

What Can We Learn from Failed Negotiations? Lesson from Bilateral Investment Treaties (BITs) and Preferential Trade Agreements (PTAs)

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I. Motivation

Existing IPE scholarship on BITs and PTAs almost exclusively focuses on "successful" agreements. Perceived data in-availability, and a reluctance to study failed agreements or "non-events" in a systematic fashion have unnecessarily prevented research on BIT and PTA negotiation failures.

Negotiation failures also inform successful negotiations, and they are costly both in terms of state resources expended, and in their negative impact on bilateral relations.

II. Research Question

Q: How often, and why, do BIT and PTA negotiations fail? A: BIT and PTA negotiation failure happens often.

- We theorize two main explanations:
1. Electoral turnover changes political preferences towards BITs and PTAs, often radically. Turnover → Nego. failure.
 2. PTAs are also much more complex, covering more issues and including multiple countries, whereas BITs follow rigid templates. Negotiations towards PTAs should fail more often than BITs.

IV. Empirical Strategy

We first systematically build a dataset of all attempts by the United States and Canada to negotiate a BIT and PTA between 1975 and 2020 using bureaucratic press releases, archived state websites, leaked diplomatic cables, and the OAS Foreign Trade Information System (SICE) database. We then evaluate the data and develop comparative case study of the failed US-Pakistan BIT and the failed Canada-India PTA. (More to come!)

We focus on the United States and Canada because:

1. Canada maintains a publicly available database of all BIT and PTA negotiation attempts.
2. The United States remains central to both the global BIT and PTA regimes.
3. They differ in relative importance to the global economy and in their electoral systems.

III. Data Overview and Preliminary Findings

50% of initiated PTA negotiations have failed in the United States (18 failed vs. 16 successful) and Canada (15 failed vs. 15 successful). 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. The United States has signed 54 trade and investment framework agreements (TIFAs), often as a fallback when BITs and PTAs fail to materialize. We also find that ratification failure is rare (just 8 cases of 237).

Negotiation attempts are dominated by specific leaders:

- George W. Bush (Republican, President of the United States 2001-2009): launched negotiations for 14 BITs (9 successful, 5 failed), 18 PTAs (8 successful, 10 failed), and 34 TIFAs (all successful).
- Stephen Harper (Conservative, Prime Minister of Canada, 2006-2015): launched negotiations for 36 BITs (16 successful, 15 failed) and 16 PTAs (7 successful, 9 failed)

Comparative case study evidence highlights rapid shifts in negotiation priorities, even when turnover occurs in the same political party. This includes changes in geopolitical priorities, as well as treaty design and content preferences.

VII. Visual Results

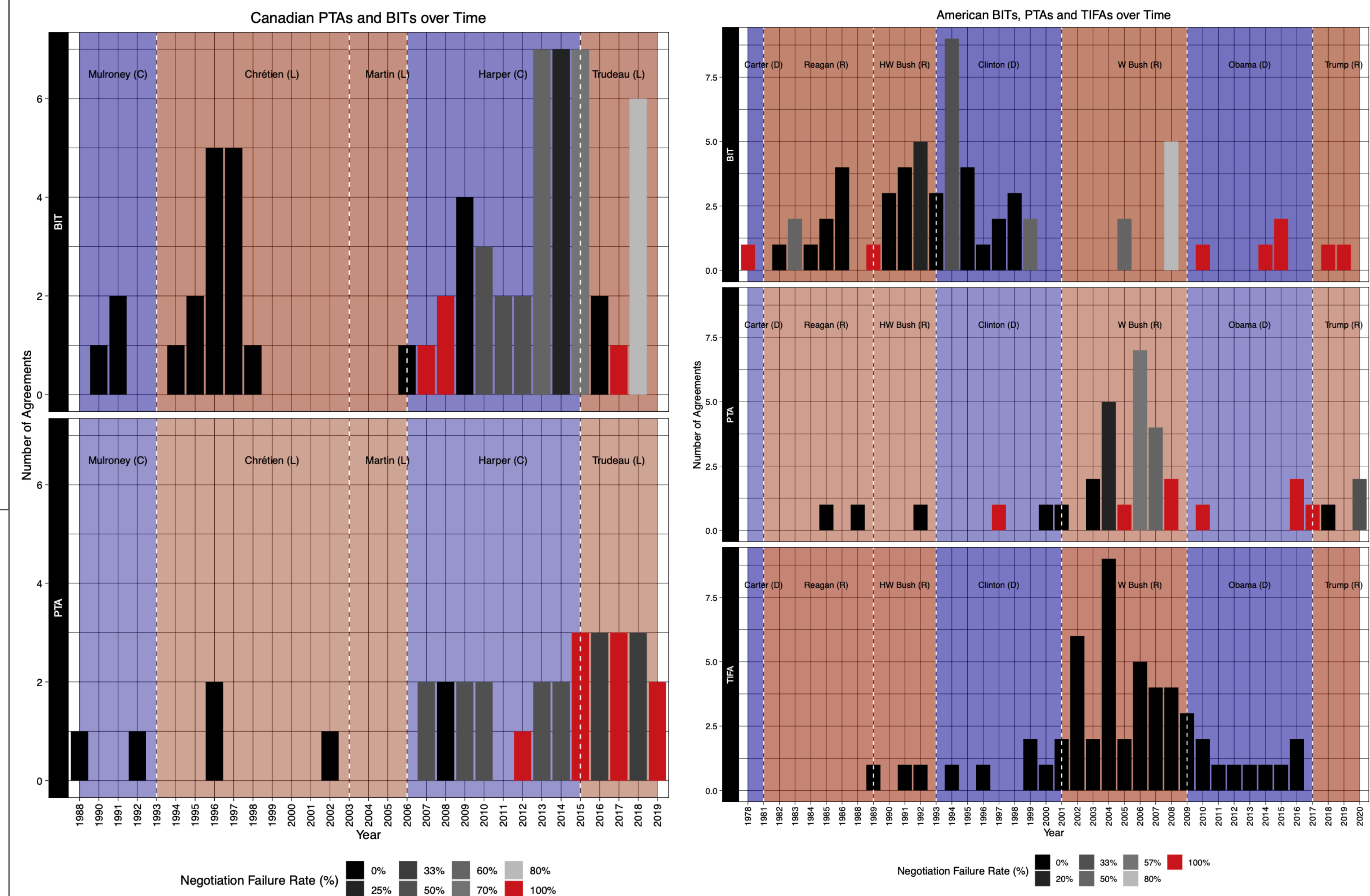


Table 1: BITs and PTAs by negotiation stage (USA v. Canada)

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

IX. Implications

Negotiations towards PTAs and BITs fail often. These failures harm diplomatic relations between Canada and the US and their failed treaty partners. Whereas the US is able to fall back on signing trade and investment framework agreements (TIFAs), Canada is not. The very hallmark of democracy - the peaceful transition of power - may significantly impact the BIT and PTA negotiation capacities of democracies.

X. Contact Us

Feel free to contact corresponding author Lauren Konken at LKonken@Princeton.edu with comments or questions!