

# What Can We Learn from Failed Economic Negotiations?: Lessons from BITs and PTAs<sup>\*</sup>

Lauren C. Konken<sup>†</sup>

Hailie Na-Kyung Lee<sup>‡</sup>

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## Abstract

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How often do attempts to negotiate bilateral investment treaties (BITs) or preferential trade agreements (PTAs) fail? What explains this failure, and what do policymakers take away from these negotiation efforts? This article constructs an original dataset of failed BIT and PTA negotiations by the United States and Canada. We find that negotiation failure happens often: 33% of initiated BIT negotiations fail, and 50% of initiated PTA negotiations fail. Using process tracing and survival analysis, we show that the primary determinants of failure include the scope of negotiations and electoral turnover in at least one of the negotiating states. In an era of conflictual diplomatic relations, this article highlights the importance of failed negotiations, and the importance of evaluating bargaining failure in the context of international economic policy.

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<sup>†</sup>Department of Politics, Princeton University. Email: [lkonken@princeton.edu](mailto:lkonken@princeton.edu).

<sup>‡</sup>Department of Political Science, Seoul National University, [haillienlee@gmail.com](mailto:haillienlee@gmail.com)

## Introduction

At both multilateral and bilateral levels, there has been a surge in the number of economic agreements – preferential trade agreements (PTAs) and bilateral investment treaties (BITs) – in the past few decades. With over 1000 PTAs, and 2340 BITs, known to negotiated as of September 2020, existing research in international political economy (IPE) has focused on understanding the determinants of countries signing PTAs (Baccini, 2019) and BITs (Pandya, 2016), as well as the politics of ratifying international economic agreements (Putnam, 1988; Mo, 1995; Milner, 1997; Carnegie, 2014). However, little if any attention has been paid to why some efforts to negotiate PTAs or BITs fail due to data availability, and a reluctance to study failed agreements or “non-events” in a systematic fashion. While existing data sets compiled by the design of trade agreements (DESTA)<sup>1</sup> and UNCTAD’s investment policy hub<sup>2</sup> allow us to observe signed or ratified PTAs and BITs, they do not provide information on the full universe of negotiation attempts, making it difficult to draw lessons from their failures.

In this paper, we contribute to existing studies evaluating the formation of economic agreements by presenting an original data-set of failed BIT and PTA negotiations by the United States and Canada. Relying on reported negotiation progress to the Organization of American States (OAS), public announcements and leaked diplomatic cables, we evaluate legitimate, publicly announced PTA and BIT negotiations that resulted in no agreement after at least one round of in-person talks since 1975. We find that 50% of initiated PTA negotiations have failed in both the United States (18 failed vs. 16 successful) and Canada (15 failed vs. 15 successful), of which the United States’ withdrawal from the Trans-Pacific Partnership (TPP) in 2016 is the only modern ratification failure. Similarly, 31% of attempted BIT negotiations in the United States (19 failed vs. 42 successful), and 34% in Canada (20 failed vs. 43 successful) have failed. Collectively, these failed agreements account for or 233 separate rounds of negotiations, or 1137 months of talks that have ultimately amounted to no agreement.

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<sup>1</sup> Accessible here: <https://www.designoftradeagreements.org/>.

<sup>2</sup> Accessible here: <https://investmentpolicy.unctad.org/international-investment-agreements>.

Moreover, where negotiations towards a BIT or PTA have failed, we find that the United States has signed 54 trade and investment framework agreements (TIFA) with the view that these short (3-5 page treaties on average) declarative agreements can serve as a foundation to deeper economic ties in the future. Unpacking the utility of these agreements reveals that they have served an important political function for the United States since the September 11th 2001 terrorist attacks, but have offered very little foundation towards a “building blocks” approach to negotiating deeper economic agreements, particularly in South Asia and the Middle East.

Adopting a multi-method approach, we rely on process tracing and regression analysis to show that the primary determinants of PTA and BIT negotiation failure include the scope and membership of negotiations and electoral turnover in at least one of the negotiating states. Importantly, we find that most states view PTAs as more ambitious than BITs, and where neither can be formed the United States has increasingly defaulted to Trade and Investment Framework Agreements (TIFAs). On the other hand, for less powerful states like Canada, efforts to negotiate PTAs often amount to sunk costs that are rarely redirected towards the negotiation of shallower agreements.

While recent studies have emphasized populist roots, and power imbalances determining American withdrawal from international economic agreements, we lastly find that failed negotiations largely stem from the atrophying of political agendas following leadership turnover in the United States and Canada. In the American case, failed negotiations have largely stemmed from ambitious BIT and PTA negotiation efforts initiated by former Republican President George W. Bush following September 11th 2001. In the Canadian case, efforts towards trade liberalization after 2003 were doubled down by former Conservative Prime Minister Stephen Harper in the wake of the 2008 Great Recession. In both cases, following electoral turnover, support for continued negotiations waned, alongside irreconcilable preferences towards key issues, such as the liberalization of agricultural products in PTAs, and the inclusion of investor state dispute settlement provisions (ISDS) in BITs.

While the study of bargaining and negotiation failure remains central to the study of conflict

and security studies, we seek to emphasize both the prevalence and importance of studying failed negotiations in IPE. Policymakers do not negotiate agreements in a vacuum. Not only are they informed by previously successful negotiations, but also their failures. Likewise, the negotiation of BITs and PTAs are strongly related, not only with BITs leading to PTAs as known in existing research Tobin and Busch (2010), but also in the signing of much lesser framework agreements to better establish diplomatic ties and economic relations between countries.

## **Re-evaluating bargaining success (and failure) in IPE**

With the rising importance and number of economic agreements, many scholars have examined why states sign economic agreements such as BITs and PTAs. Broadly, three different but related explanations have been offered to explain why BITs and PTAs have been signed and ratified, with an explicit focus on explaining the demand for BITs and PTAs by specific actors, and the supply of such policies by different kinds of governments.

First, states enter into economic agreements for their tangible economic benefits. Both PTAs and BITs have positive effects on economic exchanges between signatory countries. Signing a PTA is generally associated with an doubling of bilateral trade flows between signatories after 10 years (Baier and Bergstrand, 2007). Similarly, previous studies have noted that countries can attract more foreign capital by signing BITs (Büthe and Milner, 2008; Neumayer and Spess, 2005).<sup>3</sup> It's assumed that these economic agreements signal a host governments' commitment to economic liberalization. Moreover, both PTAs and BITs often contain binding dispute settlement clauses (Allee and Elsig, 2016). Such provisions enhance the credibility of economic liberalization in BITs and PTAs more credible by making the cost of violation non-trivial.<sup>4</sup>

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<sup>3</sup>Additional research has suggested that this effect may be contingent upon a host of other factors. Tobin and Rose-Ackerman (2011) finds that BITs only increase flows to hosts with low measures of domestic political risk. Kerner and Lawrence (2014) likewise argue that BITs should only influence foreign firms' decisions over fixed-capital investment, and find evidence that foreign affiliates of US firms increase investment in physical assets when they are covered by a BIT.

<sup>4</sup> The non-triviality of investor state dispute settlement procedures in BITs cannot be stated enough. Following politicized rulings in ISDS proceedings, such as Swedish energy company Vattenfall's disputes against Germany in 2009 or American cigarette and tobacco producer Philip Morris against Uruguay in 2010 and Australia in 2015,

A second strand of literature argues that governments sign PTAs and BITs to meet the demands of domestic interest groups. For example, some have argued that BITs are signed to safeguard the property rights of multinational corporations (MNCs) (Manger and Peinhardt, 2017). Allee and Peinhardt (2014) note that countries with more MNCs are likely to sign BITs that contain more stringent dispute settlement provisions. Governments also often negotiate PTAs to attract the support of exporting sectors and globally-productive firms, which are the major beneficiaries of trade liberalization (Kucik, 2012; Kim, 2017; Kim and Osgood, 2019). Where domestic opposition to trade liberalization is strong, and governments are seeking to liberal economic policies, PTAs are means for governments to lock in such reform measures (Baccini and Urpelainen, 2014). This is particularly the case for newly democratizing countries (Milner and Kubota, 2005), as well as democracies more broadly (Mansfield, Milner and Rosendorff, 2000, 2002).

A third literature has emphasized the importance of global trade and investment networks, and models of policy diffusion. Scholars have long debated whether the spread of different economic policies such as tariff reductions or the removal of capital controls, including the signing of BITs and PTAs. Starting from the observation that an explosion of BIT and PTA signing occurred after 1990, such scholars have argued that the proliferation of BITs and PTAs has been driven by normative consensus (Simmons, Dobbin and Garrett, 2006; Jandhyala, Henisz and Mansfield, 2011), coercion (Berge and Stiansen, 2016), competition (Elkins, Guzman and Simmons, 2006; Baldwin and Jaimovich, 2012; Neumayer, Nunnenkamp and Roy, 2016), emulation (Dür, Baccini and Haftel, 2015) learning (Poulsen and Aisbett, 2013; Manger and Peinhardt, 2017). Scholars have also noted that states often carry over the contents of one agreement into the next, leading to a cluster of “model” BITs and PTAs defined by the United States and the European Union (Gagné and Morin, 2006; Alschner and Skougarevskiy, 2016; Kim and Manger, 2017; Allee and Elsig, 2019; Peacock, Milewicz and Snidal, 2019). These studies are based on

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have led a number of developing and developed countries to seek revisions to existing BITs, removing ISDS provisions or withdrawing from elements of existing BITs all together (Poulsen and Aisbett, 2013; Peinhardt and Wellhausen, 2016; Haftel and Thompson, 2018).

agreements that have been successfully negotiated, ratified, and implemented, often based on ad hoc datasets of PTAs and BITs, or now more centralized datasets such as the design of trade agreements (DESTA) database, or the United Nations Conference on Trade and Development (UNCTAD) investment policy hub.

These studies collectively omit an important selection problem: none accounts for the fact that governments have to first successfully negotiate the terms of agreements in order to sign and ratify them. Where scholarship has evaluated the negotiations or ratification process for BITs and PTAs, work has largely focused on agreements that were ultimately successful (Lechner and Wüthrich, 2018). Much has been written evaluating the sources of ratification failures for both BITs (Haftel and Thompson, 2013) and PTAs (Wüthrich, 2020), as well as the causes and consequences of withdrawals from such agreements (Peinhardt and Wellhausen, 2016; Johns, Pelc and Wellhausen, 2019; Von Borzyskowski and Vabulas, 2019). Additionally, there has been writing on the tendency for IOs to become “zombie” and meet occasionally while not making progress toward goals (Gray, 2018). However, the same has not been considered for trade and investment negotiations despite the obvious analog. While existing datasets of successful PTAs and BITs can allow us to observe the details contributing to their eventual signing, or later revocation, they do not provide information on the full universe of negotiation attempts, making it difficult to draw lessons from their failures. Failed BIT and PTA negotiations are important political events that happen frequently. Not only is failure a prevalent phenomenon, it is a costly effort both in terms of time and money, often occurring after years of negotiation efforts.

Researchers in the field of international political economy (IPE) have paid little attention to negotiation failures in general. What studies exist have prioritized case specific evaluations of failed agreements, such as the OECD’s failed multilateral agreement on investment (MAI) in 1998 (Neumayer, 1999; Batlu, 2000), or the stalling of negotiations toward the Transatlantic Trade and Investment Partnership (TTIP) between the United States and European Union (EU) in 2017 (Henckels, 2016; De Ville and Siles-Brügge, 2017). Parallel examples beyond the negotiation of BITs and PTAs abound, including work on the the failed United Nations Conference

on Environment and Development (UNCED) forest negotiations (Davenport, 2005) or the failures of the 2009 Copenhagen climate conference (Dimitrov, 2010). Case specific studies are valuable, particularly for their insight into the details of a given agreement, the countries involved, and key individuals working for or against cooperation. However, a systematic study of bargaining failure in IPE, even in the realm of BIT and PTA negotiations, offers generalizable important lessons. Not only are failed negotiations an interesting set of events to study, but the causes of failure lend further insight towards why successful BITs and PTAs look the way they do.

### **Why do BIT and PTA negotiations fail?**

Existing scholarship has prioritized the evaluation of observable and completed agreements, yet failed negotiations are also observable: the initiation of negotiations towards a BIT or PTA is a public act, with information about negotiations in progress made publicly available by state press releases, or public media coverage. For our purposes, a failed negotiation entails a concrete effort to negotiate a BIT or PTA that did ultimately did not result in an agreement of *any* kind. By this definition, the negotiating parties must have formally announced or launched negotiations, **and** met in person at least once. Negotiations that stall out but are not formally terminated by both parties, resulting in no subsequent meetings, are also failed by our definition.

To evaluate patterns of BIT and PTA negotiation failure and success, we first turn to a domestic political explanation. Existing research on the length of PTA negotiations and BIT ratification challenges has focused closely on the role of electoral continuity promoting agreement, and ultimately treaty implementation (Haftel and Thompson, 2013; Lechner and Wüthrich, 2018). Political turnover, particularly amongst heads of state, can stall an existing negotiation since a new administration may not share similar electoral interest or ideologies with its predecessor (Böhmeit, 2019). Upon inheriting the negotiating efforts of the outgoing administration, an incumbent leader can either kill negotiations directly or limit their chances of success by altering

the scope or potential bargaining space a nation possesses. This is often done formally, by the termination of talks directly, or informally, through the changing of staffing priorities within foreign affairs bureaucracies and negotiating teams.

In the United States and Canada, leaders maintain a great degree of autonomy over the number of personnel hired or fired by their respective foreign affairs agencies.<sup>5</sup> As such, we expect domestic political turnover, particularly from one political party to another, in negotiating countries to lower the likelihood of negotiation success. We expect this to be particularly true for countries where incumbent leaders diverge on their policy preferences towards BITs and PTAs from their predecessors. We expect this to be particularly true when there is both leadership turnover, and a change in the political party in power, as different parties can hold radically different views towards globalization more generally, and the signing of BITs and PTAs more specifically.

**Hypothesis 1:** *BIT and PTA negotiations are more likely to fail when one or more negotiating parties experiences political turnover during the negotiations period. This is especially true when there is turnover in which political party holds power.*

Additionally, in line with existing research on the design of BITs and PTAs, we expect the scope of negotiations to strongly affect the likelihood of negotiation failure. As noted previously, existing scholarly has stressed the importance of treaty design for the success of treaty ratification (Milner and Rosendorff, 1997). Studies evaluating the rational design of international agreements have stressed that treaty breadth and depth are highly related to the number of participating countries Koremenos, Lipson and Snidal (2001); Baccini, Dür and Elsig (2015). As (Koremenos, Lipson and Snidal, 2001) note, as the scope of a negotiating agenda increases

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<sup>5</sup> These impacts have been particularly well documented in the United States following the inauguration of Republica president Donald Trump in 2017, after which public media sources have noted the State Department was “gutted” and “hamstrung.” See <https://www.theatlantic.com/ideas/archive/2020/04/a-make-or-break-test-for-american-diplomacy/609514/>. Likewise In Canada, former Conservative Prime Minister Stephen Harper consolidated the Canadian International Development Agency (CIDA) and the Department of Foreign Affairs and International Trade (DFAIT) in 2013, leading to significant cuts to foreign affairs personnel. See <https://www.hilltimes.com/2019/04/24/public-service-grew-again-in-2018-rebounding-from-harper-era-cuts/197252>.



this leads to more issues to negotiate (breadth), and when greater degrees of cooperation on those many issues is also on the agenda (depth), negotiating parties are simply less likely to cooperate. Similarly, Oye (1985) notes that the collective action problem is exacerbated when more negotiating parties are involved. More negotiating parties to an agreement simply means more preferences to reconcile, along with greater opportunities to free-ride on the bargaining efforts of others.

**Hypothesis 2:** *The more countries involved in a BIT or PTA negotiation, the more likely it is to fail.*

**Hypothesis 3:** *The broader the scope of a negotiating agenda, in terms of the number of issues involved, the less likely a BIT or PTA negotiation is to succeed.*

However, a key divergence exists between BITs and PTAs in terms of their breadth, as well as treaty depth. PTAs tend to cover a much more difficult set of issues to negotiate on that are far more expansive in number, as well as the degree to which cooperation can be struck. This is to say, PTAs are both broader and deeper agreements than BITs, on average - particularly those PTAs than include embedded BITs in the form of standalone investment chapters (Alschner and Skougarevskiy, 2016; Alschner, Seiermann and Skougarevskiy, 2018). As such, we expect the scope of negotiations to be particularly important for the success or failure of PTAs than BITs. Put simply, PTA negotiations are more likely to fail than BIT negotiations.

**Hypothesis 4:** *Negotiations for PTAs are more likely to fail than BIT negotiations, due to the scope of issues required for agreement.*

Collectively, these hypotheses generate some clear observable implications for our data. First, electoral turnover in one or more negotiating parties should affect rates of negotiation success - regardless of whether countries are negotiating a BIT or PTA. In particular, the transition from one leader to another, and political party turnover, should be consequential for those negotiations that are not concluded before a sitting leader exits political office. Second,

the details of a given negotiating agenda, as well as the number of parties involved, should also affect the rate of negotiation success. The more issues to be negotiated, and the more parties involved, the less likely a negotiation is to be successful.

## Methods and Data Collection Process

Existing data sets of successful BITs and PTAs have relied on compiling lists of signed and ratified agreements to produce an exhaustive universe of cases. We begin by stepping back to consider the negotiation process itself, and to develop a dataset consisting of a universe of BIT and PTA negotiation attempts.<sup>6</sup> Prior to the signature and ratification of a given agreement, governments must first initiate negotiations, and subsequently engage in rounds of talks and treaty drafting.<sup>7</sup> These actions are also publicly available, and thus empirically traceable, in the modern era. For an attempted BIT or PTA negotiation to be considered in our data set, a given pair of states must publicly announce that they intend to negotiate an agreement and subsequently formally engage in a negotiation round at least once. The negotiation process itself can be broken down into five definitive steps, visualized in Figure 1.

First, at least two states engage in exploratory discussions. This period is punctuated and defined by public consultations and informal meetings between governments evaluating whether they wish to pursue a formal agreement. When states seek a formal agreement, they then process to structured negotiations, engaging in formal meetings via negotiation rounds to discuss and draft an agreement. In the third stage, negotiations conclude and a treaty draft is produced and subject to legal vetting and, if necessary, translation. When the final text is ready, this period is followed by a formal signature, which in turn is followed by a period of domestic

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<sup>6</sup> Every observation in our dataset is a concrete effort to negotiate either a BIT or PTA between Canada or the United States and a partner country. As such, each data entry is a negotiation event, as opposed to a list of country-dyads that are potential treaty partners.

<sup>7</sup> While it is conceivable that countries purposely select into negotiations that are less likely to fail, our data show that countries often fail to anticipate negotiation roadblocks, perhaps because many of the hurdles are exogenous. For example, the US ended its BIT negotiation with Russia in 2014 in response to Russia's military intervention in Crimea. Additionally, US-China BIT discussions were terminated following the Tiananmen Square incident in June 1989. Moreover, We find that the US - which has access to more diplomatic resources and should thus be better equipped to anticipate failures - is comparable to Canada in terms of negotiation failure rate.

**Figure 1:** Stages of Negotiation.

ratification and implementation.

Notably, we idealize this 5 stage process as a linear progression from one stage to the next. Rarely have negotiations regressed, though occasionally initial drafts are re-visited, or renegotiated before a treaty is finally signed. Likewise, a signed treaty may be subject to review, or revision, following electoral turnover. Also of note is that our 5 stage process does not include a treaty proposal process, wherein officials might discuss potential BITs or PTAs but not explore potential agreements beyond thought experiments or casual conversations. The full universe of potential agreement proposals is, in effect, unknowable. Such thought experiments by leaders also don't amount to the expenditure of many state resources, whereas our defined period of exploratory discussions at a minimum requires public consultations and diplomatic meetings. As such, our data collection process starts at the stage of observable exploratory talks publicly launched by a pair of governments, followed by the launching of formal negotiations towards a BIT or PTA.

To evaluate this theory, we construct the first, to our knowledge, data set of BIT and PTA negotiation attempts. This data set includes both failed and successful BITs and PTAs. We code these attempts first for two countries: Canada, and the United States. These countries were chosen first for their data availability, as well as their consequential role in BIT and PTA negotiations since the 1990s. The United States has successfully negotiated and ratified 14 PTAs and 42 BITs. It remains the world's largest economy, and thus one of the most consequential negotiators of such agreements. Existing research has further demonstrated that the United States BITs and PTAs are model agreements adopted by many other states (Dür, Baccini and Hafel, 2015; Alschner and Skougarevskiy, 2016). Yet the United States, because of its particular position in the global economy and status as a great power, may not be representative of all negotiating efforts. In order to engage in a comparison, we chose to study Canadian BIT

and PTA negotiations both because of data availability, as well as key similarities to the United States. Canada has signed 15 PTAs and 38 BITs and is a middle-income country apart of the Group of 8 (G8). It offers a point of comparison to the United States as a country with similar model BITs and PTAs. However, it differs in terms of its electoral cycle and structure, as well as its size. These differences offer less predictable electoral turnover in Canada than the United States, given Canada's federal parliamentary structure, as well as different economic and political interests in signing BITs and PTAs.

Alongside collecting a quantitative database of failed negotiations, we compliment our descriptive data with a Large-N case analysis, evaluating all cases of successful and failed BITs and PTAs in Canada and the United States over time in terms of which political leader and political party was in power throughout the negotiation process. These overviews are then supplemented with a pair of deeper case studies, process tracing the sources of negotiation failure. For the United States, we assess the failed United States-Pakistan BIT (2004-2015) as a representative case of former president George W. Bush's efforts to "export democracy" in the context of a middle eastern free trade area. In the Canadian case, we evaluate the failed Canada-India PTA (2009-2017), a negotiation attempt born out of decades of difficult bilateral relations between the two countries ultimately killed by conflicting leadership priorities by the Trudeau and Modi administrations.

With just 241 observations, and 237 unique BIT and PTA negotiations in our data set at this stage, quantitative analysis is not robust due to our limited number of observations.<sup>8</sup> As such, we prioritize a methodological approach that displays both the nuance of the data, as well as evaluating our theorized causal mechanisms against the historical record. Process tracing is well suited to do this given our case-centric approach, and evaluation of two primary causal processes: electoral turnover, and the scope of negotiations. Each negotiation in our data set represents an instance of our posited causal relationship (Beach and Pedersen, 2013, 2019).

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<sup>8</sup> Currently we are missing most negotiation start dates for the BITs in our dataset, however we intend to collect as much data as possible for PTAs in the coming weeks in order to develop quantitative analyses of negotiation success and failure.

Doing so allows us to recover a stronger understanding of what links our posited mechanisms with the causal outcome of interest, in this case negotiation success or failure (Collier, 2011; Bennett and Checkel, 2015). In both cases, Canada and the United States experienced both leadership and political party turnover, while the scope negotiations varied between extremely shallow (in the US-Pakistan case) to incredibly broad (the Canada-India PTA).

## Tracing failed BIT and PTA negotiations

To collect an exhaustive list of all attempted BIT negotiations by the United States and Canada, we first collected public press releases by the bureaucratic agencies concerned with negotiating BITs. In the case of Canada, Global Affairs Canada (GAC) maintains a publicly available database of all active investment agreement negotiations, noting information about when talks were first initiated, the number of negotiation rounds, and dates of signature and ratification when applicable.<sup>9</sup> Notably, each entry also indicates the “stage” of negotiation according to our five point scale, as well as when the page was last updated. A negotiation was coded as failed if negotiating parties had not met for at least 18 months, and there was not statement or record they intended to meet again within the next 12 months.<sup>10</sup>

American BIT negotiations were traced using a combination of primary resources. We began by evaluating the database of press releases by the Office of the United States Trade Representative (USTR) and public media reports in major newspapers noting the launch and progress of BIT negotiations. We then evaluated the content of leaked diplomatic cables available WikiLeaks, and WaybackMachine internet archives of the US Trade Representative site for additional cases of failed talks, and mentions of exploratory or early stage negotiations that subsequently dropped from the USTR record.<sup>11</sup> We adopted this approach because because

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<sup>9</sup>This database can be accessed here: <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/index.aspx?lang=eng>.

<sup>10</sup> By this definition, we code stalled negotiations, or “zombie” negotiations as failed given they did not produce an agreement of *any* kind. In future research, we hope to decompose terminated negotiations from “zombie” talks that are on the books as “in progress” but haven’t met in a number of years. We are open to comments or suggestions on how to differentiate between these two categories, as well as questions of interest about such cases.

<sup>11</sup> We are also in the process of coding negotiation progress as stated in the annual report to the President

failed BIT negotiations are not often high-profile enough to be covered by journalists and electoral turnover has resulted in the archiving of older versions of the USTR or State Department websites, including the removal of older negotiations by outgoing administrations. Lists of attempted BIT negotiations were then compared to existing databases of known Canadian and American BITs reported by the UNCTAD investment policy hub and the Organization of American States (OAS) to generate a data set of negotiations coded according to our five stage process.

To collect a list of all attempted PTA negotiations by the United States and Canada, we relied on the OAS's Foreign Trade Information System (SICE), a centralized database of trade policy developments submitted by OAS members, including press releases, draft agreements, and supplementary documents. Notably, SICE includes a list of all agreements in progress, with information on when talks were initiated, the number of negotiation rounds, and dates of signature and ratification where applicable.<sup>12</sup> The status of Canadian PTA negotiations were then cross-referenced with GAC's database of active trade negotiations and reported progress. The status of American PTA negotiations were likewise cross-referenced using USTR press releases and public media reports of last known meetings.<sup>13</sup>

## **Discovery of Trade and Investment Framework Agreements (TIFAs)**

In the course of evaluating attempted BIT and PTA negotiations, we stumbled across the prevalence of Trade and Investment Framework Agreements (TIFAs) signed by the United States. In the course of our research, we were not able to locate any failed TIFA negotiations. One possible reason is that there are few reasons for any party to oppose a TIFA given it is just a

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on the state of trade negotiations, as compiled by the office of the USTR since 1954. We also intend to connect with personnel in the Office of Investment Affairs (OIA) in the US State Department given they are the branch responsible for BIT negotiations in the US.

<sup>12</sup> The OAS SICE database can be accessed here: [http://www.sice.oas.org/tpd\\_e.asp](http://www.sice.oas.org/tpd_e.asp).

<sup>13</sup> In future work, we hope to revisit Inside Trade documents detailing trade and investment negotiations that might have been missed given their recent initiation, as well as the FRUS series and documentation from the Office of Investment Affairs at the U.S. Department of State, which is concerned with negotiating BITs in the United States. Paired with semi-structured interviews of both current and former GAC and USTR employees, we believe the final data set will be nearly comprehensive, with missing cases falling beyond the scope of our definition given their lack of public announcement.

**Table 1:** BITs and PTAs by negotiation stage (USA v. Canada)

Country	Treaty Type	Exploratory	Negotiations	Concluded	Signed	Ratified
Canada	BIT	0	15	5	1	38
Canada	PTA	5	9	1	1	15
United States	BIT	7	6	1	5	42
United States	PTA	5	12	0	1	17
United States	TIFA	0	0	0	0	54

Note: PTAs that Canada and the United States are jointly apart of are double counted, adding 4 additional observations to the Canadian tally: the TISA to under negotiation, TPP to signed, and the CUSFTA, NAFTA and USMCA agreements to the ratified count.

framework towards establishing PTAs. We were only able to recover successful agreements as listed by the OAS SICE and USTR databases. Existing literature on BITs and PTAs has largely neglected this set of agreements, with only ad hoc mentions available in published research. However such agreements are short (often just 3 pages in length) and our records indicate they are often negotiated in 1 to 2 diplomatic meetings. They are, however, viewed as an important cornerstone of American economic diplomacy and as such, we include them here.<sup>14</sup>

## Overview of the Data

Our dataset includes 120 BITs, 63 unique PTAs and 54 TIFAs negotiated by the United States and Canada.<sup>15</sup> These agreements are overwhelmingly bilateral: only 13 unique multilateral PTAs have been negotiated by the United States and Canada, of which they are mutually apart of 4 (the North American Free Trade Agreement (NAFTA), the revised United States-Mexico-Canada Free Trade Agreement (USMCA), the initial Trans-Pacific Partnership (TPP), and the Trade in Services Agreement (TISA). [Table 1](#) reports the distribution of cases across the 5 stage negotiation process by agreement type and country. Collectively, 7 BITs and 10 PTAs are currently in the exploratory discussions stage, amounting to formal public consultations towards potential agreements and meetings to launch formal negotiations. There are 21 BITs and 21

<sup>14</sup> We are in the process of splitting this finding off into another paper.

<sup>15</sup> Where agreements are signed by both the United States and Canada, they are double counted. We use the phrase "unique" PTAs here to note this overlap.

**Table 2:** Failure rates by agreement type (USA v. Canada)

Country	Treaty Type	Successful	Success (%)	Failed Nego.	Failed Rat.	Failure (%)
Canada	BIT	43	73%	15	6	34%
Canada	PTA	16	50%	16	0	50%
United States	BIT	42	69%	14	5	31%
United States	PTA	18	51%	16	0	46%
United States	TIFA	54	100%	0	0	0%

Note: Failed.Nego refers to negotiations that failed to produce a final agreement. Failed.Rat refers to agreements that were fully drafted, but subsequently were not ratified by the US or Canada, and thus remain not in force. The count of successful negotiations includes all agreements that reached the “concluded negotiations”, “signed” and “ratified” stages. The count of failed negotiations included all agreements that were not ultimately ratified and implemented. This leads to double counting of treaties in the “concluded negotiations” and “signed categories.” The CUSFTA, NAFTA and USMCA preferential trade agreements are also all double counted here, as they are considered successful by both the governments of the United States and Canada. The failed TISA agreement is also double counted, as the US and Canada were both apart of those multilateral negotiations

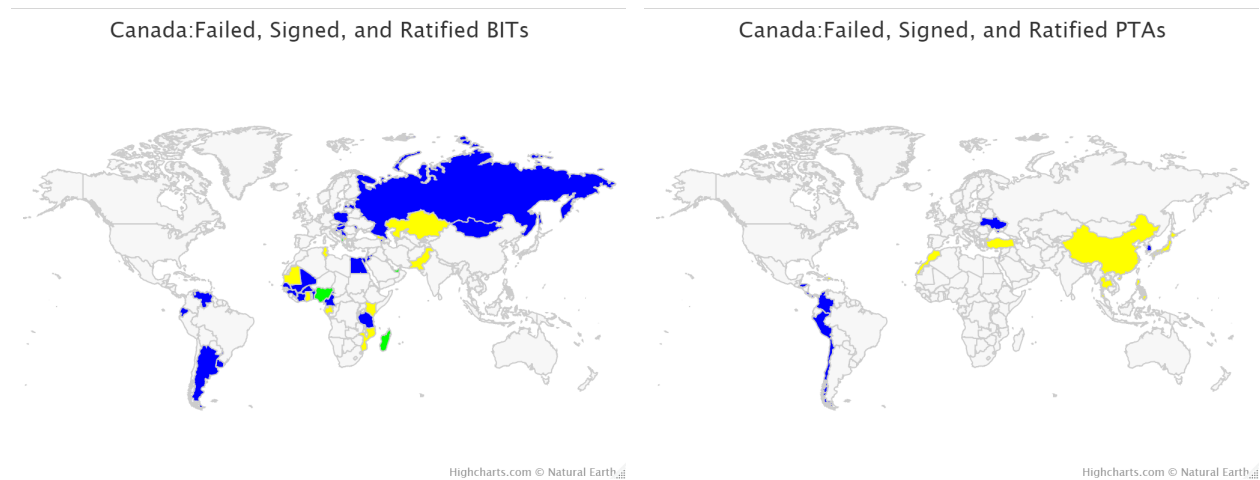
PTAs at the negotiation stage, of which only 1 is actively ongoing with future negotiation rounds scheduled.<sup>16</sup> 6 BITs have concluded negotiations, and await signature, while 6 BITs and 2 PTAs have been signed but not ratified. According to our data, the United States and Canada have collectively implemented 80 BITs, 30 unique PTAs and 54 TIFAs.

Our data highlights one stark finding: BITs and PTAs rarely fail at the ratification stage. While previous work in IPE has highlighted the difficulties of the approval process for BITs and PTAs (Putnam, 1988; Milner, 1997), our data highlights that the vast majority of BITs and PTAs that are negotiated are ultimately ratified. Where agreements fail to materialize is at the negotiation stage, highlighting that governments may cut their losses earlier in the negotiation stage if they anticipate their local governments won’t approve of the final treaty. [Table 2](#) describes the breakdown of success and failure rates of negotiations by treaty type. As mentioned, we were unable to recover any mention of failed negotiations towards TIFAs by the United States. However, there is a stark difference in the failure and success rates of BIT and PTA negotiations.

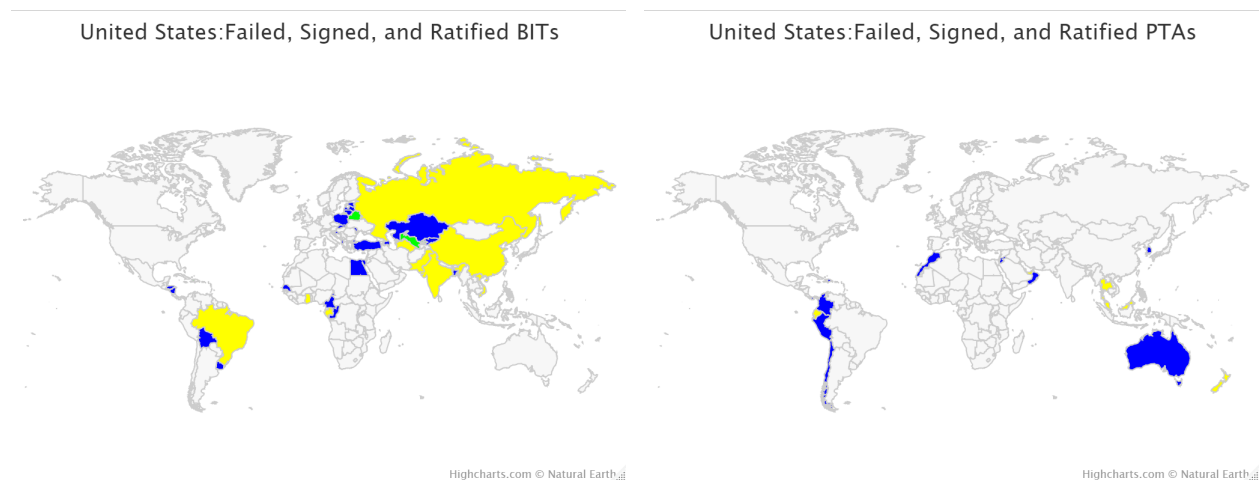
First, in line with Hypothesis 3, both Canada and the United States have initiated more BIT negotiations than PTA negotiations. The success rate for BIT negotiations initiated by either

<sup>16</sup> Only negotiations by the Trump administration towards the US-Kenya Free Trade Agreement remain active within the last 2 years, with the last formal meeting of parties occurring in February of 2020. Additionally the United States has met with the United Kingdom 3 times to begin negotiations towards a standalone PTA, but such drafting efforts have been slow given the UK has not yet fully exited the EU.



**Figure 2:** Geographical Distribution of Canadian BITs and PTAs

Note: Yellow corresponds to negotiations that failed to produce a final agreement. Green refers to agreements that were fully drafted, but subsequently were not ratified by Canada, and thus remain not in force. Blue indicates agreements that were signed and subsequently ratified. Only bilateral agreements have been plotted.

**Figure 3:** Geographical Distribution of US BITs and PTAs

Note: Yellow corresponds to negotiations that failed to produce a final agreement. Green refers to agreements that were fully drafted, but subsequently were not ratified by the US, and thus remain not in force. Blue indicates agreements that were signed and subsequently ratified. Only bilateral agreements have been plotted.

country is 34% and 31% respectively (where successful negotiations are defined as those negotiations that were successfully concluded, and or resulted in the production of a treaty draft). This amounts to 43 successful and 20 failed BIT negotiations in Canada, and 42 successful and 19 failed BIT negotiations in the United States.<sup>17</sup> As expected, PTA negotiations are far

<sup>17</sup> The count of successful negotiations includes all agreements that reached the “concluded negotiations”, “signed” and “ratified” stages. The count of failed negotiations included all agreements that were not ultimately ratified and implemented. This leads to double counting of treaties in the “concluded negotiations” and “signed categories.”

less frequent, and when initiated far less successful. In both the United States and Canada, PTA negotiations fail roughly half the time they are initiated, with 16 successful and 16 failed PTA negotiations in Canada (50/50%), and 18 successful and 16 failed PTA negotiations in the United States (51/46%).<sup>18</sup>

Figure 2 and Figure 3 show the global geographical distribution of Canadian and American PTAs and BITs.<sup>19</sup> In both figures, yellow countries correspond to negotiations that failed to produce a final agreement, and green countries refer to agreements that were fully drafted, but subsequently not ratified. Lastly, blue countries indicate agreements that were both signed and subsequently ratified. Figure 2 reiterates that Canada has made many more attempts to negotiate BITs compared to PTAs. It also shows that Canadian PTAs never fail at the ratification process.<sup>20</sup> Figure 3 presents the geographical distribution of US PTAs and BITs, offering similar trends. Like Canada, the US has never failed to ratify a bilateral PTAs.<sup>21</sup> Additionally, while the failure rate of US BIT negotiations is similar to that of Canadian BIT negotiations, US failed negotiations involve much larger and more economically consequential countries such as China and Russia, though Canada has negotiated successful BITs with both of the latter countries.

## Canadian BIT and PTA Negotiations

Table 3 and Table 4 break down BIT and PTA negotiation success rates by the political party and Prime Minister in power respectively, while Figure 4 provides a graphical overview of negotiation success and failure rates over time. The earliest year a Canadian BIT or PTA negotiation is reported by the OAS SICE or the GAC database is 1988. In Canada, two major political

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<sup>18</sup> The CUSFTA, NAFTA, TISA and USMCA trade agreements are counted in both Canadian and American lists of agreements, as they constitute individual successes for both countries.

<sup>19</sup> Presently, only bilateral agreements have been plotted for this iteration of the manuscript. In future versions, we will include the 13 multilateral PTAs in our dataset.

<sup>20</sup> Most Canadian PTAs, however, face significant delays between the treaty signature and ratification process. On average, agreements take 2 to 3 years to be ratified by Parliament, though in the case of the Canadian-European Free Trade Association (EFTA) PTA, negotiations largely concluded in 1998, but the agreement wasn't signed until 2007 and implemented until 2009.

<sup>21</sup> The lone exception to this count, but not noted in Figure 3, is the withdrawal of the United States by the Trump administration from the multilateral Trans-Pacific Partnership (TPP) agreement in 2017, following signature of the treaty by the Obama administration in 2015.

**Table 3:** Failure rates by agreement type (Canadian political parties)

Political Party	Treaty Type	Successful	Success (%)	Failed Nego.	Failed Rat.	Failure (%)
Conservative	BIT	20	62%	15	5	47%
Conservative	PTA	9	50%	9	0	50%
Liberal	BIT	23	85%	5	1	19%
Liberal	PTA	7	50%	7	0	50%

Note: Failed.Nego refers to negotiations that failed to produce a final agreement. Failed.Rat refers to agreements that were fully drafted, but subsequently were not ratified by Canada, and thus remain not in force. The count of successful negotiations includes all agreements that reached the "concluded negotiations", "signed" and "ratified" stages. The count of failed negotiations included all agreements that were not ultimately ratified and implemented. This leads to double counting of treaties in the "concluded negotiations" and "signed categories."

**Table 4:** Failure rates by agreement type (Canadian Prime Ministers)

Prime Minister	Treaty Type	Successful	Success (%)	Failed Nego.	Failed Rat.	Failure (%)
Mulroney	BIT	4	100%	0	0	0%
Mulroney	PTA	2	100%	0	0	0%
Chrétien	BIT	14	100%	0	0	0%
Chrétien	PTA	3	100%	0	0	0%
Harper	BIT	16	57%	15	5	54%
Harper	PTA	7	44%	9	0	56%
Trudeau	BIT	9	69%	5	1	38%
Trudeau	PTA	4	36%	7	0	64%

Note: Failed.Nego refers to negotiations that failed to produce a final agreement. Failed.Rat refers to agreements that were fully drafted, but subsequently were not ratified by the US, and thus remain not in force. The count of successful negotiations includes all agreements that reached the "concluded negotiations", "signed" and "ratified" stages. The count of failed negotiations included all agreements that were not ultimately ratified and implemented. This leads to double counting of treaties in the "concluded negotiations" and "signed categories."

parties have held power between 1988 and 2020: the Progressive Conservative party (known since 2003 as simply the Conservative Party) and the Liberal party. Both parties have sought to negotiate many BITs and PTAs over time, though most efforts have been concentrated in the post-2000 era.

Failed BIT and PTA negotiations have only occurred since 2003, when the Canadian government sought to sign many more agreements in the wake of the 2008 global financial crisis. On average, PTA negotiations have taken as little as 2 months and as long as 113, with an average negotiation time of 36 months, or 3 years, to complete. The average number of negotiation rounds for PTAs is 7, though agreements have been concluded in as few as 1, and as many

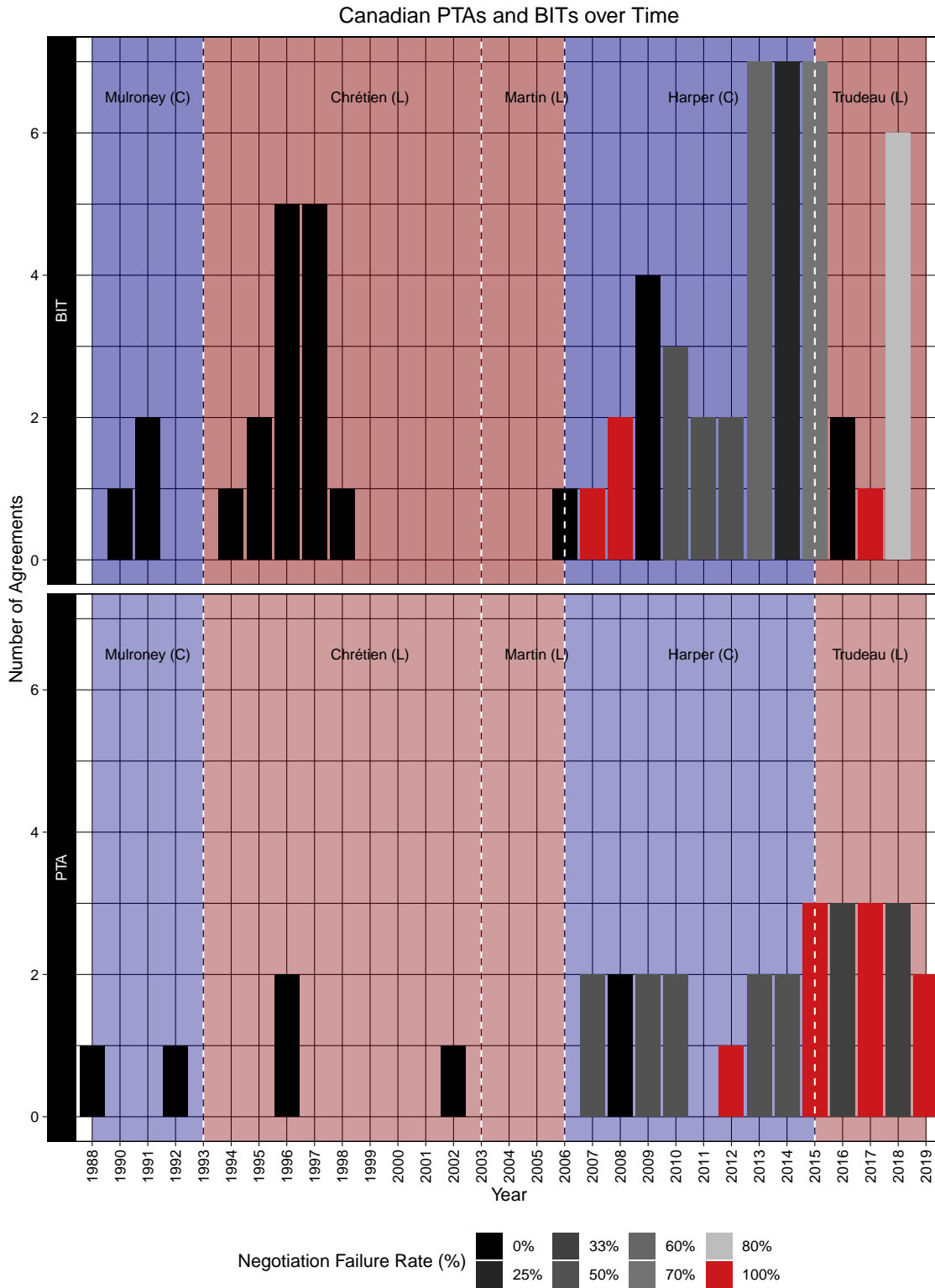
as 21 rounds of meetings. On three occasions, PTA talks have taken over 100 months, or just over 8 years to conclude, including a 10 year negotiation effort for a multilateral PTA between Canada and the Central American 4: Honduras, Guatemala, Nicaragua and El Salvador. After 113 months of talks and 12 formal rounds of negotiations, Canada terminated the negotiation effort, instead prioritizing the negotiation of a PTA with Honduras alone. Likewise, negotiations for a PTA between Canada and South Korea concluded after 103 months of talks and 11 negotiation rounds.

Our first hypothesis expected negotiations to fail when faced with electoral turnover, particularly when there is a transition from one political party in power to another. Our data highlights that electoral turnover in Canada is consequential for BIT and PTA negotiations, but what matters more is the particular Prime Minister in power. Both the Liberal and Conservative parties have sought international economic agreements, with more agreements signed and ratified by Conservative Prime Ministers than Liberal Prime Ministers. Yet the specific political agenda of a sitting Prime Minister has mattered greatly for negotiations that were not completed by outgoing administrations.

Progressive Conservative leader Brian Mulroney (PM 1984-1993) was the first Prime Minister to successfully negotiate a BIT and PTA on behalf of Canada. Mulroney's successes began with the 1988 Canada-United States Free Trade Agreement (CUSFTA), signed opposite then Republican President Ronald Reagan. While the United States and Canada had formally attempted to negotiate PTAs three times, first in 1855, then 1911, and lastly in 1945, yet electoral turnover in each instance had killed any agreement from being put to a ratification vote. Mulroney's success with the CUSFTA is notable, particularly in that, like prior US-Canada PTAs in 1855 and 1911, the ratification of CUSFTA triggered a federal election in 1988. A rare single-issue election, Mulroney's election victory in 1988 stemmed from the Progressive Conservative party's successes in the first past the post system. The Canadian popular vote, on the other hand, was firmly against the agreement.

Subsequently, the success of CUSFTA saw the United States seek a standalone bilateral

**Figure 4:** BIT and PTA negotiation success rates, Canada (1988-2019)



trade agreement with Mexico in 1991. Fearing the CUSFTA would be overshadowed, the Mulroney government joined those negotiations, ultimately resulting in the North American Free Trade Agreement (NAFTA) in 1994. NAFTA was signed in 1993 shortly before Mulroney lost power to Liberal opposition leader, Jean Chrétien (PM 1993-2003). A core component of Chrétien's 1993 election campaign was his opposition to the version of NAFTA Mulroney had negotiated. Following his victory, Chrétien would negotiate two additional chapters with Republican George HW Bush prior to the 1994 American election of Democratic leader Bill Clinton.

Following NAFTA re-negotiations, Chrétien's government prioritized the negotiation of much shallower BITs. Known to the Canadian government as Foreign Investment Promotion and Protection Agreement (FIPAs), Chrétien's government signed 14 BITs while in office, mostly with countries in Latin America and the Caribbean, as well as Hungary, Ukraine, the Philippines, Egypt, Armenia, Croatia, Lebanon and Thailand.<sup>22</sup> Yet, Chrétien did pursue three bilateral trade agreements with Chile, Israel and Costa Rica. The agreements were largely shallow, prioritizing tariff reductions on specific sectors such as automobile parts. When Chrétien lost the support of the Liberal party as leader in 2003, he stepped down from power, leading the party to nominate Paul Martin (PM 2003-2006) as his successor. Martin secured his position as Prime Minister in a formal election in 2004. While he remained with the Liberal party as prime minister, all BIT and PTA negotiations were put on hold during his leadership, and no new talks were initiated while he was office.

The negotiation of BITs and PTAs was renewed with the victory of Conservative leader Stephen Harper (PM 2006-2015), and the subsequent 2008 financial crisis, which had the Canadian government double down on making commitments to trade and investment liberalization. Harper would sign 16 BITs and 7 PTAs during his 9 years in office, most consequentially with China in 2012. Yet, he would also see 15 failed BIT negotiations, 9 failed PTA negotiations. The Harper government also failed to ratify another 5 BITs, tabling legislation to implement agreements with Albania, Bahrain, Madagascar, Nigeria and Zambia. These trends would in part

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<sup>22</sup> BITs with countries in the LAC region included Argentina, Barbados, Ecuador, Panama, Trinidad and Tobago, Venezuela, Uruguay and Costa Rica.

be continued, but on a lesser scale, when newly nominated Liberal leader Justin Trudeau (PM 2016-present) assumed the Prime Minister's office in the fall of 2016. During his first electoral campaigns, Trudeau was questioned about his support for prospective trade agreements like the TPP and the Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU. He was agnostic, adopting the perspective of Chrétien: the Liberal party supported free trade, but would seek to preserve Canadian interests in both agreements even if doing so required re-negotiations. Yet, upon assuming office, Trudeau halted negotiations towards PTAs with Japan and India despite 7 and 10 rounds of negotiations respectively under the Harper government.

Since taking power, Trudeau's government has seen 5 BIT negotiations fail, and 7 PTA negotiations fail, including the Trans-Pacific Partnership (TPP). While the initial TPP agreement was successfully negotiated and signed by the Harper government, the subsequent election of Trudeau in 2015 and American withdrawal from the TPP in 2017 complicated the ratification process. Following the withdrawal of the United States, the Trudeau government was tasked with participating in additional negotiation rounds with the other remaining 10 signatories, adding nearly 100 pages of additional content in the process.<sup>23</sup> The Canadian government would subsequently double down on revisions to the TPP treaty following the withdrawal of the United States in 2017, leading to the significant editing and expansion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) amongst the 11 remaining TPP signatories. Negotiations towards the CETA, on the other hand, would be reopened following demands by both Canadian and European Union members to revisit the agreement's investment chapter, and investor state dispute settlement provisions in particular.

Collectively, the Canadian experience demonstrates evidence in support of our hypotheses. Electoral turnover has frustrated negotiations in several periods, leading the incoming administration to abandon the priorities of outgoing administrations particularly towards new PTAs

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<sup>23</sup> Notably, within the GAC database the TPP is listed as a separate PTA from the ultimate CPTPP agreement. Within the OAS SICE database, information on the negotiation of the TPP and CPTPP have been consolidated into one page, though they note the separation of the negotiations process after 2017.

and BITs. This supports our first hypothesis. However, counter to our expectations, the political agendas of a specific Prime Minister matters more than a particular political party affiliation. Periods when leadership turnover occurred, but political parties have stayed the same, face similar negotiation failure rates as those period where leadership and political party turnover occurred. In line with hypothesis 2, we also find supportive evidence. While the vast majority of PTA and BIT negotiations are bilateral, agreements with more than three countries have faced immense difficulties. Almost all cases of PTA negotiation failure included more than two countries, though BITs were exclusively bilateral. Looking to hypothesis 3 and 4, we find support as well. More comprehensive negotiating agendas are more likely to fail, and efforts to negotiate PTAs fail more often than BITs.

### **A deeper look: the failed Canada-India PTA (2009-2017)**

When Conservative leader Stephen Harper assumed the Prime Minister's office in 2006, re-establishing economic ties between Canada and India was a top priority for his administration. The task, however, was far from simple. Since the late 1950s, diplomatic relations between the two countries had been turbulent, defined by Canada's alignment with the United States during the Cold War and India's with the Soviet Union; an increasingly large Sikh diaspora in Canada; and India's efforts to achieve nuclear capabilities using Canadian technology in 1974 and 1998 (Touhey, 2009; Singh, 2016; Mehta, 2019).

Harper's efforts marked a revival of those by Liberal Prime Minister Jean Chrétien to normalize relations between the two countries. After assuming office in 1993, Chrétien sent 3 diplomatic missions to India, and in 1996 visited New Delhi himself with a delegation of 300 business leaders, provincial premiers and trade staff to further economic ties. Collectively referred to as *Team Canada* by external affairs, the contingent secured 75 trade contracts worth approximately CAD\$3.4 billion over a matter of days (Touhey, 2009; Mehta, 2019). Yet the Chrétien government did not follow up on the effort. India's nuclear testing in May of 1998 saw the Canadian government impose harsh sanctions against India (Touhey, 2009, 917). It was



only at the end of Chrétien's time in office, in October of 2003, that his government reached out once more, establishing an open ended joint statement with Indian Prime Minister Atal Bihari Vajpayee. In time, Chrétien's successor Paul Martin only verbalized support for normalizing relations with India (Singh, 2016, 58).

Surmounting the legacies of Canada's condemnations of India's nuclear program was central to Harper initiating talks of a BIT or PTA with India. In January of 2009, Harper visited New Delhi, proposing an ambitious comprehensive economic partnership agreement (CEPA) with India. Harper sought to eliminate not only tariffs between both countries, but also the establishment of common rules on investment and non-tariff barriers.<sup>24</sup> Public consultations towards a PTA with India were initiated in March and April of that year, while the administration opened 4 trade offices in Ahmedabad, Bangalore, Hyderabad and Kolkata, bringing the total to 8 (Singh, 2016, 59).

On November 17th 2009, Harper returned to India. During the visit, the Canadian and Indian governments jointly commissioned a feasibility study of a PTA between the two countries and initiated negotiations towards a BIT.<sup>25</sup> Collectively, the efforts culminated in the G20 summit in September of 2009, when Indian Prime Minister Manmohan Singh was the first Indian leader to visit Canada in 44 years. On September 24th both governments announced a Canada-India Nuclear Trade deal.<sup>26</sup> With the stage set, Minister of International Trade Peter Van Loan visited New Delhi in November of 2010, officially launching formal negotiations towards a PTA. Both countries subsequently labelled 2011 the "Year of India in Canada" (Singh, 2016, 59)

Between 2011 and 2015, the Canadian and Indian governments held 8 rounds of negotiations, alternating between meetings in Ottawa and New Delhi. Negotiation efforts were supplemented by Harper's Global Markets Action Plan (GMAP) in 2013 which prioritized reducing Canadian economic dependence on the United States. Harper also prioritized staffing Canada's High Commission in India over other countries with high quality bureaucrats (Mehta,

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<sup>24</sup> See [http://www.sice.oas.org/TPD/CAN\\_IND/Negotiations/CAN\\_IND\\_EPA\\_e.pdf](http://www.sice.oas.org/TPD/CAN_IND/Negotiations/CAN_IND_EPA_e.pdf).

<sup>25</sup> See [http://www.sice.oas.org/TPD/CAN\\_IND/Negotiations/CAN\\_IND\\_EPA\\_e.pdf](http://www.sice.oas.org/TPD/CAN_IND/Negotiations/CAN_IND_EPA_e.pdf).

<sup>26</sup> See [http://www.sice.oas.org/TPD/CAN\\_IND/Negotiations/JointStatement\\_e.pdf](http://www.sice.oas.org/TPD/CAN_IND/Negotiations/JointStatement_e.pdf).

2019, 10). Parallel efforts sought to engage the Indian diaspora in Canada, as well as increased efforts by major Canadian universities to recruit Indian students for post-secondary degrees.(Singh, 2016, 64). Yet electoral turnover would derail negotiations with the election of Prime Minister Narendra Modi in India in 2014, and Prime Minister Justin Trudeau in Canada in 2015.

Modi's government would visit Ottawa, Toronto and Vancouver in April of 2015, signing multiple MOUs on issues ranging from space, rail, and aviation technology to research and development partnerships (Mehta, 2019). When Trudeau's government formally took power in 2016, economic relations with India became much less of a priority. While a 10th round of trade negotiations was held in New Delhi in August of 2017, Trudeau himself would not visit India until 2018 - and the visit itself amounted to a public relations disaster. Public media in Canada and India commented that Trudeau prioritized the visit of cultural landmarks like the Taj Mahal and Golden Temple over state meetings, as well as engaged in cultural appropriation and PR stunts for social media. The trip was further punctuated by Modi's refusal to meet Trudeau upon landing, sending instead Union Minister for Agriculture, Gajendra Shekhawat and many district level officials to greet the Canadian delegation.

The primary source of tension stemmed from Canadian refusals to meet with Punjab Chief Minister, Captain Amrinder Singh, an active critic of the Sikh Khalistan Movement in Punjab. The tensions harked back to the creation of the movement in the 1970s, which sought the creation of a separate, predominantly Sikh, state from India (Singh, 2016, 16). During that period, a large number of Sikhs and Khalistan sympathizers had sought asylum in Canada, creating tensions in state relations when Canadian leaders refused to police or condone local Khalistan Movement meetings. In 1984, Indian Prime Minister Indira Gandhi was assassinated by two of her Sikh body-guards, just months after Khalistan Movement activists high-jacked Air India flight 182 from Vancouver (Mehta, 2019, 7). In 1984, the Golden Temple became a symbol for the movement when Jarnail Singh Bhindranwale took control of the monument while advocating for the creation of Khalistan.

When Trudeau rejected the meeting offer with Minister Singh in favor of visiting the Golden Temple, while in the company of Sikh Canadian Defence Minister Harjit Singh Sajjan, the Modi government was deeply offended.<sup>27</sup> While Modi and Trudeau ultimately met face to face at the end of his official state visit in 2018, talks deteriorated quickly. While extenuating political legacies rendered relations difficult, the political agendas of the two leaders created a sharp change in priorities. While Harper's government had successfully negotiated a BIT with India in 2007, engaged in 9 rounds of talks, signed numerous MOUs, and prioritized 19 high level missions, his administration's efforts were largely undone within 2 years of Trudeau assuming office. The prospect of a Canada-India PTA likely will not be revisited until political leadership in both countries favours a PTA, and or seek a much less ambitious agreement.

## American BIT, PTA and TIFA Negotiations

**Table 5:** Failure rates by agreement type (American political parties)

Political Party	Treaty Type	Successful	Success (%)	Failed Nego.	Failed Rat.	Failure (%)
Democratic	BIT	22	67%	11	3	33%
Democratic	PTA	6	60%	4	0	40%
Democratic	TIFA	17	100%	0	0	0%
Republican	BIT	20	71%	8	2	29%
Republican	PTA	12	50%	11	0	46%
Republican	TIFA	37	100%	0	0	0%

Note: Failed.Nego refers to negotiations that failed to produce a final agreement. Failed.Rat refers to agreements that were fully drafted but subsequently were not ratified by the US, and thus remain not in force. The count of successful negotiations includes all agreements that reached the "concluded negotiations", "signed" and "ratified" stages. The count of failed negotiations included all agreements that were not ultimately ratified and implemented. This leads to double counting of treaties in the "concluded negotiations" and "signed categories."

Table 5 and Table 6 provide an overview of BIT and PTA negotiation rates by political party and President in power in the United States respectively, while Figure 5 depicts rates of negotiation success and failure over time. The earliest year an BIT or PTA negotiation is reported by

<sup>27</sup> Concerns also rose within the Modi government with the nomination of Sikh Canadian Jagmeet Singh Dhaliwal to leader of the New Democratic Party (NDP) in Canada in 2017. While Singh was an unlikely future Prime Minister due to the NDP's 3rd party status in Canada, Singh remained an outspoken critic of Modi's government in public speeches and on twitter.

**Table 6:** Failure rates by agreement type (American Presidents)

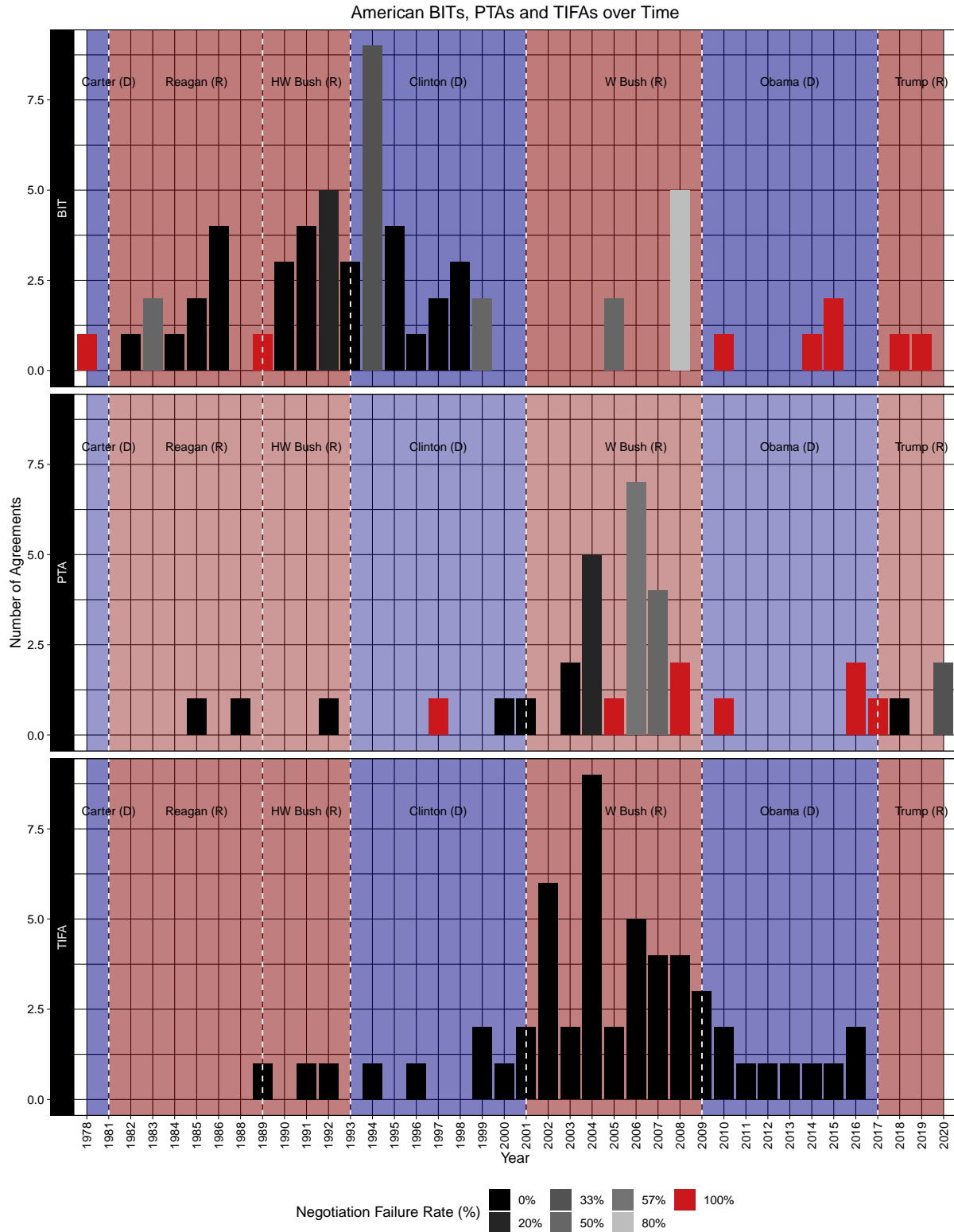
President	Treaty Type	Successful	Success (%)	Failed Nego.	Failed Rat.	Failure (%)
Carter	BIT	0	0%	1	0	100%
Reagan	BIT	4	67%	2	1	33%
Reagan	PTA	2	100%	0	0	0%
Reagan	TIFA	1	100%	0	0	0%
HW Bush	BIT	7	88%	1	1	12%
HW Bush	TIFA	2	100%	0	0	0%
Clinton	BIT	21	84%	4	3	16%
Clinton	PTA	1	50%	1	0	50%
Clinton	TIFA	5	100%	0	0	0%
W Bush	BIT	9	64%	5	0	36%
W Bush	PTA	8	44%	10	0	56%
W Bush	TIFA	34	100%	0	0	0%
Obama	BIT	1	14%	6	0	86%
Obama	PTA	5	62%	3	0	38%
Obama	TIFA	12	100%	0	0	0%
Trump	PTA	2	50%	1	1	50%

Note: Failed.Nego refers to negotiations that failed to produce a final agreement. Failed.Rat refers to agreements that were fully drafted but subsequently were not ratified by the US, and thus remain not in force. The count of successful negotiations includes all agreements that reached the "concluded negotiations", "signed" and "ratified" stages. The count of failed negotiations included all agreements that were not ultimately ratified and implemented. This leads to double counting of treaties in the "concluded negotiations" and "signed categories."

the OAS SICE or USTR records is 1978. Between 1978 and 2020, there have been seven Presidents, of which 3 represented the Democratic Party, and 4 represented the Republican Party. Taking a closer look at the data again reveals that American rates of negotiation success and failure are not dramatically different from Canada. However, and importantly, the capacity of Presidents to negotiate BITs and PTAs has been heavily influenced by whether the administration has possess trade promotion authority (Hiscox, 1999).

Signed into legislation in 1934, The Reciprocal Trade Agreements Act (RTAA) granted the President the capacity to negotiate trade agreements independently from the Congress, with final agreements subject only to a final a yay or nay vote in the House and Senate. However, the authority has been subject to constant congressional renewal, often only covering the length of a single electoral period (3-4 years). The spirit of the RTAA was extended with the Trade

**Figure 5:** BIT, PTA and TIFA negotiation success rates, USA (1978-2020)



Promotion Authority Act (TPA) in 1974, and its subsequent extensions up to and including 2021, playing a role in the lapsing of negotiations for many presidents over time.

Diving into the data, the period of BIT and PTA negotiations under study captures a clear realignment of political party preferences for protectionism vs. free trade in the United States. Whereas Ronald Reagan's Republican Party (Pres. 1981-1989) championed free trade in the 1980s, it is now the Democratic Party that fully supports pursuing more liberalized economic relations (Schonfeld, 2019). Overall, Democrats have been slightly more successful than Republicans at negotiating PTAs (60% success rate vs. 50%), and slightly less successful at completing BITs (67% versus 71%), though this stems in part from a higher success rate amongst fewer overall attempts. However, many PTA negotiations have spanned multiple administrations, and subsequently been subject to the whims of party turnover. For example, negotiations towards a BIT between the US and China began in 2008 under Republican President George W. Bush (Pres. 2001-2009), continued under Democratic President Barack Obama (Pres. 2009-2017) and terminated in 2019 under Republican Donald Trump's administration (Pres. 2017-2021).<sup>28</sup>

While Democratic President Jimmy Carter (Pres. 1977-1981) was the first to attempt a BIT negotiation, it was Reagan who was first successful, signing 2 PTAs (first in 1985 with Israel and secondly in 1988 with Canada) 4 BITs (with the Democratic Republic of Congo, Bangladesh, Cameroon and Grenada) and 1 TIFA (with the Phillipines) while in office. The orientation towards signing BITs and PTAs would continue with Republican George H.W. Bush (Pres. 1989-1993), who in turn initiated 8 BIT negotiations (of which 7 were successful), NAFTA, and 2 TIFAs.

Overall, the Democratic Party has initiated 10 PTA negotiations, 36 BIT negotiations, and 17 TIFAs while the Republican party has initiated 23 PTAs, 30 BITs and 37 TIFAs. Of the Demo-

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<sup>28</sup> We remain in the process of collecting concrete start and end years for many American BIT negotiations. Where we have data for American PTAs, the length of negotiations is 19 months, or just just over a year and a half. The shortest PTA negotiation was 3 months, for the shallow Trade Promotion Agreement signed between the US and China in 2020, while the longest was 67 months towards the Free Trade Area of the Americas between 1998 and 2005 over 8 rounds of talks. The average number of negotiation rounds for PTAs, however, is 7, though officials have concluded agreements in as few as 2 meetings (the 2020 US-China TPA) and as many as 21 (the 2006 United States-Colombia Trade Promotion Agreement). This highlights the immense disparity of diplomatic capacity between the US and Canada, as well as a higher tolerance to bear the costs of negotiating failure amongst American negotiators.

cratic Party's 10 PTA negotiations, only 6 treaties were successful, while the Republican Party has ratified 12. Democratic successes also technically include the successful ratification of NAFTA in 1994, though the agreement was fully negotiated and signed while Republican H.W. Bush was President. More generally, the vast majority of American PTA and BIT negotiations were instead initiated by George W. Bush (Pres. 2001-2009). Of the 33 overall attempted PTA negotiations, 18 were initiated by W. Bush. Likewise, of the 66 attempted BIT negotiations, W. Bush initiated 14, and of the 54 TIFAs signed by the United States, W. Bush successfully negotiated 34. These trends were driven in large part by W. Bush's efforts to promote economic exchange and "export democracy" following the September 11th 2001 terrorist attacks (Monten, 2005). Importantly, the rise of the TIFA as a tool of American foreign economic policy expanded when initial talks towards BITs, and especially PTAs, were frustrated by divergent preferences.

The W. Bush administration prioritized PTAs based on clusters of potential trading partners in every region of the globe. Notably, W. Bush launched the Enterprise for ASEAN Initiative (EAI) in October of 2002, the Middle East Free Trade Area (MEFTA) in May of 2003, and the Free Trade Area of the Americas (FTAA) in November of 2003. Likewise, parallel negotiations were initiated with the Common Market for Eastern and Southern Africa (COMESA), the South African Customs Union (SACU), the West African Economic and Monetary Union (WAEMU), and the Economic Community of West African States (ECOWAS). Only the proposed MEFTA and FTAA agreements were truly multilateral, with invitations to negotiate extended to specific groups of countries, as opposed to specific regional organizations.

In particular, the MEFTA was to be a regional free trading area among twenty entities in the Middle East and North Africa (MENA) region. W. Bush marketed the PTA as an anti-terrorism initiative and as a way to promote democracy through trade <sup>29</sup>. The USTR was tasked with signing multiple bilateral agreements between the United States and MENA countries as building blocks towards a larger multilateral agreement by 2013, starting first with promoting WTO membership and the extension Generalized System of Preferences (GSP) access, followed by

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<sup>29</sup> See Bolle, (2005) *Middle East Free Trade Area: Progress Report*. Accessible online at: <https://fas.org/sgp/crs/mideast/RL32638.pdf>

the signing of individual TIFAs, then BITs, and ultimately PTAs.<sup>30</sup>

Not only were regional initiatives like MEFTA pertinent for the *selection* of negotiating partners, since they were chosen for largely political rather than economic reasons, they subsequently became central in the choice of what kind of economic agreement was pursued. W. Bush's democracy promotion efforts culminated in the successful negotiation of 34 TIFAs, 9 BITs and 8 PTAs, or an overall success rate of 51 of 66, or 77%. Bush' TPA authority also lapsed in 2007, limiting his executive authority to fast track PTA negotiations during his final year in office. Furthermore, efforts to progress from TIFAs to BITs, and likewise from BITs to PTAs did not occur amongst any of the agreements signed with the exception of Bahrain. While Clinton had signed a BIT with Bahrain in 1999, W. Bush successfully negotiated a TIFA in 2002, and subsequently a PTA in 2004.

Because W. Bush' many regional economic agreement initiatives were marketed as a linear progression of successful negotiations from TIFA to BIT to PTA with each partner country, negotiating partners frequently expected this progression to be universally applied. In negotiations with Kuwait, the US negotiator wrote in a classified report:

...working TIFA Committee Chair Hamad Al-Ghanim reported that Kuwait had been trying to do its best this past year to press for [economic policy] changes, and noted that the Kuwaitis felt a little discouraged that the UAE and Oman have moved into FTA negotiations while Kuwait has had only one TIFA Council meeting," and "The Kuwaiti TIFA team (and Al-Ghanim particularly) seems to be laboring under the misimpression that Kuwait will be given an FTA even absent significant economic change because it is a key U.S. ally, despite Fennerty's [the USTR representative] - and post's - repeated representations to the contrary.<sup>31</sup>

Although both Congressional Research Service reports and official USTR language noted that TIFA councils were thought of as stepping stones towards BITs and PTAs, concrete efforts towards domestic liberalization (and democratization by extension) were still important factors. The progression to deeper agreements, even when politically advantageous, was not automatic. Likewise, in line with our expectations, electoral turnover had a significant effect

<sup>30</sup> See a June 23, 2003 statement by W. Bush, found in <https://fas.org/sgp/crs/mideast/RL32638.pdf>

<sup>31</sup> See [https://wikileaks.org/plusd/cables/05KUWAIT1295\\_a.html](https://wikileaks.org/plusd/cables/05KUWAIT1295_a.html)



on any outstanding negotiations. When Democratic President Barack Obama assumed office in 2009, his administration's priority became negotiations towards the Trans-Pacific Partnership (TPP), and the initiation of talks towards a PTA with the EU, effectively killing talks towards the MEFTA, FTAA, and EAI.

Outside of regional initiatives with an openly acknowledged political component, such as MEFTA, the initial US governmental priority was in negotiating BITs, dating back to 1978. In addition to the CUSFTA and NAFTA agreements, BITs were Reagan and H.W. Bush's priorities, which then continued under Clinton. TIFAs began to become more prevalent under Clinton, and then dramatically so under W. Bush as a result of his administration's efforts to promote democracy via economic relations. The Obama administration continued to primarily sign TIFAs, and his diplomatic Pacific pivot saw the EAI shift focus from negotiating with ASEAN to American allies Japan and Australia, and ultimately the TPP. 3 of the PTAs Obama ratified early in his administration were formally negotiated and signed during the Bush era. In totality, Obama was only able to negotiate one successful BIT, with Rwanda, which may be a result of the expiration of his Trade Promotion Authority (TPA) in 2015.

The inauguration of Republic President Donald Trump in 2017 saw another pivot in support for TIFAs, BITs and PTAs. Campaigning on a platform that sought to renegotiate NAFTA, and withdraw from the TPP, Trump largely delivered on his promises during his first term. Within months of taking office, Trump withdrew the United States from the TPP and triggered talks towards a revised NAFTA. His signature of the United States-Mexico-Canada Free Trade Agreement (CUSMA) in 2018 was complimented by the successful negotiation of a Trade Promotion Agreement (TPA) with China in early 2020. His administration has sought to negotiate two other PTAs, one with Taiwan and another with Kenya, though the former has not progressed beyond exploratory talks, and the latter was announced in March of 2020. These 4 agreements stand apart from the Trump administration's complete rejection of TIFAs, BITs and PTAs as foreign economic policy tools. Yet the Trump administration's negotiation successes have stemmed from the hangover of Obama's 2015 renewal of TPA via the Bipartisan Congressional Trade

Priorities and Accountability Act, currently set to expire in 2021.

To conclude, we also find support for our hypotheses in the United States data. Like in Canada, it is also the case that electoral turnover has mattered a great deal in US treaty negotiation, but in regards to our first hypothesis the political agendas of specific Presidents have mattered far more than the agendas of particular political parties. This has been especially true for the few multilateral PTAs the US has pursued beyond the World Trade Organization (WTO). The reliance of the American administration on brief, shallow TIFAs, throughout all administrations has established, in most cases, no more than an annual meeting between the USTR and their counterparts in signatory countries. What these 54 signed TIFAs are meant to accomplish will be a topic of further study in subsequent iterations of this paper, however their prevalence provides some evidence for our 3rd and 4th hypotheses concerning the scope of the issues involved. We intend to conduct interviews with former USTR officials to learn more and explore the function of TIFAs through the lens of “practice.”

### **A deeper look: the failed United States-Pakistan BIT (2004-2015)**

The failed BIT negotiation between the US and Pakistan provides an interesting case of multiple potential causal mechanisms at play. The negotiations were particularly long, beginning in 2004 with sporadic rounds until falling apart in 2015, with a potential revival on the horizon based on statements from current Vice President Mike Pence. The case of Pakistan illustrates the importance of leadership, discrepancies in expectations during bargaining, and the political dimensions of how the US negotiates PTAs.

During BIT negotiations, Pakistani negotiators “noted that several of the [Pakistani] Ministries have asked... about the possibility of negotiating a free trade agreement with the U.S.” Negotiators in Pakistan, under the pressure of the domestic government, prefer to skip the BIT altogether into PTA negotiations, which according to a leaked cable, the US negotiators pushed back on. The US team responded:

...that the BIT is the best vehicle for cooperation and investment promotion and

protection at this time, given the expiration of Trade Promotion Authority legislation in 2007. [The team from Pakistan] did understand that a BIT is very similar to the FTA investment chapter.<sup>32</sup>

The TPA legislation referenced was the fast-track authority President Bush was given with the MEFTA negotiations in mind, which expired in 2007 ahead of a potential party transition depending on election results. The team referenced this expiration as a barrier to FTA negotiation, although in cases such as Kuwait, when the TPA was in force, FTA negotiation was still not acknowledged as an automatic successor to a TIFA or BIT.

A Pakistani government document presenting the pros and cons of a BIT negotiation with the US argues that “the greatest apparent benefit for Pakistan from signing the BIT would be a promise from the US government that the BIT will be followed by the initiation of negotiations for a Free Trade Agreement between the two Countries.”<sup>33</sup> The document however puts out a contradiction that our own research confirms, both arguing that “though no formal indication has been given by the US government that the signing of the BIT will lead to the initiation of FTA negotiations, the US’s track record on this would indicate that this the route that the US normally follows, and presenting data showing that “there is no apparent correlation between a Bilateral Trade Agreement and an FTA and that most countries that have a BIT agreement with the US do not have any other trade agreements in force.” The official USTR language and the insinuations of negotiators entice the signing of lower-cost trade agreements such as TIFAs with the promise of future negotiations for BITs or FTAs, however that rarely comes to fruition.

The negotiations between the US and Pakistan also illustrate the potential political uses for PTA negotiation, and how that can contribute to success or failure. Despite BIT negotiations appearing to fall apart in 2015 with no further rounds, the *India Economic Times* reported in 2019 that Senator Lindsay Graham traveled to Islamabad to float the idea of FTA negotiations in exchange for Pakistan assisting in bringing the Taliban to the negotiation table, in addition to discussing a Pakistani visit to Washington.<sup>34</sup> We don’t see mirror reporting within the United

<sup>32</sup>See [https://wikileaks.org/plusd/cables/08ISLAMABAD1601\\_a.html](https://wikileaks.org/plusd/cables/08ISLAMABAD1601_a.html)

<sup>33</sup>See [https://www.pbc.org.pk/wp-content/uploads/pakistan\\_us\\_bilateral\\_trade\\_agreement.pdf](https://www.pbc.org.pk/wp-content/uploads/pakistan_us_bilateral_trade_agreement.pdf).

<sup>34</sup>See <https://economictimes.indiatimes.com/news/defence/us-may-offer-fta-to-pakistan-to-assist-in-ending-afghan-war-report>

States, however.

## **Discussion and Agenda for Future Research**

This paper makes an important contribution to the study of BITs and PTAs in IPE. First, we highlight the importance of studying bargaining failure in IPE, and failed negotiations in particular. We argue that negotiation failures happen more frequently than ratification failures, and the full universe of negotiation attempts needs to be studied in order to better understand treaty formation. Existing scholarship in IPE has been averse to discussions of “non-events” or “in-action”, in part due to the view that obtaining a near universal data set of all negotiating failures is impossible. We correct this view, demonstrating that a systematic empirical tracing of failed negotiations is possible.

As such, our paper presents an original data-set of 237 BIT and PTA negotiations initiated by the United States and Canada between 1978 and 2020. A coding of negotiation initiations then allows us to code negotiating successes and failures. To do so, we relied on reported negotiation progress to the Organization of American States (OAS) SICE database, government press releases, and diplomatic cables. We found that roughly half of initiated PTA negotiations by both the United States and Canada failed during this period, while two thirds of initiated BIT negotiations have been successful. We also note that the United States has increasingly relied on TIFA agreements to build ties with many countries.

We find support for all of our hypotheses, though the empirical record challenges our expectations with regards to electoral turnover. While electoral turnover matters, the turnover in political parties matters less than we expected. Instead, the political agendas of individual leaders matter far more than the mandates of specific political parties for BIT and PTA negotiations in Canada and the United States. In Canada, turnover within parties has generated significant divergences in policy priorities, while both parties support BITs and PTAs. In the United States, the effects of electoral turnover have been sharpest with the election of Donald Trump in 2017,

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[articleshow/67670221.cms?from=mdr](#).

but are not isolated to his administration.

Leaders have frequently inherited the the BIT and PTA negotiation efforts of their predecessors. In both the United States and Canada, incumbent leaders have almost always adopted different approaches to these talks than their predecessors. In Canada, the negotiation of NAFTA was reopened by Liberal Prime Minister Jean Chrétien upon his election in 1993. When Paul Martin assumed office in 2003, he pursued no formal negotiations with any country while in office - despite also being a Liberal Prime Minister. Likewise, in the United States, George H.W. Bush inherited Reagan's NAFTA efforts, which in turn became a key policy issue for Bill Clinton's first term when negotiations failed to conclude before the November election in 1992. Barack Obama inherited many of George W. Bush's ambitious regional BIT and PTA negotiations, including the EAI, FTAA and MEFTA. He in turn prioritized his "pacific pivot", abandoning previous efforts to join the TPP talks. These efforts were then immediately undone by Trump, given his administration's preference for economic isolationism and an "America First" strategy.

While our paper has prioritized a discussion of electoral turnover across leaders and political parties within Canada and the United States, the effect is likely stronger when considering turnover in all negotiating parties. Within our data, the 2006 and 2014 military coup d'états in Thailand terminated PTA negotiations with both the US and Canada in 2006 and 2015 respectively. In future versions of this paper, we hope to evaluate the consequences of turnover in all participating countries.

Our second hypothesis is also supported by our findings. Multilateral agreements are much less frequent than bilateral agreements, particularly in the post-WTO era. Of the 10 multilateral PTAs included in our data, only 4 have been successful: NAFTA in 1992, the United States-Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) in 2004, the CPTPP in 2018, and the revised USMCA agreement in 2018. Most exemplary of the frustrations of negotiating multilateral agreements were efforts of 51 countries towards the Trade in Service Agreement (TISA) between 2013 and 2016. After 21 rounds of negotiation, involving both Canada and the United States, talks were frustrated by the election of Republican Donald Trump. With-

out American support for the agreement, negotiations were placed on hold following talks in early December, 2016.<sup>35</sup> For any agreement with more than 3 parties, constructing treaty terms that meet the demands of every participant has remained a Herculean task in the 21st century.

Lastly, our third and fourth hypotheses are also consistent with our findings. In the case of both Canada and the US, PTAs experienced greater failure rates than BITs, and there was no observed case of failure for TIFAs. However, it is important to note that PTA talks are also initiated far less frequently than BITs. This likely stems from state recognition that negotiating PTAs is time consuming, and difficult. With the WTO also setting a floor for many tariff rates, additional negotiations are simply a low priority for many countries. While our definition of negotiation failure prioritizes the conclusion a BIT or PTA of *any* kind, we ultimately cast no value judgements on whether the agreement ultimately concluded was that preferred by negotiating parties at the outset. In this way, we view a successful negotiation towards a shallow BIT in lieu of a deeper PTA as just that: successful. Future work should evaluate these differences more meaningfully.

In the next iteration of the paper, we plan to strengthen our process tracing evidence by interviewing career negotiators in Global Affairs Canada, and former USTR negotiators and staff. We hope semi-structured interviews and supplemental archival evidence can shed further light on the BIT and PTA negotiation process, further illuminating the impacts of electoral turnover. We also intend to expand our dataset to additional countries registering negotiation efforts with the OAS SICE, as well as the EU. We lastly intend to perform a large-n panel data analysis of our theories using an extended dataset including multilateral trade agreements.

Our paper also offers multiple policy implications. First, negotiation failures are frequent, particularly in the realm of PTAs. This has tangible consequences for government that perceive the negotiation of these agreements to be simple, or expedient political projects. Second, negotiation failure is largely a function of political, rather than economic, factors. The electoral cycle can doom an agreement if it is not fully ratified prior to a leader's exit from office, or at a

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<sup>35</sup> The European Commission notes in particular that "Negotiations are now on hold and are expected to resume when the political context allows." See <https://ec.europa.eu/trade/policy/in-focus/tisa/>.

minimum subject a signed agreement to re-negotiation, as was the case with NAFTA in 1992, and most recently with the TPP in 2015.

Lastly, expectations matter a great deal in the negotiation of international economic agreements like BITs and PTAs. When negotiating parties are led to assume a TIFA can lead to a BIT, and a BIT to a PTA, the failure to progress from one to the next can frustrate diplomatic relations. This is evidenced by negotiations between the United States, Kuwait and Pakistan towards a BIT. In talks with both Kuwait and Pakistan, lead negotiators stressed the assumption that TIFAs and BITs naturally lead to PTAs. While the USTR confirmed this view in public statements, they subsequently denied it in practice, particularly following George W. Bush's exit from office. When negotiating parties have different preferences for a BIT vs. PTA, and such expectations are not immediately public, there is no room for compromise unless one party is willing to downgrade their expectations. Our data demonstrates that shallower TIFAs and BITs, especially those signed by the United States, are far from stable building blocks towards deeper PTAs.

## References

- Allee, Todd and Clint Peinhardt. 2014. "Evaluating three explanations for the design of bilateral investment treaties." *World Pol.* 66:47.
- Allee, Todd and Manfred Elsig. 2016. "Why do some international institutions contain strong dispute settlement provisions? New evidence from preferential trade agreements." *The Review of International Organizations* 11(1):89-120.
- Allee, Todd and Manfred Elsig. 2019. "Are the Contents of International Treaties Copied and Pasted? Evidence from Preferential Trade Agreements." *International Studies Quarterly* 63(3):603-613.
- Alschner, Wolfgang and Dmitriy Skougarevskiy. 2016. "Mapping the universe of international investment agreements." *Journal of international economic law* 19(3):561-588.
- Alschner, Wolfgang, Julia Seiermann and Dmitriy Skougarevskiy. 2018. "Text of Trade Agreements (ToTA)? A Structured Corpus for the Text-as-Data Analysis of Preferential Trade Agreements." *Journal of Empirical Legal Studies* 15(3):648-666.
- Baccini, Leonardo. 2019. "The economics and politics of preferential trade agreements." *Annual Review of Political Science* 22:75-92.
- Baccini, Leonardo, Andreas Dür and Manfred Elsig. 2015. "The Politics of trade agreement design: revisiting the depth-flexibility Nexus." *International Studies Quarterly* 59(4):765-775.
- Baccini, Leonardo and Johannes Urpelainen. 2014. "International institutions and domestic politics: can preferential trading agreements help leaders promote economic reform?" *The Journal of Politics* 76(1):195-214.
- Baier, Scott L and Jeffrey H Bergstrand. 2007. "Do free trade agreements actually increase members' international trade?" *Journal of international Economics* 71(1):72-95.
- Baldwin, Richard and Dany Jaimovich. 2012. "Are free trade agreements contagious?" *Journal of international Economics* 88(1):1-16.
- Batlu, Riyaz. 2000. "A Journey from Havana to Paris: The Fifty-Year Quest for the Elusive Multilateral Agreement on Investment." *Fordham Int'l LJ* 24:275.
- Beach, Derek and Rasmus Brun Pedersen. 2013. *Process-tracing methods: Foundations and guidelines*. University of Michigan Press chapter Chapter 2: The Three Different Variants of Process-Tracing and Their Uses, pp. 9-22.
- Beach, Derek and Rasmus Brun Pedersen. 2019. *Process-tracing methods: Foundations and guidelines*. University of Michigan Press.
- Bennett, Andrew and Jeffrey T Checkel. 2015. *Process tracing*. Cambridge University Press.
- Berge, Tarald Laudal and Øyvind Stiansen. 2016. "Negotiating BITs with Models. The Power of Expertise." *The Power of Expertise (October 12, 2016)*. *PluriCourts Research Paper* (16-13).



- Böhmelt, Tobias. 2019. "International Treaty Ratification and Leader Turnover." *Foreign Policy Analysis* 15(2):187-204.
- Büthe, Tim and Helen V Milner. 2008. "The politics of foreign direct investment into developing countries: increasing FDI through international trade agreements?" *American journal of political science* 52(4):741-762.
- Carnegie, Allison. 2014. "States held hostage: Political hold-up problems and the effects of international institutions." *American Political Science Review* 108(1):54-70.
- Collier, David. 2011. "Understanding process tracing." *PS: Political Science & Politics* 44(4):823-830.
- Davenport, Deborah S. 2005. "An alternative explanation for the failure of the UNCED forest negotiations." *Global environmental politics* 5(1):105-130.
- De Ville, Ferdi and Gabriel Siles-Brügge. 2017. "Why TTIP is a game-changer and its critics have a point." *Journal of European Public Policy* 24(10):1491-1505.
- Dimitrov, Radoslav S. 2010. "Inside UN climate change negotiations: The Copenhagen conference." *Review of policy research* 27(6):795-821.
- Dür, Andreas, Leonardo Baccini and Yoram Z Haftel. 2015. "Imitation and innovation in international governance: the diffusion of trade agreement design." *Trade Cooperation* .
- Elkins, Zachary, Andrew T Guzman and Beth A Simmons. 2006. "Competing for capital: The diffusion of bilateral investment treaties, 1960-2000." *International organization* pp. 811-846.
- Gagné, Gilbert and Jean-Frédéric Morin. 2006. "The evolving American policy on investment protection: evidence from recent FTAs and the 2004 model BIT." *Journal of International Economic Law* 9(2):357-382.
- Gray, Julia. 2018. "Life, Death, or Zombie? The Vitality of International Organizations." *International Studies Quarterly* 62(1):1-13.
- Haftel, Yoram Z and Alexander Thompson. 2013. "Delayed ratification: The domestic fate of bilateral investment treaties." *International Organization* pp. 355-387.
- Haftel, Yoram Z and Alexander Thompson. 2018. "When do states renegotiate investment agreements? The impact of arbitration." *The Review of International Organizations* 13(1):25-48.
- Henckels, Caroline. 2016. "Protecting regulatory autonomy through greater precision in investment treaties: the TPP, CETA, and TTIP." *Journal of International Economic Law* 19(1):27-50.
- Hiscox, Michael J. 1999. "The magic bullet? The RTAA, institutional reform, and trade liberalization." *International Organization* pp. 669-698.
- Jandhyala, Srividya, Witold J Henisz and Edward D Mansfield. 2011. "Three waves of BITs: The global diffusion of foreign investment policy." *Journal of Conflict Resolution* 55(6):1047-1073.

- Johns, Leslie, Krzysztof J Pelc and Rachel L Wellhausen. 2019. "How a retreat from global economic governance may empower business interests." *The Journal of Politics* 81(2):731-738.
- Kerner, Andrew and Jane Lawrence. 2014. "What's the risk? Bilateral investment treaties, political risk and fixed capital accumulation." *British Journal of Political Science* 44(1):107-121.
- Kim, In Song. 2017. "Political cleavages within industry: Firm-level lobbying for trade liberalization." *The American Political Science Review* 111(1):1.
- Kim, In Song and Iain Osgood. 2019. "Firms in trade and trade politics." *Annual Review of Political Science* 22:399-417.
- Kim, Soo Yeon and Mark S Manger. 2017. "Hubs of governance: path dependence and higher-order effects of preferential trade agreement formation." *Political Science Research and Methods* 5(3):467.
- Koremenos, Barbara, Charles Lipson and Duncan Snidal. 2001. "The rational design of international institutions." *International organization* 55(4):761-799.
- Kucik, Jeffrey. 2012. "The domestic politics of institutional design: Producer preferences over trade agreement rules." *Economics & Politics* 24(2):95-118.
- Lechner, Lisa and Simon Wüthrich. 2018. "Seal the Deal: Bargaining Positions, Institutional Design, and the Duration of Preferential Trade Negotiations." *International Interactions* 44(5):833-861.
- Manger, Mark S and Clint Peinhardt. 2017. "Learning and the precision of international investment agreements." *International Interactions* 43(6):920-940.
- Mansfield, Edward D, Helen V Milner and B Peter Rosendorff. 2000. "Free to trade: Democracies, autocracies, and international trade." *American political science review* 94(2):305-321.
- Mansfield, Edward D, Helen V Milner and B Peter Rosendorff. 2002. "Why democracies cooperate more: Electoral control and international trade agreements." *International Organization* 56(3):477-513.
- Mehta, Ketan. 2019. "India and Canada Relations: The Long Road to Recovery." *Occasional Papers* .
- Milner, Helen V. 1997. *Interests, institutions, and information: Domestic politics and international relations*. Princeton University Press.
- Milner, Helen V and B Peter Rosendorff. 1997. "Democratic politics and international trade negotiations: Elections and divided government as constraints on trade liberalization." *Journal of Conflict resolution* 41(1):117-146.
- Milner, Helen V and Keiko Kubota. 2005. "Why the move to free trade? Democracy and trade policy in the developing countries." *International organization* pp. 107-143.

- Mo, Jongryn. 1995. "Domestic institutions and international bargaining: The role of agent veto in two-level games." *American Political Science Review* pp. 914-924.
- Monten, Jonathan. 2005. "The roots of the Bush doctrine: Power, nationalism, and democracy promotion in US strategy." *International Security* 29(4):112-156.
- Neumayer, Eric. 1999. "Multilateral agreement on investment: Lessons for the WTO from the failed OECD-negotiations." *Wirtschaftspolitische Bloetter* 46(6):618-628.
- Neumayer, Eric and Laura Spess. 2005. "Do bilateral investment treaties increase foreign direct investment to developing countries?" *World development* 33(10):1567-1585.
- Neumayer, Eric, Peter Nunnenkamp and Martin Roy. 2016. "Are stricter investment rules contagious? Host country competition for foreign direct investment through international agreements." *Review of World Economics* 152(1):177-213.
- Oye, Kenneth A. 1985. "Explaining cooperation under anarchy: Hypotheses and strategies." *World Pol.* 38:1.
- Pandya, Sonal S. 2016. "Political economy of foreign direct investment: Globalized production in the twenty-first century." *Annual Review of Political Science* 19:455-475.
- Peacock, Claire, Karolina Milewicz and Duncan Snidal. 2019. "Boilerplate in International Trade Agreements." *International Studies Quarterly* 63(4):923-937.
- Peinhardt, Clint and Rachel L Wellhausen. 2016. "Withdrawing from investment treaties but protecting investment." *Global Policy* 7(4):571-576.
- Poulsen, Lauge N Skovgaard and Emma Aisbett. 2013. "When the claim hits: Bilateral investment treaties and bounded rational learning." *World Politics* 65(2):273-313.
- Putnam, Robert D. 1988. "Diplomacy and domestic politics: the logic of two-level games." *International organization* pp. 427-460.
- Schonfeld, Bryan. 2019. "Trading Places, Trading Platforms: The Geography of Realignment." *Trading Platforms: The Geography of Realignment (March 28, 2019)*.
- Simmons, Beth A, Frank Dobbin and Geoffrey Garrett. 2006. "Introduction: The international diffusion of liberalism." *International organization* pp. 781-810.
- Singh, Anita. 2016. "Debunking the current narrative: updating the Canada-India economic relationship." *Canadian Foreign Policy Journal* 22(1):54-68.
- Tobin, Jennifer L and Marc L Busch. 2010. "A BIT is better than a lot: Bilateral investment treaties and preferential trade agreements." *World politics* 62(1):1-42.
- Tobin, Jennifer L and Susan Rose-Ackerman. 2011. "When BITs have some bite: The political-economic environment for bilateral investment treaties." *The Review of International Organizations* 6(1):1-32.

- Touhey, Ryan. 2009. "From Periphery to Priority: Lessons of the Canada-India Relationship 1976-2009." *International Journal* 64(4):911-925.
- Von Borzyskowski, Inken and Felicity Vabulas. 2019. "Hello, goodbye: When do states withdraw from international organizations?" *The Review of International Organizations* 14(2):335-366.
- Wüthrich, Simon. 2020. "Seeking Domestic Approval: Determinants of Ratification Duration in International Trade." *Swiss political science review* .