all other states coded as LOW THIRD PARTY states. I also identify all European Union states as HIGH THIRD PARTY, since the EU now acts as a unified actor in trade. I assume that behaviour in WTO disputes is indicative of relatively long-standing country preferences, and therefore is relatively time-invariant. Because it is possible that factors predicting PTA existence might differ systematically for these two groups of states, I identify excessive PTAs for each group separately, using the approach outlined above.

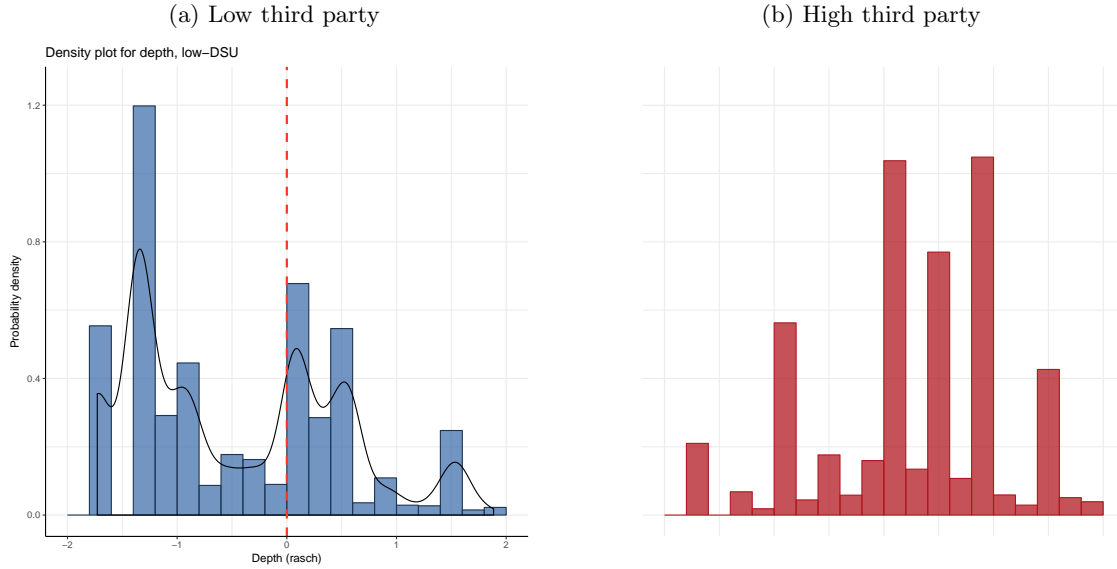
Because EXCESSIVE BILATERALISM is ultimately linked to the predictive power of the models used, there may be a potential concern of model-dependence. To address this concern, I directly compare the factors that predict PTA entry with those that predict entry into an innovative PTA—one that breaks with past practice. I operationalize this using DESTA's 'Index' measure of agreement depth. I code an innovative PTA as '1' when it is the first PTA signed by a state at a given level of depth. Other PTAs are coded '0'.

I then turn to the mechanisms underpinning my theory. I expect previous PTA design to predict present PTA design for those same states that are particularly active as third parties in WTO disputes to a greater extent than other states. To test this expectation, I estimate an OLS model in which the dependent variable is depth, and the main explanatory variable is the depth of immediately preceding PTAs. If excessive PTAs offer states opportunities to increase the ambition of their agreements, they should be associated with larger increases in depth, relative to previous agreements, than other PTAs. Accordingly, I measure the difference in depth between a

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<sup>64</sup>Johns and Pelc (2016).

Figure 1: Probability density plot of depth: high- and low-third party states



PTA signed in time  $t$  and the average depth of the three preceding PTAs.

One may be concerned about differences in the sort of agreements negotiated by states that are more and less active as third parties at the WTO. This would be problematic if it resulted in limited variation in depth for either group. One might also be concerned with issues of selection bias if there are underlying reasons why states are both low-third party and sign low-depth agreements. If selection bias is a concern, the traditional natural trading partner and comparative advantage arguments at the base of the (economic) gravity model might not predict PTAs, which would bias the identification strategy at the heart of my empirical approach. These are important concerns. Fortunately there is variation in depth for both high- and low-third party states (Figure 1).

Yet, a t-test indicates that there are significant differences between the depth of agreements signed by High-third party states and those signed by low-third party states. The mean depth of a PTA signed by a High-third party state ranges from .25 to .29 (95% confidence interval). The mean depth of a PTA signed by a Low-third party state on the other hand ranges from -.50 to -.47 (95% confidence interval). Because of this heterogeneity between high- and low-third party groups, I subset the data at the first stage based on countries' third party participation. To address concerns about deviations from natural trading partner patterns biasing the identification strategy, I run models in which I include ten-year lagged exports in the first (and second) stage regressions.

A final concern with the approach taken here is that DESTA's measures of depth may

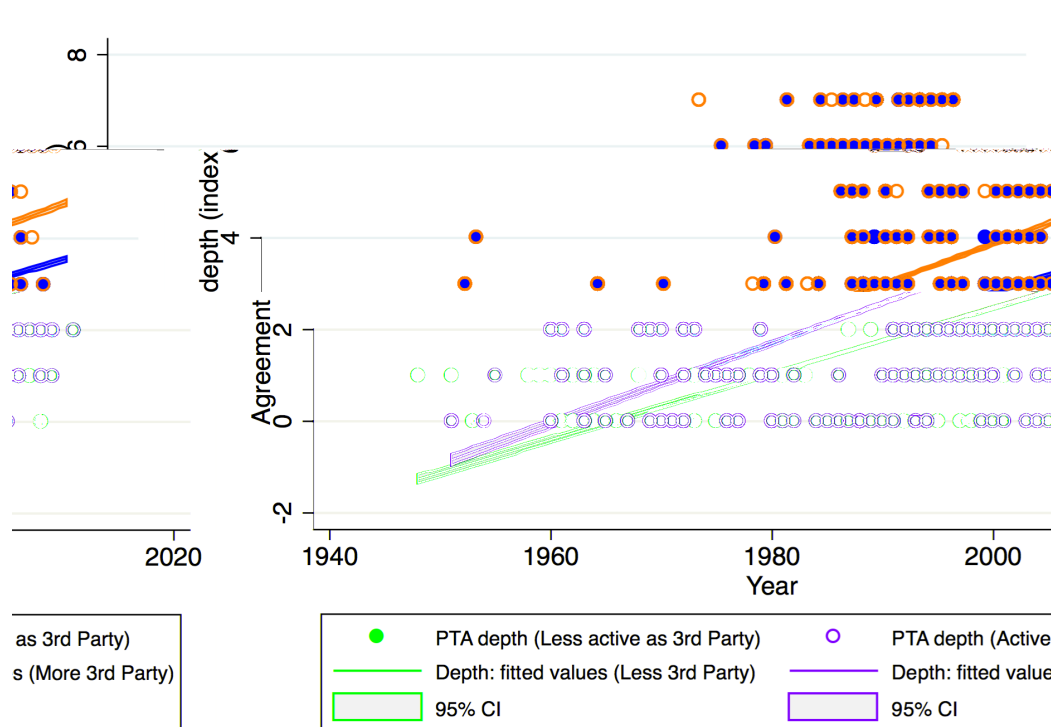
be too coarse to examine a sequencing process. The ‘depth’ variables in DESTA speak to the agreement as a whole, but sequencing may be particularly relevant for specific issue-areas such as foreign investment or intellectual property. To address this concern I have peppered the theoretical argument in the previous section with empirical examples of precedent-setting behaviour, or of an awareness of the importance of precedent. In section 5 I also delve more deeply into the dynamics of sequencing by looking at the negotiating experience of the EU and New Zealand.

## 4 Sequencing: quantitative evidence

It is useful to begin by illustrating the notion of sequencing graphically. Figure 2 displays the evolution of agreement depth over time, for all states. The general trend has been for agreements to become more comprehensive. This is true for those states that have been less active as third parties in the WTO disputes and those that have been most active, but the latter group’s agreements have increased in depth more rapidly.

Because it is difficult to display sequencing in the aggregate, Figure 3 contrasts the pattern of agreements signed by Chile with those signed by Venezuela. Chile is a relatively small, open economy and is vocal as a third party in WTO disputes. Chile has signed increasingly ambitious trade agreements. For much of the past few decades, Venezuela has had a comparable GDP and GDP per capita to Chile (although this is largely due to petroleum production). Like Chile, Venezuela has signed many PTAs. Unlike Chile, Venezuela has shown little appetite for signing deep agreements. While Chile has progressively signed more ambitious PTAs, Venezuela is not a party to any PTA with a depth index above 2, meaning that its PTAs are limited to regulating two issues.

Figure 2: The evolution of agreements over time



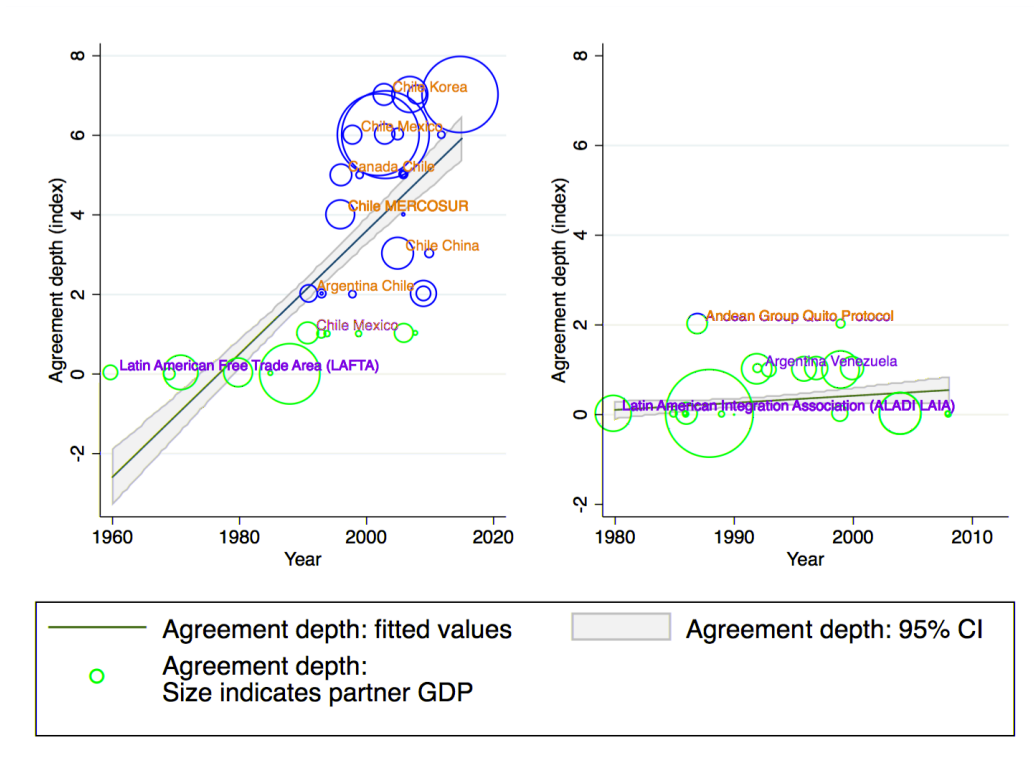
Note: Figure displays the evolution of depth over time for all states. Agreements involving states most active in WTO disputes as third parties have a hollow orange circle. Agreements with states less active in WTO disputes as third parties have a solid blue circle. Overlapping circles either indicate joint membership of high- and low-third party states, or multiple PTAs at a given level of depth in a single year.

PTA partners' GDP relative to that of Chile/Venezuela (at the time of agreement) is indicated by the size of the point on the graph. A clear pattern of sequencing would consist of the first point within a particular level of depth being smaller than subsequent points; this should be obvious as agreements become more ambitious. In general, a sequencing logic would be suggested by the largest points being situated in the top right of Figure 3. This pattern is much clearer for Chile (left panel), where deep agreements with large state have been preceded by similarly deep agreements with smaller states. (note that in Figure 3, agreements with names are those that are the first to be signed at a particular level of depth). At a depth level of 6 (out of a possible 7), the Chile-Mexico agreement preceded both Chile-US and Chile-EC,<sup>65</sup> while at depth level of 7, the Chile-Korea agreement preceded Chile-Australia and Chile-Japan, as well as the Trans-Pacific

<sup>65</sup>Canada-Chile also preceded these important agreements, although it is a slightly less comprehensive agreement at depth level 5.

Partnership.

Figure 3: Comparing sequencing: Chile and Venezuela



Note: Figure 2 represents the relationship between GDP and level of agreement depth through time for Chile and Venezuela. Chile is on the left; Venezuela is on the right.

In contrast, Venezuela's PTAs tend to be shallow and there is little evidence that Venezuela is sequencing by signing agreements with smaller countries first. When Venezuela first signed a marginally more comprehensive agreement (level 1 as opposed to level 0), it did so with Argentina, a country that is larger than most other countries with which Venezuela has signed agreements of depth level 1. Unlike for Chile, we do not observe relatively larger partners coming later and in more ambitious PTAs. I now test the argument in more general terms.

#### 4.1 Excessive bilateralism and agreement depth

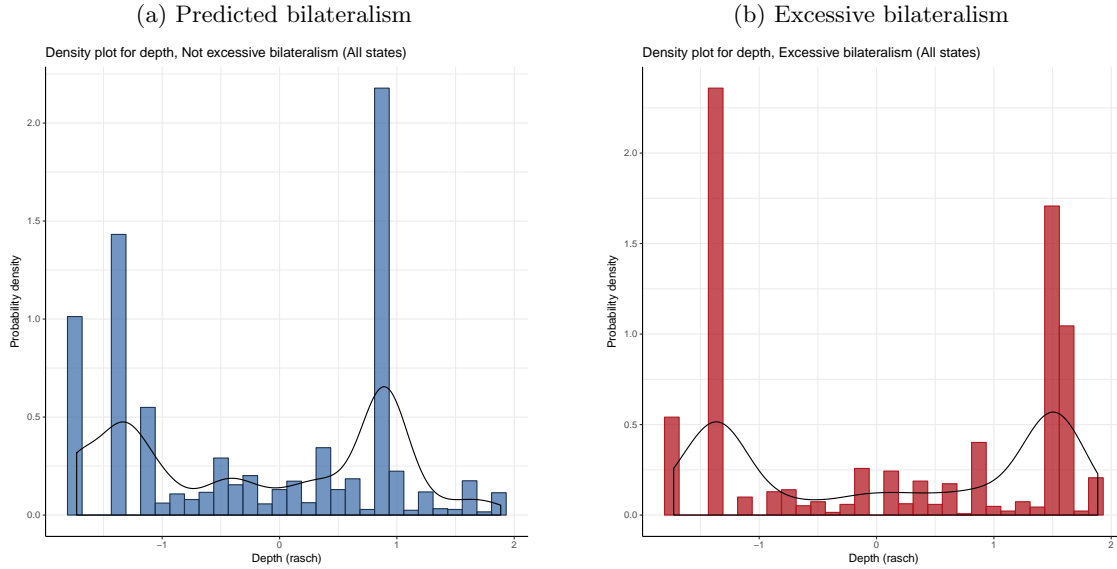
Table 12 (in the Appendix) presents the results from the gravity model. The binary outcome variable PTA is coded 1 when states A and B enter a PTA and 0 otherwise. Columns 1-3 present the results without ten-year lagged exports, while Columns 4-6 present the results with lagged exports. As indicated in the table, I split the sample into three groups: all states (Columns 1 and

4), High-third party (Columns 2 and 5), and Low-third party (Columns 3 and 6). I exclude non-reciprocal agreements aimed at development assistance, such as the Lomé and Yaoundé agreements.

Table 1 presents the results for Model 1, using the entire sample of states. Here, there are 2,359 dyad-year observations where a PTA that was not economically or politically predicted was established.

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Figure 4: Probability density plot of depth: Excessive and other PTAs (Model 1)



party states.

Models 1-3 use the baseline model specification from Table 12, in which I do not include lagged exports. All models have country and year fixed effects. In Column 1 (all states) there is no correlation between excessive bilateralism and depth. Columns 2 and 3 retain the specification of Column 1, but subset the observations based on Country A’s level of activity as a third party in WTO disputes. I use the EXCESSIVE BILATERALISM variable that corresponds with the relevant results from the first-stage regression presented in Table 12. For states that are most active as third parties (Column 2) excessive bilateralism positively predicts agreement depth; this result is significant at the 95% confidence interval. This same relationship is reversed for states that are less active as third parties (Column 3): agreements that are under-predicted correlate negatively with agreement depth, once controlling for other factors. When including lagged exports in the first and second stage to account for trading relationships that deviate from expected natural trading partner patterns (Columns 4-6), the results are sharpened for states more active as third parties, and somewhat reduced in substantive terms for states less active as third parties. Results are significant at the 99% confidence interval.

As these results are OLS regression estimates, we can interpret the coefficient directly. In Models 4 and 5, excessive bilateralism is associated with an increase in the Rasch Depth of a PTA of .088 for High-third party states, and an decrease of 0.093 for Low-third party states, once other

Table 3: Excessive bilateralism and agreement depth

Model	DV: Agreement Depth					
	(1) All states	(2) High-third party	(3) Low-third party	(4) All states	(5) High-third party	(6) Low-third party
<b>Excessive bilateralism</b>	<b>-0.03</b>	<b>0.06**</b>	<b>-0.15***</b>	<b>-0.01</b>	<b>0.09***</b>	<b>-0.09***</b>
	<b>(0.02)</b>	<b>(0.03)</b>	<b>(0.02)</b>	<b>(0.03)</b>	<b>(0.03)</b>	<b>(0.03)</b>
Exports (logged, t-10)				-0.00	-0.00	-0.00
				(0.00)	(0.00)	(0.00)
Distance (logged)	0.02	0.04***	0.02	0.02**	0.00	0.02
	(0.01)	(0.01)	(0.02)	(0.01)	(0.01)	(0.02)
Remoteness	-0.67***	-0.35***	-0.51***	-0.14	0.09	0.38**
	(0.10)	(0.11)	(0.16)	(0.10)	(0.23)	(0.15)
Same continent	5.48***	2.82***	4.02***	1.09	-1.21	-3.21***
	(0.85)	(0.94)	(1.29)	(0.84)	(1.97)	(1.24)
GDP sum (logged, t-5)	0.03***	0.00	0.02***	0.03***	0.02**	0.02***
	(0.00)	(0.01)	(0.00)	(0.01)	(0.01)	(0.01)
GDP difference (logged, t-5)	0.02***	0.02**	0.02**	0.02***	0.01*	0.02**
	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)	(0.01)
Previous PTAs (own, t-5)	-0.00	0.00	0.01	-0.00	-0.00	0.01
	(0.00)	(0.00)	(0.01)	(0.00)	(0.00)	(0.01)
Previous PTAs (partner, t-5)	0.00***	0.00	0.00**	-0.00	-0.00**	-0.00
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Previous PTAs (ROW, t-5)	0.00	0.02**	-0.01	0.01	0.03**	-0.01
	(0.01)	(0.01)	(0.02)	(0.01)	(0.01)	(0.02)
Previous PTAs (ROW, t-5, squared)	-0.00	-0.00**	-0.00	-0.00*	-0.00**	-0.00
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Alliance	-0.19***	0.01	-0.35***	-0.15***	-0.03*	-0.27***
	(0.02)	(0.02)	(0.03)	(0.02)	(0.02)	(0.03)
Post-Cold War	9.99***	-0.71	32.85***	-746.99	515.64	-890.29
	(2.41)	(3.70)	(5.40)	(5419.04)	(5094.41)	(1.34e+07)
Previous conflict	0.14*	-0.03	0.19*	0.16**	0.05	0.21***
	(0.08)	(0.10)	(0.11)	(0.07)	(0.06)	(0.08)
GWP change	0.80	-0.67	6.16***	0.03	0.92***	7.00
	(0.60)	(1.38)	(1.27)	(0.22)	(0.26)	(535926.92)
Hegemony	0.62***	0.65***	1.37***	0.52	1.92	-0.54
	(0.13)	(0.16)	(0.27)	(1.03)	(1.72)	(.)
Polity scores (own)	0.00	0.01	0.00	0.00	0.00	0.00
	(0.00)	(0.01)	(0.00)	(0.00)	(0.01)	(0.00)
Polity scores (partner)	0.02***	0.03***	0.01***	0.01***	0.02***	0.01***
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Both in GATT	0.00	0.04	0.02	0.04**	0.06**	0.04**
	(0.02)	(0.03)	(0.02)	(0.02)	(0.03)	(0.02)
Both in WTO	0.34***	0.17***	0.34***	0.32***	0.14**	0.31***
	(0.05)	(0.06)	(0.07)	(0.06)	(0.06)	(0.07)
Colonial relationship post-1945	-0.02	-0.12	0.09	-0.07	-0.14**	0.06
	(0.09)	(0.10)	(0.13)	(0.10)	(0.07)	(0.09)
Constant	-16.39***	-10.09	-55.94***	1036.60	-161.48	-5271.43
	(4.39)	(7.88)	(11.10)	(7112.39)	(6772.36)	(.)
Bootstrapped errors	Yes	Yes	Yes	Yes	Yes	No
Cubic Spline function	No	No	No	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes	Yes	Yes	Yes
Country dummies	Yes	Yes	Yes	Yes	Yes	Yes
Continent dummies (own and partner)	No	No	No	Yes	Yes	Yes
Observations	6127	2345	3782	5809	2276	3533
R <sup>2</sup>	0.872	0.854	0.841	0.877	0.878	0.850

Cells contain OLS regression estimates with standard errors clustered at the undirected dyad. Models 1-5 have bootstrapped standard errors (1000 reps); model 6 has robust standard errors. DV is depth of a PTA between A and B. EXCESSIVE BILATERALISM variable calculated separately for each sample. \*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$



factors are accounted for. The Rasch measure of PTA depth ranges from -1.73 to 1.89 (standard deviation of 0.982). While the substantive impact of this result is by no means huge, the difference between states that are more- and less-active as third parties is striking.

The results support the first part of my main hypothesis (H1). Excessive bilateralism is associated with *more ambitious PTAs* for states that have more intense preferences about global trade rules. I now turn to the second part of this hypothesis, that excessive bilateralism is associated with earlier signature date.

## 4.2 Signature order

Table 4 presents the results from models that test whether EXCESSIVE BILATERALISM predicts earlier AGREEMENT ORDER. The dependent variable is the order in which states sign agreements (thus, the first PTA signed by a given country is coded 1, the second coded 2, and so forth). So that the results are not biased by PTAs that were signed earlier (and which therefore have more potential observations with their order established), I limit each observations to dyad-years in which a PTA was entered into. I expect EXCESSIVE BILATERALISM to be associated with earlier PTA signature date, indicated by a *negative* effect on agreement order. In these models, I exclude some variables from the first-stage regressions that are clearly endogenous to signature order: the number of own- and partner-country PTAs, the number of PTAs signed by the ROW, and the cubic spline function. For all models, I use subsetting samples as in the previous analysis. Models 1 and 2 are a base specification, and Models 3-6 use country fixed effects.

Here, the results are a little more mixed. In Model 1 and 2 EXCESSIVE BILATERALISM is strongly associated with earlier signature date for HIGH THIRD PARTY states, and less-strongly associated with earlier signature date for LOW THIRD PARTY states. When introducing country fixed effects (Model 3 and 4), the relationship between EXCESSIVE BILATERALISM and AGREEMENT ORDER switches signs for states more active as third parties, while remaining negative for states less active as third parties (Model 4). It is perhaps unsurprising that these results would be a little unstable—it is implausible that states have a sufficiently long time-horizon that agreements signed in 1980, say, have anything to do with states’ intentions in 2015. Moreover, as the motivating example of CETA suggests, the benefits that states derive from setting favourable precedents in agreement design is likely to be ongoing, given that states’ regulatory goals evolve over time.

Table 4: Excessive bilateralism and agreement signature order

Model	DV: Agreement order					
	(1) High-TP	(2) Low-TP	(3) High-TP Fixed Effects	(4) Low-TP Fixed Effects	(5) High-TP Fixed Effects Post-2000	(6) Low-TP Fixed Effects Post-2000
<b>Excessive bilateralism</b>	<b>-7.06***</b> (1.21)	<b>-1.17***</b> (0.38)	<b>0.96**</b> (0.48)	<b>-1.08***</b> (0.19)	<b>-0.70***</b> (0.24)	<b>-0.03</b> (0.31)
Distance (logged)	-2.00** (0.97)	0.23 (0.22)	-0.95*** (0.34)	0.22** (0.11)	0.01 (0.11)	-0.36** (0.16)
Remoteness	-7.82 (6.98)	-5.46*** (1.43)	4.50 (4.51)	-3.44*** (1.12)	-0.28 (1.44)	-2.96*** (1.06)
Same continent	63.25 (58.49)	40.49*** (12.16)	-36.37 (37.80)	26.91*** (9.34)	1.72 (12.22)	23.77*** (8.85)
GDP sum (logged, t-5)	3.58*** (0.21)	0.55*** (0.07)	1.49*** (0.11)	0.58*** (0.03)	0.53*** (0.03)	0.23*** (0.06)
GDP difference (logged, t-5)	3.69*** (0.31)	-0.29*** (0.11)	0.78*** (0.12)	-0.17*** (0.05)	0.01 (0.05)	-0.19*** (0.06)
Alliance	-1.65 (1.24)	1.33*** (0.46)	-1.90*** (0.45)	-0.35 (0.22)	-0.28 (0.18)	-0.75*** (0.26)
Previous conflict	-3.34 (5.13)	-0.60 (1.08)	-3.03 (2.78)	-0.33 (0.45)	0.12 (0.82)	-0.24 (0.48)
GWP change	-0.78*** (0.22)	0.41*** (0.15)	-0.81*** (0.15)	-0.19** (0.08)	-0.74*** (0.09)	-0.62*** (0.07)
Hegemony	-0.81*** (0.22)	-1.80*** (0.18)	-2.51*** (0.12)	-0.89*** (0.08)	-2.33*** (0.06)	-1.40*** (0.09)
Polity scores (own)	-0.20 (0.14)	0.05* (0.02)	0.17* (0.10)	0.26*** (0.02)	0.26 (0.28)	-0.01 (0.06)
Polity scores (partner)	-0.46*** (0.11)	0.08*** (0.02)	0.14** (0.06)	0.10*** (0.01)	0.03 (0.03)	-0.05*** (0.02)
Both in GATT	0.65 (0.95)	1.37*** (0.28)	-7.66*** (0.60)	-0.10 (0.18)	-2.82*** (0.21)	-0.14 (0.16)
Both in WTO	14.01*** (0.91)	4.46*** (0.43)	23.85*** (0.69)	5.67*** (0.33)	1.96*** (0.44)	0.88** (0.35)
Colonial relationship post-1945	4.37 (3.32)	-1.85 (1.45)	-2.12 (3.07)	-1.91*** (0.38)	-0.51 (0.54)	0.03 (0.47)
Constant	-142.01*** (12.32)	10.73** (4.63)	-21.84*** (6.55)	-6.48*** (2.06)	38.55*** (2.98)	39.61*** (3.68)
Bootstrapped errors	Yes	Yes	Yes	Yes	Yes	Yes
Fixed effects	No	No	Country	Country	Country	Country
Continent dummies (own and partner)	Yes	Yes	Yes	Yes	Yes	Yes
Observations	2711	4187	2711	4187	1756	1303
$R^2$	0.474	0.491	0.921	0.908	0.993	0.980

Cells contain OLS regression estimates with robust standard errors clustered at the dyad. DV is the order in which states sign agreements. \*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$

It is more plausible that negotiators have signed agreements within a more recent period with an eye to current developments. New Zealand’s Ministry of Foreign Affairs and Trade (MFAT), for instance, notes that the Trans-Pacific Strategic Economic Partnership (TPSEP, also called the P4 agreement) signed between Brunei, Chile, New Zealand and Singapore in 2005, “set the scene for a much more ambitious Pacific Rim agreement” (i.e., the TPP).<sup>66</sup> Accordingly, in columns 5 and 6 I restrict the sample to the period 2000 to 2015. During this period, less well-predicted agreements are associated with earlier signature by HIGH THIRD PARTY states, but the relationship is not statistically significant for LOW THIRD PARTY states.<sup>67</sup>

### 4.3 With whom do states innovate?

Because the measure of EXCESSIVE BILATERALISM is derived from predictive models of PTA entry, there may however be a concern that the results in Table 3 are model-dependent. To address this concern, I take an alternative empirical approach that follows simply from the graphical comparison of Chile and Venezuela’s experience with negotiating PTAs.

If states sequence agreements, signing first with less important partners in order to shape subsequent negotiations, then I expect that the factors accounting for PTA signature in general will be reversed when looking at innovative agreements. Most importantly, I expect country exports to correlate positively with PTA signature, but negatively with innovative agreements. Table 5 tests these expectations. Column 1 presents the results from a gravity model with political and economic variables, where the dependent variable is entry into a reciprocal PTA. As expected, lagged exports positively predict PTA entry. While joint GDP size is not statistically significant, GDP difference negatively correlates with PTA entry, indicating that states that are more similar in size are more likely to enter into a PTA.

Contrast these results from those in Column 3. Here, the sample is restricted to observations of PTA-entry. The binary dependent variable is the signature of an innovative PTA: an agreement that is the first to be signed by Country A at a given level of depth, using DESTA’s Index measure of depth. In Column 3, the signs on the coefficients relating to country size and economic importance

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<sup>66</sup>New Zealand MFAT. ‘Trans-Pacific Strategic Economic Partnership (P4)’. <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/p4/> (accessed January 2017).

<sup>67</sup>I run alternative models restricting the years to post-2005 (not presented). The results are substantively very similar.

Table 5: PTA entry and innovative PTA entry

Model	DV: PTA entry (Models 1-2)			DV: Innovative PTA entry (Models 3-6)		
	Detrended		Detrended	Detrended;	Detrended;	
	(1)	(2)	(3)	(4)	Econ variables (5)	Excess. Bilat. (6)
<b>Exports (logged, t-10)</b>	<b>0.03***</b>	<b>0.03***</b>	<b>-0.02***</b>	<b>-0.02***</b>	0.00	-0.01*
	(0.00)	(0.00)	(0.01)	(0.01)	(0.01)	(0.01)
<b>Excessive bilateralism</b>						<b>0.28***</b>
						(0.09)
High-third party					-4.24***	
					(0.84)	
<b>High-third party*Exports (logged, t-10)</b>					<b>-0.05***</b>	
					(0.01)	
GDP sum (logged, t-5)	-0.01	-0.02	-0.12***	-0.12***	-0.02	-0.12***
	(0.01)	(0.01)	(0.02)	(0.02)	(0.02)	(0.02)
GDP difference (logged, t-5)	-0.14***	-0.14***	0.23***	0.23***	0.21***	0.22***
	(0.01)	(0.01)	(0.02)	(0.02)	(0.02)	(0.02)
Distance (logged)	-0.40***	-0.40***	0.20***	0.22***	0.49***	0.18***
	(0.03)	(0.03)	(0.06)	(0.06)	(0.06)	(0.06)
Remoteness	1.43***	1.38***	-0.77**	-0.73*	-0.93**	-0.56
	(0.18)	(0.18)	(0.36)	(0.38)	(0.42)	(0.39)
Same continent	-10.66***	-10.19***	5.53*	5.39*	6.55*	4.04
	(1.50)	(1.50)	(3.07)	(3.19)	(3.44)	(3.30)
Previous PTAs (own, t-5)	0.01***	0.01***	-0.02***	-0.03***	0.01**	-0.03***
	(0.00)	(0.00)	(0.00)	(0.00)	(0.01)	(0.00)
Previous PTAs (partner, t-5)	0.01***	0.01***	0.01***	0.01***	0.02***	0.01***
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Previous PTAs (ROW, t-5)	0.00***	0.01***	-0.02***	0.00	0.01***	0.00
	(0.00)	(0.00)	(0.01)	(0.00)	(0.00)	(0.00)
Previous PTAs (ROW, t-5, squared)	-0.00***	-0.00***	-0.00	-0.00***	-0.00***	-0.00***
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
GWP change	-0.07***	-0.07***	-0.18***	-0.11***	-0.10***	-0.11***
	(0.01)	(0.01)	(0.04)	(0.04)	(0.04)	(0.04)
Hegemony	-0.48***	-0.46***	-0.46***	-0.41***	-0.84***	-0.41***
	(0.02)	(0.02)	(0.09)	(0.06)	(0.06)	(0.05)
Alliance	0.28***	0.27***	-0.43***	-0.49***		-0.45***
	(0.06)	(0.06)	(0.10)	(0.09)		(0.10)
Post-Cold War	0.97***		-0.86			
	(0.12)		(0.58)			
Previous conflict	-0.14	-0.11	0.04	0.09		0.04
	(0.17)	(0.16)	(0.32)	(0.33)		(0.36)
Polity scores (own)	-0.01***	-0.00*	0.04***	0.05***		0.05***
	(0.00)	(0.00)	(0.01)	(0.01)	(0.01)	
Polity scores (partner)	-0.01**	-0.00	0.00	0.01		0.01
	(0.00)	(0.00)	(0.01)	(0.01)	(0.01)	(0.01)
Both in GATT	-0.06	-0.03	0.07	0.14**	0.47***	0.14*
	(0.05)	(0.05)	(0.09)	(0.07)	(0.10)	(0.07)
Both in WTO	0.36***	0.27***	0.36**	0.09	-0.03	0.09
	(0.07)	(0.06)	(0.17)	(0.17)	(0.17)	(0.17)
Colonial relationship post-1945	-0.27	-0.29	-0.39	-0.48		-0.51
	(0.24)	(0.25)	(0.46)	(0.54)		(0.47)
Year		0.06***		0.02***	0.01	0.02***
		(0.00)		(0.01)	(0.01)	(0.01)
Constant	7.63	-122.64***	-78.59***	-46.09***	-20.15	-46.55***
	(6.46)	(7.57)	(19.76)	(15.49)	(16.44)	(14.39)
Bootstrapped errors	No	No	Yes	Yes	No	Yes
Cubic spline	Yes	No	Yes	No	No	No
Continent dummies (own and partner)	Yes	Yes	Yes	Yes	No	Yes
Country fixed effects	No	No	No	No	Yes	No
Observations	561878	561878	6559	6559	7645	6559
Pseudo R <sup>2</sup>	0.187	0.181	0.182	0.167	0.317	0.168

Cells contain logit regression estimates with robust standard errors clustered at the undirected dyad. Binary DV is PTA entry (columns (1) and (2)) and Innovative PTA entry (columns (3) and (4)).

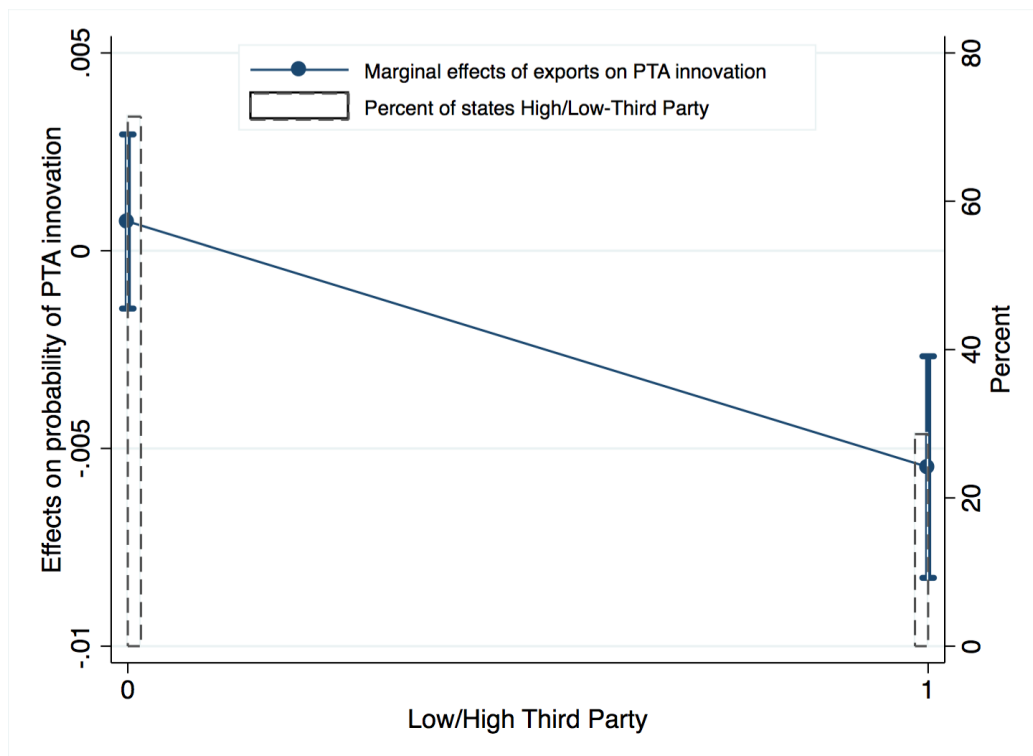
\*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$

switch. Innovative PTAs—those that cover a novel issue-area—are signed with partners where trade is relatively *less* important, where the difference in GDP is *larger*, and where joint GDP is *smaller*. Note that the baseline here is other PTAs: the comparison is between PTAs that break new ground, and those that follow at the same level of depth.

Since PTAs have been increasing gradually in depth, innovative PTAs are not only signed in earlier years. However, there is a slight negative correlation between innovative PTAs and time, while trade correlates positively with time. While Models 1 and 3 already include a cubic spline to account for time trends, in Models 2 and 4 I de-trend the main time-varying explanatory variables (lagged exports, lagged joint GDP, and lagged GDP difference). I regress these variables, respectively, on time, and use the residuals obtained in the place of each variable. I also include a YEAR variable, and omit the POST-COLD WAR variable and the spline function, which correlate with time. The results remain substantively unchanged. States appear to sign innovative agreements—those covering new issue-areas for the first time—with partners with whom they trade *less*, with whom joint GDP is *smaller*, and with whom the difference in GDP is *greater*, as compared with other agreements.

In order to ensure that the results here are consistent with those above, in Model 5 I introduce an interaction term, which tests my expectation that High-third party states are particularly likely to sequence trade agreements. This model also uses country fixed-effects. The negative sign on the interaction term in Model 5 show that when evaluating the effects of trade with respect to other economic predictors of PTA signature, lower trade values are associated with innovative PTA signature for High-third party states. Figure 5 presents the marginal effects of exports on entry into an innovative PTA with respect to a country’s participation as a third party in WTO disputes. Finally, Model 6 retains the specification of Model 4, but introduces the EXCESSIVE BILATERALISM variable. We can see that these results further validate those presented above: agreements that are economically and politically excessive are disproportionately likely to be innovative PTAs.

Figure 5: Marginal effects of Exports on Innovative PTA signature



So far, I have presented evidence that supports both aspects of H1. Excessive PTAs are over-represented among ambitious agreements. Controlling for other factors that predict agreement depth, this relationship holds only for states that we would expect to have the strongest preferences over the systemic implications of global trade rules, as proxied by their participation as third parties in WTO disputes. Excessive PTAs also correlate with earlier signature. The general thrust of these results are cross-validated when using the alternative empirical strategy of examining the factors that predict innovative PTAs. These agreements—the first signed at a given level of depth—are predicted by *lower* export levels.

#### 4.4 Testing the sequencing mechanism

My theory also yields additional testable implications about the mechanism underpinning sequencing. I argue that precedent indicates to future partners and to domestic actors the scope of agreement that is politically possible. In line with this thinking, if states sequence strategically, I expect those states that have the strongest preferences over the systemic consequences of trade

rules, as proxied by their participation in WTO disputes as third parties, will be more likely to *successively* build on past practice, ‘ratcheting’ the level of ambition in their PTAs. I further expect that less well-predicted PTAs should be associated with greater increases in depth relative to previous agreements, as compared with PTAs that are better predicted.

Tables 6 and 7 test these expectations. Table 6 shows that while the depth of a state’s PTAs is positively predicted by immediately preceding PTA for more active third parties (column 1), this effect disappears for states that are less active as third parties (column 2). With country and year fixed effects, a ratchet dynamic is still clear for more active third parties (column 3), but, curiously, becomes negative for other states—deeper agreements are associated with shallower subsequent agreements (column 4).

In Table 7, I test the expectation that economically unlikely PTAs will be characterised by a larger increase in depth relative to previous practice. The dependent variable, DEPTH INCREASE, is the difference in (Rasch) depth between the current PTA and the average depth of the three preceding PTAs signed by a state. I expect this variable to be positively signed. Column 1 presents results with the sample subsetting to those states most active as third parties, while column 2 presents results subsetting to other states. The difference is striking. For states that are most active as third parties in WTO disputes, those PTAs that are less well predicted economically and politically are associated with a 0.198 increase in PTA depth (measured on a scale between -1.728 and 1.885). This result is significant at the 99% confidence interval. For other states, PTAs that are less well-predicted economically and politically are not associated with an increase in agreement depth relative to preceding agreements.

Taken together, the results from these tests provide support for the hypothesised mechanism of sequencing. Those states that are most likely to sequence to shape the legal content of the global trade regime more clearly maintain the general practice of increasing agreement depth from one PTA to the next. This is consistent with establishing stable expectations about the domestically possible scope of PTAs. Negotiating with less economically and politically salient partners affords states an opportunity to experiment in agreement design, departing from past practice by signing a more ambitious deal.

Table 6: Establishing stable expectations: PTA depth and previous depth

	DV: Agreement depth (Rasch)			
	(1) High-third party	(2) Low-third party	(3) High-third party	(4) Low-third party
<b>Depth of previous PTA</b>	<b>0.10***</b> <b>(0.03)</b>	<b>-0.11***</b> <b>(0.02)</b>	<b>0.29***</b> <b>(0.04)</b>	<b>-0.02</b> <b>(0.02)</b>
Distance (logged)	-0.02 (0.04)	0.01 (0.01)	-0.07 (0.04)	-0.05*** (0.01)
Remoteness	-0.82*** (0.22)	-0.91*** (0.12)	-0.84*** (0.17)	-1.11*** (0.08)
Same continent	6.85*** (1.82)	7.36*** (0.96)	6.73*** (1.48)	8.91*** (0.65)
GDP sum (logged, t-5)	0.04*** (0.01)	0.03*** (0.01)	0.04*** (0.01)	0.01*** (0.00)
GDP difference (logged, t-5)	0.01 (0.01)	0.01** (0.01)	0.00 (0.02)	0.01 (0.01)
Previous PTAs (own, t-5)	-0.03*** (0.01)	-0.00 (0.00)	-0.02*** (0.00)	0.00*** (0.00)
Previous PTAs (partner, t-5)	-0.00 (0.00)	0.00*** (0.00)	0.00*** (0.00)	0.00*** (0.00)
Previous PTAs (ROW, t-5)	-0.01 (0.02)	0.00 (0.01)	-0.01*** (0.00)	0.00* (0.00)
Previous PTAs (ROW, t-5, squared)	0.00 (0.00)	-0.00 (0.00)	0.00*** (0.00)	0.00 (0.00)
Alliance	-0.08 (0.07)	-0.19*** (0.02)	0.07 (0.07)	-0.27*** (0.03)
Post-Cold War	3.66 (5.10)	7.04** (2.96)	0.56*** (0.19)	-0.08 (0.06)
Previous conflict	0.03 (0.07)	0.08 (0.09)	0.15 (0.15)	-0.10 (0.11)
GWP change	-4.05*** (1.05)	-0.12 (0.29)	-0.01 (0.01)	-0.13*** (0.01)
Hegemony	-0.21 (0.22)	0.63*** (0.24)	0.13*** (0.04)	0.02 (0.02)
Polity scores (own)	0.00 (0.01)	-0.00 (0.00)	0.01*** (0.00)	0.03*** (0.00)
Polity scores (partner)	0.02*** (0.00)	0.02*** (0.00)	0.02*** (0.00)	0.03*** (0.00)
Both in GATT	0.11** (0.05)	-0.02 (0.02)	0.11** (0.04)	0.05** (0.02)
Both in WTO	0.28** (0.12)	0.19*** (0.05)	1.16*** (0.13)	0.13*** (0.04)
Colonial relationship post-1945	0.20 (0.29)	-0.00 (0.07)	0.68*** (0.13)	-0.06 (0.08)
Constant	20.96*** (7.52)	-11.94*** (4.19)	-3.03*** (0.72)	-0.95*** (0.27)
Fixed effects	Country; Year	Country; Year	No	No
Bootstrapped errors	Yes	Yes	Yes	Yes
Observations	1228	4540	1228	4540
$R^2$	0.862	0.896	0.769	0.811
Pseudo $R^2$				

\*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$



Table 7: Increases in depth of agreement relative to previous agreements

Model	DV: Depth Increase (Rasch)	
	(1) High-third party	(2) Low-third party
<b>Excessive bilateralism</b>	<b>0.20**</b> <b>(0.09)</b>	<b>-0.22</b> <b>(0.16)</b>
Distance (logged)	0.08 (0.05)	0.08 (0.07)
Remoteness	0.01 (0.26)	-0.15 (0.38)
Same continent	0.05 (2.14)	1.02 (3.19)
GDP sum (logged, t-5)	0.05** (0.02)	0.03 (0.03)
GDP difference (logged, t-5)	-0.00 (0.02)	-0.02 (0.04)
Previous PTAs (own, t-5)	0.01 (0.01)	-0.01 (0.01)
Previous PTAs (partner, t-5)	-0.00 (0.00)	-0.01 (0.00)
Previous PTAs (ROW, t-5)	0.03** (0.02)	-0.03 (0.03)
Previous PTAs (ROW, t-5, squared)	-0.00* (0.00)	0.00 (0.00)
Alliance	-0.08 (0.07)	-0.40*** (0.14)
Post-Cold War	-4.12 (5.39)	39.03*** (11.10)
Previous conflict	0.00 (0.13)	0.73** (0.35)
GWP change	0.28 (1.75)	6.94* (3.92)
Hegemony	0.50* (0.26)	1.44*** (0.51)
Polity scores (own)	-0.01 (0.03)	-0.00 (0.02)
Polity scores (partner)	0.04*** (0.01)	0.03*** (0.01)
Both in GATT	0.12 (0.09)	0.11 (0.12)
Both in WTO	0.17* (0.11)	0.32 (0.19)
Colonial relationship post-1945	-0.03 (0.14)	0.12 (0.63)
Constant	-14.43 (9.60)	-62.08** (26.50)
Fixed effects	Country; Year	Country; Year
Observations	762	568
$R^2$	0.405	0.417

Cells contain OLS regression estimates with robust standard errors clustered at the dyad. DV is the difference in Rasch Depth of the current PTA relative to the average depth of the three preceding PTAs. \*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$

## 5 Qualitative evidence: the EU and New Zealand

We have seen that in the aggregate, negotiators innovate with partners with whom exports are comparatively less important. We have also seen that those states that demonstrate the strongest interest in the systemic impact of global trade law sign broad agreements with poorly-predicted partners. This evidence supports the hypothesis that governments sequence trade agreements, using negotiations with less important trade partners as opportunities to innovate or experiment in order to set a favourable precedent that can improve their chances of maximising offensive and defensive trade interests in subsequent negotiations. Do we also observe sequencing when we look at individual economies? In this section I present evidence from the EU and New Zealand.

This evidence suggests that during times of domestic shifts in trade policy, both countries have viewed negotiations with less-important trade partners as opportunities to sign innovative agreements that promote their offensive and defensive interests. Furthermore, negotiators have sometimes explicitly acknowledged the value of setting a favourable precedent for future negotiations—although as I show, such a precedent is not guaranteed to be reproduced. New Zealand and the EU are active participants in the WTO’s dispute settlement system.<sup>68</sup> New Zealand and EU countries are democracies with developed market economies, and are relatively wealthy—New Zealand ranked 19th in the OECD in 2016 for GDP per capita, between France (18) and Italy (20). New Zealand and the EU also have well-developed trade bureaucracies and experience negotiating ambitious trade agreements. They differ markedly in other respects. Most importantly, New Zealand is a relatively small and already open economy, while the EU as a bloc is the largest economy in the world. To state the obvious, Wellington has far less negotiating power in trade negotiations than Brussels. A further point of difference is in the products they export. New Zealand relies heavily on agricultural exports—dairy in particular.<sup>69</sup> While agriculture is an important sector in the EU, European countries export a much more diversified basket of goods.<sup>70</sup> These differences mean that trade negotiators from Wellington and Brussels face different demands from domestic social actors, different constraints, and different opportunities. Yet both economies

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<sup>68</sup> As noted above, the EU is now a single actor in trade.

<sup>69</sup> Fonterra, the New Zealand dairy co-operative, is the single largest exporter of dairy products in the world.

<sup>70</sup> The Hirschman Herfindahl Index measures diversification as the sum of squared shares of individual products as a proportion of total exports. The resulting value ranges from 0 (most diversification) to 1 (least diversification). New Zealand’s H-H index in 2015 was 0.167, while the EU’s was 0.066. For comparison, that of UNCTAD’s ‘developed economies’ category was 0.067 in 2015: <http://unctadstat.unctad.org/> (accessed August 2017).

have approached trade negotiations with an eye to the future.

## 5.1 New Zealand: promoting liberalisation from the bottom up

Policymakers within New Zealand’s Ministry of Foreign Affairs and Trade (MFAT) and its predecessor organizations have long been guided by pragmatism. Recognising that the gains from trade liberalization would be largest in multilateral contexts, New Zealand negotiators have been ardent supporters of liberalization through the GATT, and subsequently through the WTO and other multilateral institutions such as APEC (the Asia-Pacific Economic Cooperation forum). Yet, the failure to meaningfully lower barriers to trade in agricultural goods through the GATT during the Tokyo and Uruguay Rounds prompted New Zealand trade policymakers to seek liberalization in bilateral and regional negotiations as well. In doing so they have attempted to adhere to the spirit of multilateralism by emphasizing norms of ‘open regionalism’ in PTAs. This shift began with the negotiation of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA or CER) in 1983 and its expansion through successive reviews.<sup>71</sup> This policy was formalized with MFAT’s 1993 publication of a trade strategy outlining multilateralism, regionalism, bilateralism and unilateralism as complementary approaches to adopt liberal reforms domestically, and to promote liberalization internationally.<sup>72</sup> By the late 1990s and early 2000s, this strategy found its expression in a series of negotiations. An agreement with Singapore–New Zealand’s second bilateral Free Trade Agreement, and Singapore’s first–was negotiated between 1999 and 2000. Wellington subsequently launched negotiations with other partners in the Asia-Pacific, including Hong Kong, Thailand, and Malaysia.<sup>73</sup>

In addition to agreements with Australia and Singapore, New Zealand has now concluded PTAs with Thailand (2005), Chile and Brunei under the P4 agreement (2006), China (2008), Malaysia (2010), ASEAN (negotiated jointly with Australia; 2012), Taiwan (2013), and South Korea (2015). Agreements are also pending or remain under negotiation with a number of other countries or regional groupings. These include the TPP, an agreement with the Gulf Cooperation

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<sup>71</sup> Andre, Payton, and Mills (2003); Castle, Le Quesne, and Leslie (2016), 50; Leslie (2015*b*), 199.

<sup>72</sup>New Zealand Ministry of Foreign Affairs and Trade (1993). See also Leslie (2015*a*), 18-20. MFAT has since updated its trade policy, and has retained an emphasis on pursuing PTAs and cooperating with like-minded partners: New Zealand Ministry of Foreign Affairs and Trade (2017).

<sup>73</sup>Negotiations with Hong Kong initially stalled as New Zealand negotiators realised that an agreement would first have to be achieved with Beijing. See Hoadley (2017), chapter 7.

Council (GCC), and an agreement with the EU.

Has New Zealand sequenced agreements? Officials do not put it in those terms. New Zealand has relatively scarce resources in trade, and has pursued negotiations with important trade partners. The New Zealand High Commissioner in Shanghai—an important trade post—asserts that New Zealand does not start with smaller countries and work its way up. Rather New Zealand seeks the most ambitious agreement it can with its important trade partners.<sup>74</sup> Yet the shadow of future negotiations has had an obvious influence on New Zealand officials’ thinking.

The evolution of the New Zealand-Singapore FTA illustrates the importance of precedent and strongly suggests that trade policymakers in both Wellington and Singapore viewed the benefits of a bilateral agreement as primarily lying in its ability to influence subsequent liberalization in the wider Asia-Pacific region. Notably, the deal had the potential to form the core of a mooted ‘P5’ agreement that would also include Australia, Chile and the United States. At the time negotiations were launched between New Zealand and Singapore, Singapore was only the 17th export market for New Zealand, and the 12th most important source of imports.<sup>75</sup> According to Ministerial testimony to the New Zealand Parliament, there were no illusions about the low economic benefits of a New Zealand-Singapore FTA, but an agreement was seen as a way to “get the ball rolling” on liberalization in the Asia-Pacific.<sup>76</sup> As Hoadley puts it, New Zealand and Singapore were ultimately “persuaded that a successful bilateral negotiation leading to a model FTA might stimulate interest among other potential partners and build up momentum to kick-start further FTAs, whether bilateral, minilateral or multilateral.”<sup>77</sup> A subsequent internal New Zealand MFAT paper authored by Tim Groser (destined to become Trade Minister) noted that “there are likely to be few discernible trade benefits... the case for such a FTA is almost wholly strategic.”<sup>78</sup> As Leslie discusses, New Zealand policymakers have found ‘like-minded’ partners in successive Australian and Singaporean governments; New Zealand and Singaporean officials similarly found partners in the Chilean government for the negotiation of the P4 agreement.<sup>79</sup> These like-minded partners have attempted to reach ambitious agreements in the hope of attracting subsequent members.<sup>80</sup>

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<sup>74</sup>Interview with Guergana Guermanoff, Shanghai, 19th June 2017.

<sup>75</sup>Hoadley (2017), ch. 6.

<sup>76</sup>Hon Lockwood Smith, cited in Hoadley (2017), ch. 6, fn. 3.

<sup>77</sup>Hoadley (2017), ch. 6.

<sup>78</sup>Cited in Hoadley (2017), ch. 6.

<sup>79</sup>Leslie (2015*a*), 18-20.

<sup>80</sup>Downs, Rocke, and Barsoom (1998) explain why this approach can result in more ambitious agreements than if

Inducing other countries to liberalize through the good example of the New Zealand-Singapore FTA may have been overstating the power of demonstration, but there were other motivations as well. These included providing New Zealand and Singaporean trade negotiations with the opportunity to learn how to regulate WTO-plus issues. Desker suggests as much, noting that since “both were relatively open economies, the negotiations provided a learning opportunity for their trade negotiators as they grappled with issues extending beyond the WTO framework.” Similarly, Desker suggests that the negotiations prepared the Singaporeans for subsequent talks with the US.<sup>81</sup>

At least some New Zealand and Australian officials appeared to entertain similar considerations in the context of the Australia-NZ-ASEAN FTA (AANZFTA). Some Australasian officials viewed the agreement a means of remaining relevant (having a ‘seat at the table’) in the context of changes in the ‘architecture’ of Asian-Pacific regionalism. Part of this approach involved putting in place high-quality agreements that could be used as the basis for further liberalization at a later stage (i.e. with more important trade partners).<sup>82</sup>

Where these aspirations successful? The New Zealand-Singapore FTA did form the basis for Closer Economic Partnership negotiations with Chile, which was also joined by Brunei as it neared completion to form the P4 agreement. Subsequently, US President George W. Bush authorised the USTR (Trade Representative) to participate in 2008 talks on expanding the finance and investment element of the P4. Bush, then President Obama after him, encouraged Australia, Peru and Vietnam, and then Malaysia, Canada, Mexico and Japan to join the negotiations for what would become the TPP. At the least, it seems the New Zealand-Singapore FTA contributed to the eventual emergence of the TPP, although a region-wide agreement may have evolved through other means.

When we examine the details of the TPP however, it is difficult to evaluate how much direct impact the New Zealand-Singapore FTA and the P4 Agreement have had on the terms of the TPP. American negotiators overrode New Zealand preferences for the P4 text to remain the basis of the expanded deal, and quantitative text analysis reveals that the TPP instead came to

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the membership is initially larger.

<sup>81</sup>Desker (2004).

<sup>82</sup>Castle (2017); Leslie (2015*b*). See Davis, McKibbin, and Stoeckel (2000).

more closely reflect the previous deals signed by Washington.<sup>83</sup> Precedent does not do away with power.

Moreover, countries may also have come up against ‘defensive’ precedents set by others during the TPP negotiations. Japan and Australia concluded negotiations on the Japan-Australia Economic Partnership Agreement (JAEPA) in April 2014, and the agreement entered into force in January 2015. In a compromise that reflects the importance of the Japanese agricultural sector, Australian negotiators improved their access to the Japanese agricultural market, but Japanese negotiators successfully retained a non-zero tariff on beef. Japanese negotiators reportedly pointed to the Australian agreement as an example of the sort of deal on agricultural access that might prove politically possible in TPP.<sup>84</sup> While the Australian government celebrated improved market access, Washington lobbyists and American agricultural groups cautioned that the Japan’s negotiating position in TPP may be strengthened by the JAEPA outcome,<sup>85</sup> and indeed that other countries might seize on the precedent of including non-zero tariffs.<sup>86</sup>

Ultimately, exploiting precedent appears limited by the realities of other countries’ negotiating power. In this, it seems more likely that precedent set by the United States and by Japan in *their* deals with Singapore have ultimately been more influential. Writing in 2006, one observer suggested that “precedents were set by both bilateral FTA projects signed by Singapore, which will be used as a model for other bilateral FTAs that Washington and Tokyo negotiate with other individual ASEAN member states, thus strengthening the United States and Japan’s respective positions still further.”<sup>87</sup>

Despite the limits to exploiting precedent imposed by negotiating power, there continues to be some evidence that New Zealand negotiators keep an eye to future deals. We see this in discussion around the upgrade of the 2008 China-New Zealand FTA, negotiations for which were launched in 2017. The upgrade was reportedly triggered in part by the New Zealand dairy industry’s perception that more recent Chinese agreements (such as the 2015 agreement with Australia) offered more advantageous access to the Chinese market for dairy. Improving access to the Chinese market may have been the precipitating factor leading to the upgrade, but officials also point to the

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<sup>83</sup> Allee and Lugg (2016). With this said, Allee and Lugg appear not to compare the TPP with the P4 agreement.

<sup>84</sup> Donnan, Smyth, and McLannahan (2014).

<sup>85</sup> Donnan, Smyth, and McLannahan (2014).

<sup>86</sup> Rogowsky and Horlick (2014); National Pork Producers Council (May 28, 2014).

<sup>87</sup> Dent (2006).

precedent-setting effects that the new talks offer. New Zealand’s High Commissioner to Shanghai explains: “If you can achieve something in our bilateral upgrade that can then resonate back into the RCEP, China is a major negotiator in the RCEP... you’re in a way piloting something, demonstrating something that could have a regional applicability.” Of course, China is New Zealand’s most important, and largest, trade partner. New Zealand’s ability to influence it into accepting agreement terms that it would otherwise not adopt is likely to be limited, and so it remains to be seen how an updated New Zealand-China FTA might influence RCEP.

In sum, it appears that *setting* precedent appears to have motivated the New Zealand-Singapore and P4 agreements. But it is less clear to what extent New Zealand has been able to *exploit* precedent. Despite this, trade negotiators are obviously aware of, and factor in, the influence of precedent into their negotiating approach.

## 5.2 The EU: Locking in trade policy shifts

You see a concern for the future in the EU’s agreements as well. Since at least late 2013, European officials promoted CETA as a template for TTIP. Speaking on investment, the Chairperson of the European Parliament’s International Trade Committee (INTA) suggested in December 2013 that efforts in CETA to limit the scope of ISDS could provide a guide for TTIP. INTA chair Vital Moreira noted that “CETA is a precedent in favor of ISDS, and maybe the conditionalities there, guarantees that surround the adoption of ISDS in the CETA, could be also imported into TTIP”.<sup>88</sup>

Social actors and other opponents of ISDS recognized the likelihood that TTIP would replicate CETA. Public mobilization against the Investor-State Dispute Settlement (ISDS) clauses in TTIP drew attention to the same clauses in CETA, with a number of observers warning that including ISDS clauses in CETA would set a precedent for TTIP. This view was articulated in such publications as ‘The Zombie ISDS’, produced by a broad coalition of social movements,<sup>89</sup> a position that was taken seriously enough by official commentators that it was referenced in more measured reports such as that by the British House of Commons Research Library.<sup>90</sup> Elsewhere, the European Consumer Organization BEUC noted in an August 2014 press release that the “announcement of a deal between Canada and the EU... puts the spotlight on its investor/state arbitration clause

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<sup>88</sup> INTA Chair Demands Same Access To TTIP Documents As EU Member States (2013).

<sup>89</sup> Eberhardt (2016): Chapter 3.

<sup>90</sup> Webb (2017), 6, 10.

which is so heavily being criticised in its American European cousin, TTIP.” BEUC went on to note that “[i]ncluding an ISDS scheme in the EU/Canada pact raises major questions over the Commission’s willingness to take into account critical and massive public feedback on similar plans for TTIP.”<sup>91</sup> Such public concern for the precedent-setting potential of CETA is telling: political contestation of the agreement focused not only on the consequences of liberalized economic ties between the EU and Canada, but also on the implications of the deal for future relations between the EU and the United States.

The link between CETA and TTIP appeared to become self-evident. During the subsequent process of public consultation on ISDS for the TTIP agreement, official European documents referred directly to the CETA text.<sup>92</sup> When it was ultimately determined that including the existing approach to ISDS in TTIP would be politically fraught, the EU’s newly proposed investment court system (ICS) was then written into the already-completed CETA. As one trade-dedicated journal reported, several EU member states lobbied hard for the ICS to be included in the CETA during its legal scrub, after the ICS had been proposed for TTIP.<sup>93</sup> A February 2016 European Commission press release on CETA explained that “Following the legal revision of the [CETA] text ... [a]ll the main elements of the EU’s new approach on investment, as outlined in the EU’s TTIP proposal of November 2015 and contained in the recently concluded EU-Vietnam free trade agreement, have been included in the finalised CETA text.”<sup>94</sup>

Discussions of the CETA precedent extend beyond investment. According to some reports, some EU countries continued to be wary of ratifying the CETA agreement even following the investment revisions, for fear of the precedent in market access that CETA would set for TTIP. CETA liberalizes public procurement at the provincial and state level, which trade policy observers have viewed as a key offensive interest for the EU. Such terms are beneficial in the context of EU-Canada relations but will be especially so in an eventual TTIP, where European negotiators will aim to eliminate protectionist Buy America provisions in funding bills.<sup>95</sup> Similarly, the inclusion of a ‘negative list’ in services was first introduced in CETA negotiations. Establishing a negative list is a complex domestic process, but having already completed this in CETA will facilitate its

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<sup>91</sup>BEUC (2014).

<sup>92</sup>DG Trade European Commission (2014), cited in Meunier and Morin (2015).

<sup>93</sup>Caporal (2016).

<sup>94</sup>European Commission (2016).

<sup>95</sup>Meunier and Morin (2015); Hornby (2014).



inclusion in TTIP negotiations.<sup>96</sup> These terms were seen as gains for the EU, and were matched by greater access for Canadian firms into European markets, especially in services. Yet, member states were reportedly hesitant to extend to the US the level of access granted to Canada given the much larger volume of trade with the US.<sup>97</sup> This has led some opponents of TTIP to oppose CETA for fear of precedent. An indicative publication in the official magazine of the UK Green Party warned that “[a]ny terms agreed between the EU and Canada will set a dangerous precedent. The US will not accept a ‘lesser’ deal than their North American neighbours.”<sup>98</sup>

We also see a concern for the design of future trade pacts in other EU agreements. Prior to the revision of the EU’s approach to foreign investment dispute settlement, it had been suggested that including ISDS in TTIP could set a useful precedent for future EU negotiations with China, as could text on state-owned enterprises, energy, and raw materials.<sup>99</sup> Elsewhere, the authors of a report commissioned by the European Parliament’s Committee on International Trade into the possibility of upgrading the trade component of the EU-Chile Association Agreement note that from the EU perspective, there is little economic rationale for expending negotiating capital on the agreement. Chile is neither an important trade partner for the EU, nor is it an important strategic partner (the EU is obviously both of these things for Chile). Any upgraded agreement would instead be seen as extending a favor to a friendly country. Yet, the authors note that there is nevertheless some rationale for an upgraded agreement when considering the wider context of the EU’s agreements. Upgrading the agreement with Chile could help to cement the EU’s approach to regulating certain issue-areas, such as investment, where the EU has begun to adopt new regulatory approaches in recent years (as noted in the introduction).<sup>100</sup>

In fact, the agreement with Chile has been seen as an opportunity to promote other new approaches as well. Chile and Canada adopted a Trade and Gender chapter in their upgraded agreement, and there is some indication that the EU aims to introduce a similar chapter in an updated agreement with Chile. Some EU commentators have suggested that doing so could serve as a template for future negotiations. The EU’s Trade Commissioner Cecilia Malmström has suggested that the EU “can see if this could be a pilot project for us in the European Union

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<sup>96</sup>Meunier and Morin (2015).

<sup>97</sup>Caporal (2016).

<sup>98</sup>Taylor (2016).

<sup>99</sup>Sapir, cited in Meunier and Morin (2015).

<sup>100</sup>Polanco and Torrent (2016).

that we could take to other trade agreements”.<sup>101</sup> In sum, the EU and New Zealand both sign agreements with an eye to the future.

## 6 Conclusion

Trade has become one of the most politically salient issues in contemporary international politics. Public backlash against ambitious new trade agreements raises an empirical puzzle. How do negotiators regulate contested issue-areas? How do they introduce innovations in trade law? How does the trade regime evolve? I argue in this paper that trade policymakers and negotiators take the future into account during their negotiations. I first present a theory of PTA sequencing. I argue that the power of precedent in agreement design and the ‘stickiness’ of legal language creates incentives for states to be strategic in their choice of partner, signing innovative agreements with less important economic partners first in order to increase the odds of achieving their ideal outcome with more important partners. This leads to the hypothesis that those PTAs that are *less* well predicted by economic factors should, paradoxically, be *more* ambitious, and should be signed *earlier*. This hypothesis is borne out in the evidence that I present. Moreover, and as predicted by a theory of sequencing in which the main objective is to influence the legal content of the trade regime writ large, the results are strongest for precisely those states that have demonstrated the greatest interest in the systemic implications of global trade rules, as measured by their participation as third parties in WTO disputes. I also show that innovative agreements—those that cover a new set of issues for the first time—tend to be signed with trade partners with whom export values are less important. And again, Excessive PTAs are associated with innovation. Consistent with the mechanism I hypothesise lies behind sequencing, unlikely PTAs are associated with a jump in agreement depth relative to states’ previous agreements, and those states most likely to sequence indeed appear to be more consistent in their effort to establish stable expectations about agreement depth.

Recent negotiations involving New Zealand and the EU provide further evidence of states’ concern for the precedential implications of the agreements they negotiate in the present, and their attempts to set in place innovative approaches in the hope that they will be replicated in

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<sup>101</sup>Euractiv (2017).

subsequent negotiations. To return to the motivating example presented in the introduction, the EU has established an identity as an economic power deeply committed to the current liberal trading system. Yet recent efforts to negotiate highly ambitious agreements have run afoul of popular opposition to agreement on new trade issues. The European Commission has had clear incentives to build momentum towards a more acceptable alternative model for investor-state relations that was in line with its preferences. It has been negotiating a contentious agreement with the United States (now very much on the back-burner following the election of Donald Trump), at the same time as the regulation of foreign investment has gained increasing prevalence as a contested element of modern trade agreements. It is in this context that renegotiation of CETA to include references to the EU's new investment court system appear logical. By establishing its ideal outcome with other countries, the Commission may have increased the likelihood that an eventual PTA with the United States (or with other countries—such as China) would approach this ideal model.

It is important to comment on the distributional consequences of these findings. The evidence presented above suggests that those states that are most likely to sequence agreements are states that not only have a concern for the content of global trade rules, but also the ability to translate that concern into action. The existence of the current multilateral system is generally seen to benefit less powerful states, as it reduces the role of power in cooperative outcomes.<sup>102</sup> Yet, as other observers have noted, the resulting system has hardly put states on an equal footing. To echo Pelc's finding that the strategic exploitation of precedent in the WTO's case law appears to be the preserve of wealthy countries that have the legal expertise and resources to advance cases strategically,<sup>103</sup> it appears that states that have greater legal capacity are also more likely to sequence trade agreements. To the extent that sequencing enables states to promote the adoption of their preferred trade rules, this would suggest that powerful states continue to benefit most from systems that ostensibly do away with power-based bargaining.

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<sup>102</sup>Ikenberry (2001).

<sup>103</sup>Pelc (2014).

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## Appendix A

Table 8: Summary statistics of key variables

Variable	Mean	N	Standard deviation	Minimum	Maximum	Skewness	Kurtosis
PTA	0.017	1468500	0.129	0	1	7.480	56.946
Depth (Index)	2.140	24440	1.854	0	7	1.109	3.822
Depth (Rasch)	-0.219	21204	0.981	-1.728	1.885	0.072	1.882
Exports (logged, t-10)	7.398	1071173	7.795	0	27.159	0.275	1.380
GDP difference (t-5)	2.759	894170	2.051	0	13.676	0.895	3.447
GDP sum (t-5)	46.494	894170	3.495	33.043	60.902	0.165	2.899
Remoteness	1.683	1389381	3.371	0	9.422	1.506	3.275
Same Continent	0.243	1468500	0.429	0	1	1.200	2.440
Previous PTAs (own, t-5)	8.074	1301027	12.645	-1	88	3.206	15.472
Previous PTAs (partner's, t-5)	7.677	1301027	12.254	-1	88	3.307	16.437
Previous PTAs (ROW, t-5)	337.288	1468500	276.484	0	789	0.339	1.547
Previous PTAs (ROW, t-5, squared)	190206.700	1468500	218306.800	0	622521	0.775	2.023
Alliance	0.090	1480563	0.286	0	1	2.868	9.228
Previous conflict	0.006	1481016	0.076	0	1	13.042	171.103
GWP change	3.834	1468766	1.318	-0.1	6.269	-0.571	3.432
Hegemony	13.860	1480920	2.074	10.124	19.578	0.375	3.149
Polity scores (own)	2.048	1189064	7.265	-10	10	-0.307	1.433
Polity scores (partner)	1.643	1138302	7.314	-10	10	-0.229	1.387
Both in GATT	0.340	1468500	0.474	0	1	0.673	1.453
Both in WTO	0.265	1468500	0.442	0	1	1.063	2.130
Colonial relationship post-1945	0.009	1379787	0.097	0	1	10.123	103.474
Year	1988.203	1481016	18.276	1946	2016	-0.382	2.004
WTO disputes as Third Party	18.176	1266487	36.345	0	165	2.481	8.387
WTO disputes as Complainant	4.633	1266487	15.104	0	112	5.557	36.564
WTO disputes as Respondent	4.432	1266487	15.276	0	129	6.329	47.218
Innovative PTA	0.296	24920	0.457	0	1	0.893	1.797
PTA signature order	16.758	14674	18.785	1	95	2.138	7.146

Table 9: High-third party states

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Argentina
Australia
Austria
Belgium
Belgium-Luxembourg
Brazil
Bulgaria
Canada
Chile
China, P.R.: Mainland
Chinese Taipei
Croatia
Cyprus
Czech Republic
Denmark
Estonia
European Union
Finland
France
Germany
Greece
Hungary
India
Ireland
Italy
Japan
Korea, Republic of
Latvia
Lithuania
Malta
Mexico
Netherlands
New Zealand
Norway
Poland
Portugal
Romania
Slovak Republic
Slovenia
Spain
Sweden
Thailand
Turkey
United Kingdom
United States

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Table 10: Excessive bilateralism (High-third party)

Algeria EC	EC Moldova
Algeria EC Euro-Med Association Agreement	EC Morocco
Argentina Mexico	EC Morocco Association Agreement
Argentina Venezuela	EC Nice
Association of Southeast Asian Nations (ASEAN) FTA	EC Portugal
Association of Southeast Asian Nations Australia New Zealand FTA (AANZFTA)	EC Single European Act
Association of Southeast Asian Nations China	EC South Africa
Association of Southeast Asian Nations China Services	EC Syria
Association of Southeast Asian Nations India	EC Tunisia
Association of Southeast Asian Nations Japan	EC Tunisia Euro-Med Association Agreement
Association of Southeast Asian Nations Korea	EFTA Egypt
Association of Southeast Asian Nations Korea services	EFTA GCC
Australia Chile	EFTA Israel
Australia China	EFTA Jordan
Australia Japan	EFTA Mexico
Australia Korea	EFTA Morocco
Australia Malaysia	EFTA Singapore
Australia Papua New Guinea	EFTA Southern African Customs Union (SACU)
Australia US	EFTA Tunisia
Bahrain US	Economic Cooperation Organization (ECO) Preferences
Bangkok Agreement	Egypt MERCOSUR
Bhutan India	El Salvador Mexico
Brazil Cuba	European Economic Area (EEA)
Brazil Guyana	Georgia Turkey
Bulgaria Israel	Hungary Israel
CARIFORUM EC EPA	Indonesia Japan
Canada Costa Rica	Israel MERCOSUR
Canada EC (CETA)	Israel Mexico
Canada EFTA	Israel Poland
Canada Jordan	Israel US
Canada Korea	Japan Mongolia
Central America EC	Japan Switzerland
Chile EC	Japan Thailand
Chile India	Jordan Turkey
Chile Japan	Jordan US
Chile Turkey	Korea Turkey
China New Zealand	Korea US
China Peru	Korea US environmental side agreement
China Singapore	Latin American Integration Association (ALADI LAIA)
Colombia EFTA	MERCOSUR Southern African Customs Union (SACU)
Colombia Peru EC	Malaysia New Zealand
Cote d'Ivoire EC EPA	Malaysia Turkey
D8 PTA	Mexico Uruguay
EC Egypt	Morocco Turkey
EC Egypt Agreement	Morocco US
EC Egypt Euro-Med Association Agreement	New Zealand Singapore
EC Finland	North American Free Trade Agreement (NAFTA)
EC Georgia	Oman US
EC Israel	Panama US
EC Jordan	Singapore US
EC Jordan Euro-Med Association Agreement	South Asian Free Trade Area (SAFTA)
EC Korea	Syria Turkey
EC Lisbon	Transpacific Partnership (TPP)
EC Maastricht	Tunisia Turkey
EC Mexico	

Table 11: Excessive bilateralism (Low-third party)

African Economic Community	EFTA GCC
Agadir Agreement	EFTA Jordan
Albania EC SAA	EFTA Korea
Algeria EC	EFTA Mexico
Algeria Jordan	EFTA Morocco
Andean Community Sucre Protocol	EFTA Peru
Andean Group Cartagena Agreement	EFTA Singapore
Armenia Estonia	EFTA Southern African Customs Union (SACU)
Association of Caribbean States	EFTA Tunisia
Association of Southeast Asian Nations Australia New Zealand FTA (AANZFTA)	Economic Community Of West African States (ECOWAS)
Association of Southeast Asian Nations China	Economic Cooperation Organization (ECO) Preferences
Association of Southeast Asian Nations Japan	Economic Cooperation Organization Trade Agreement (ECOTA)
Association of Southeast Asian Nations Korea	Egypt MERCOSUR
Association of Southeast Asian Nations Korea services	Egypt Syria
Australia Malaysia	Georgia Turkey
Australia Papua New Guinea	Greater Arab Free Trade Agreement
Australia Papua New Guinea	Guinea Morocco
Australia Singapore	Gulf Cooperation Council (GCC)
Azerbaijan Belarus	Gulf Cooperation Council (GCC) Singapore
Bahrain US	Guyana Panama
Bangkok Agreement	Hungary Israel
Bulgaria Israel	India MERCOSUR
CARIFORUM EC EPA	Indonesia Pakistan
Canada EC (CETA)	Inter-Arab Trade Agreement
Canada EFTA	Iran Sri Lanka
Canada Israel	Israel MERCOSUR
Canada Jordan	Israel Mexico
Caribbean Community (CARICOM)	Israel Panama
Caribbean Community (CARICOM) Costa Rica	Israel Poland
Caribbean Community (CARICOM) Protocol on Services	Israel US
Central America EC	Japan Peru
Central America EFTA	Japan Philippines
Central American Free Trade Agreement (CAFTA)	Japan Switzerland
Central American Free Trade Agreement (CAFTA) Dominican Republic	Jordan Morocco
Central European Free Trade Agreement (CEFTA)	Jordan Singapore
Chad Morocco	Jordan Sudan
Chile EFTA	Jordan US
Chile Malaysia	Korea Peru
China Costa Rica	MERCOSUR Southern African Customs Union (SACU)
China Peru	Malaysia New Zealand
Colombia EFTA	Malaysia Turkey
Colombia Israel	Mauritius Pakistan
Colombia Peru EC	Mauritius Turkey
Common Economic Zone	Melanesian Spearhead Group (MSG )
Common Market for Eastern and Southern Africa (COMESA)	Morocco Turkey
Commonwealth of Independent States (CIS)	Morocco UAE
Costa Rica Dominican Republic	Morocco US
Costa Rica Singapore	New Zealand Singapore
Cote d'Ivoire EC EPA	Oman US
Croatia Moldova	PTA for Eastern and Southern African States
D8 PTA	Panama Singapore
EC Egypt	Panama US environmental side agreement
EC Egypt Agreement	Peru Singapore
EC Egypt Euro-Med Association Agreement	Peru Thailand
EC Georgia	Singapore US
EC Israel	South Asian Association for Regional Cooperation, Preferential Trading Arrangement (SAPTA)
EC Jordan	South Asian Free Trade Area (SAFTA)
EC Jordan Euro-Med Association Agreement	Syria Turkey
EC Morocco	Trans Pacific Strategic EPA
EC Morocco Association Agreement	Transpacific Partnership (TPP)
EC Syria	Tunisia Turkey
EC Tunisia	Uruguay Venezuela
EFTA Egypt	



## **Additional regression tables**

Here, I present additional regression results. Table 12 presents the results for the first-stage model predicting PTA entry. In this table, I add a row at the top of each column that presents the bivariate correlation between excessive bilateralism and agreement depth for each set of estimations. Here, I show simply that excessive bilateralism and agreement depth are positively correlated. Beneath this I present the results from t-tests, which show that there is a statistically significant difference between the depth of excessive PTAs and the depth of other PTAs.

Table 12: Predicting entry into a Preferential Trade Agreement

Model	DV: PTA entry					
	(1) All states	(2) High-TP	(3) Low-TP	(4) All states Trade	(5) High-TP Trade	(6) Low-TP Trade
<b>Biv. Corr.: Excess &amp; depth Difference in means (t-test) [95% conf. int.]</b>	<b>0.12</b> [-.36, -.23]	<b>0.12</b> [ -.26, -.12]	<b>0.16</b> [-.45, -.29]	<b>0.10</b> [ -.33, -.19]	<b>0.15</b> [-.33, -.19]	<b>0.14</b> [ -.41, -.25]
Distance (logged)	-0.54*** (0.02)	-0.26*** (0.04)	-0.66*** (0.03)	-0.40*** (0.03)	-0.26*** (0.04)	-0.56*** (0.03)
Remoteness	0.68*** (0.12)	0.50** (0.20)	1.13*** (0.16)	1.43*** (0.17)	0.43 (0.44)	2.26*** (0.25)
Same continent	-4.34*** (1.02)	-2.81* (1.64)	-8.03*** (1.32)	-10.66*** (1.46)	-2.42 (3.68)	-17.21*** (2.11)
GDP sum (logged, t-5)	0.03*** (0.01)	0.04*** (0.01)	0.02*** (0.01)	-0.01 (0.01)	-0.01 (0.02)	0.03*** (0.01)
GDP difference (logged, t-5)	-0.13*** (0.01)	-0.14*** (0.01)	-0.13*** (0.01)	-0.14*** (0.01)	-0.13*** (0.02)	-0.13*** (0.01)
Previous PTAs (own, t-5)	0.01*** (0.00)	0.01*** (0.00)	0.02*** (0.00)	0.01*** (0.00)	0.01*** (0.00)	0.02*** (0.00)
Previous PTAs (partner, t-5)	0.01*** (0.00)	0.00*** (0.00)	0.03*** (0.00)	0.01*** (0.00)	0.01*** (0.00)	0.02*** (0.00)
Previous PTAs (ROW, t-5)	0.00* (0.00)	0.00*** (0.00)	0.00 (0.00)	0.00*** (0.00)	0.02*** (0.00)	0.00** (0.00)
Previous PTAs (ROW, t-5, squared)	-0.00*** (0.00)	-0.00*** (0.00)	-0.00*** (0.00)	-0.00*** (0.00)	-0.00*** (0.00)	-0.00*** (0.00)
Alliance	0.30*** (0.05)	0.11 (0.07)	0.40*** (0.07)	0.28*** (0.05)	0.06 (0.08)	0.54*** (0.07)
Post-Cold War	1.44*** (0.08)	0.24** (0.11)	1.79*** (0.10)	0.97*** (0.12)	-0.03 (0.21)	1.20*** (0.15)
Previous conflict	-0.32* (0.18)	0.07 (0.39)	-0.49** (0.22)	-0.14 (0.19)	0.21 (0.35)	-0.33* (0.20)
GWP change	-0.08*** (0.01)	0.13*** (0.02)	-0.23*** (0.01)	-0.07*** (0.01)	0.13*** (0.02)	-0.23*** (0.02)
Hegemony	-0.40*** (0.02)	-0.30*** (0.03)	-0.42*** (0.03)	-0.48*** (0.03)	-0.41*** (0.04)	-0.51*** (0.03)
Polity scores (own)	0.00** (0.00)	0.02*** (0.01)	0.00 (0.00)	-0.01*** (0.00)	0.00 (0.01)	-0.00 (0.00)
Polity scores (partner)	0.00** (0.00)	0.07*** (0.01)	-0.01*** (0.00)	-0.01** (0.00)	0.05*** (0.01)	-0.02*** (0.00)
Both in GATT	-0.00 (0.04)	-0.03 (0.05)	0.06 (0.06)	-0.06 (0.04)	0.13** (0.06)	-0.09* (0.05)
Both in WTO	0.39*** (0.06)	0.60*** (0.09)	0.12* (0.07)	0.36*** (0.06)	0.30*** (0.10)	0.16** (0.08)
Colonial relationship post-1945	-0.13 (0.26)	-0.26 (0.34)	-0.03 (0.27)	-0.27 (0.23)	-0.23 (0.30)	-0.24 (0.23)
Exports (logged, t-10)				0.03*** (0.00)	0.04*** (0.01)	0.02*** (0.00)
Constant	3.45*** (0.49)	-2.05*** (0.78)	4.82*** (0.60)	7.63 (5.79)	29.48*** (8.35)	10.64 (6.66)
Cubic Spline function	No	No	No	Yes	Yes	Yes
Continent dummies (own and partner)	No	No	No	Yes	Yes	Yes
Bootstrapped errors	No	Yes	Yes	No	Yes	Yes
Observations	628732	194296	434436	561878	183542	378336
Pseudo $R^2$	0.185	0.168	0.227	0.187	0.180	0.234

\*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$