Shopping for Protection  
The Politics of Choosing Trade Instruments in a Partially-Legalized World

Megumi Naoi
Assistant Professor  
Department of Political Science  
University of California, San Diego  
9500 Gilman Drive, La Jolla, CA 92093-0521  
e-mail: mnaoi@ucsd.edu

Abstract

This paper investigates the conditions under which states use GATT/WTO-legal measures rather than bilateral or unilateral instruments to protect domestic industries. Contrary to the conventional wisdom that international trade has become increasingly legalized and multilateralized, we demonstrate that domestic electoral politics loom large in a state’s decision to resort to international law. The paper tests this argument using two new datasets from the second largest economy that has experienced major electoral reform, Japan. One dataset contains commodity-level data on the government’s choice of instrument for import-injury relief (subsidy, VERs, and GATT/WTO-legal measures) and the other on legislators’ preferences across the three instruments constructed from their trade testimony before the Diet Committees since 1980. The results lend strong support to our argument. Legislators’ need to mobilize votes and campaign donations and the electoral reform of 1994 had substantial effects on the government’s instrument choice. Higher electoral competition is associated with the likelihood of using VERs and the electoral reform of 1994 was a force behind the sudden surge of legislators’ interests in using WTO-legal safeguard measure. The paper finds, moreover, legislators strategically deviate from the new WTO rules, such as prohibition of VERs, when it is electorally beneficial to do so. These findings call for the incorporation of legislators’ preferences and electoral systems more systematically into the study of international institutions and domestic policy choices.

Word Count: 10533 (including appendix and bibliography. 9200 words excluding them)
Introduction

While scholars have argued that international trade has increasingly become legalized and multilateralized, countries’ trade policies have not uniformly converged toward “rule-based” strategies. Although the General Agreements on Tariff and Trade (GATT) and its successor World Trade Organization (WTO) set uniform conditions under which member states are allowed to regulate imports through the adoption of safeguard or anti-dumping measures, observers find that states’ use of these GATT/WTO-legal measures vary substantially across countries, commodity cases and over time.¹ This wide variance calls into question the conventional wisdom that the legalization of trade has reduced the scope for opportunistic behaviors and domestic politics. What then accounts for when states recourse to international law to protect domestic industries?

Existing studies have tended to model the politics of using GATT/WTO-legal instruments as a government’s dichotomous decision to protect or not to protect domestic industries. Consequently, they focus on factors that affect the government’s responsiveness to protectionist interest groups, such as the political and economic characteristics of import-competing industries (Hansen 1991; Allee 2003) and domestic political institutions (Rosendorff and Milner 2001). What the literature misses, however, is the fact that the government may choose protectionism by other means, such as bilateral voluntary export restraint negotiations and domestic subsidy. Another strand of literature—consistent with a realist tradition—suggests that states use GATT/WTO-legal instruments as retaliatory

¹ Studies such as Hansen 1995, Tharakan 1995, Prusa 1999, and Martin and Goldstein 2000 have suggested that member states have not rigidly complied with the GATT/WTO rules governing the use of safeguard and anti-dumping measures due to (i) loopholes in the agreements and (ii) domestic politics.
Both literatures, however, tend to suffer from the issue of selection bias by focusing only on states’ decision to use GATT/WTO-legal protection, such as anti-dumping duties.\(^2\)

This article addresses the issues of selection bias by asking not who uses GATT/WTO-legal instruments, but rather, under what conditions a government chooses to use GATT/WTO-legal measures from among the wide array of protectionist instruments. We focus on the government’s choice across unilateral, bilateral, and GATT/WTO-legal instruments of import regulation over the past two decades: domestic subsidies, voluntary export restraints (VERs), and GATT/WTO-legal measures (safeguard and anti-dumping duties), respectively. This universe of cases—which only includes cases where the government grants protection—controls for the government’s responsiveness to protectionist interest groups and allows us to focus on the determinants of the instrument choice. Using a new commodity-level dataset of instrument choice, we provide some of the first systematic empirical evidence that a government’s choice to turn to international law is rooted in domestic electoral politics, in particular, legislators’ reelection incentives that are shaped by electoral institutions. To do so, we leverage the case of the second largest economy that went through an electoral reform without a major partisan change, Japan.

\(^2\) Blonigen and Bown 2002 show this with dyadic data on the use of anti-dumping measures and Hansen and Gawande 1999 suggest this using dyadic data on non-tariff barriers (NTBs).

\(^3\) Kono 2006 aptly points out: “most studies of trade policy…examine only a single instrument: either tariffs or NTBs.” (p.382). Recent work by Allee 2003 addresses the selection bias issue by including all the potential anti-dumping cases and modeling the selection effects. Yet, the literature tends to focus on the most commonly used GATT/WTO-legal protection measure, antidumping, rather than asking a question about the choice across instruments.
This paper aims to advance our understanding of international institutions and domestic politics in three respects. First, this paper shows that export-oriented and import-competing industries have divergent preferences over instruments of import regulation and that legislators strategically weigh these heterogeneous preferences to stay in office. Electoral systems—i.e., majoritarian vs. proportional representation—and the nature of electoral competition shape legislators’ incentives to privilege exporters vs. import-competing groups and hence influence the instrument choice. This pluralistic approach disaggregates the unitary actor assumption employed in the majority of the legalization literature and brings the supply-side of a state’s recourse to international law—the legislators—to the center of the analysis.4

Second, GATT/WTO agreements regarding when and how governments may restrict their imports went through major revisions, yet to what extent these legal rules constrain government policy choice has not been explored in the past. This article opens a new discussion of how electoral politics affect a government’s compliance with international rules by analyzing how the government’s instrument choice changed in response to revisions of these rules.5 The paper demonstrates that legislators strategically deviate from new WTO rules—such as prohibition of VERs—when it is electorally beneficial to do so. By focusing on the politics after the law is made, this approach differs from a formalistic view of legalization that often misses the domestic politics determining whether recourse is made to international law.

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4 Exceptions are Simmons 1994 and Dai 2005. There are studies that test how degrees of democracy affects state’s propensity to comply with the international law but this strand of literature still undertheorizes the heterogeneity of domestic actors’ preferences for complying with legal options. Von Stein 2006.

Third, the literature on legalization has identified two major channels through which international law constrains governments’ behaviors: material interests and norms. Indeed, a prevailing explanation for why Asian countries are not aggressive users of legal instruments is that their cultures are not legalistic. We systematically test this claim using a commodity-level dataset on the state’s recourse to international law to assess whether the government’s instrument choice differs vis-à-vis Asian vs. non-Asian states controlling for electoral conditions and the political economic characteristics of industries. We demonstrate that the cultural argument about the lack of legalization in Asia is unfounded and that legislators’ incentives and industry characteristics account for the substantial variations in the instrument choice.

Finally, although a vast political economy literature has sought to explain the levels of trade protection, there has been very little focus on how governments choose across different instruments of protection. Trade economists have formalized the political economic determinants of trade instrument choice, yet the empirical work has lagged far behind the theories. The literature, moreover, has understudied how electoral systems and GATT/WTO rules interact to shape the instrument choice. This paper aims to fill this significant gap.

Section 1: The Puzzle

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7 Chia 1996. Kahler 2001 shows that the lack of legalization in Asia was a strategy rather than a norm.
9 An emerging empirical work, moreover, tends to use aggregate levels of various forms of protection rather than a government’s choice of instrument. Mansfield and Busch 1995 and Kono 2006.
GATT/WTO allows signatory states to restrict imports under two circumstances. First, under “unfair trade” provisions, member states may punish the dumping of goods by imposing anti-dumping (AD) measures or a counter-veiling duty (CVD) (Article VI). Second, under safeguard provision, signatory states are allowed to temporarily raise tariffs for import-injured industries without violating GATT/WTO principles (Article XIX).

Despite the uniformity of these rules, signatory states’ use of these measures varies substantially across countries and commodity cases. In particular, Japan’s behavior has been puzzling. The United States and the European Union (EU) have investigated more than 200 anti-dumping cases since 1995, while Japan has investigated only eleven cases. While the United States and European Union used the safeguard measure (“escape clause”) more than ten times in the past twenty years, Japan adopted it for the first and only time in 2001.

Furthermore, the United States, Europe, and South Korea have increasingly chosen anti-dumping measures over safeguard measures to protect domestic industries because anti-dumping measures have a lower evidentiary hurdle and no obligation to compensate the targeted country. The Japanese record shows the opposite trend. Graph 1 shows legislators’ testimony before the lower-house committees advocating for a use of a particular instrument of protection in Japan. The legislators began to advocate the use of safeguard measures around mid-1990s.

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11 Authors’ dataset which will be discussed in detail later.
12 Rodrik 1997 states: “In recent years, trade policy in the United States and the European Union has...increased use of anti-dumping measures and limited recourse to escape clause actions. This is likely because WTO rules and domestic legislation make the petitioning industry’s job much easier in anti-dumping cases: there are lower evidentiary hurdles than in escape clause actions, no determinate time limit, and no requirement for compensation for affected trade partners, as the escape clause provides.” (p.558)
The sudden surge of legislators’ interests around mid-1990s is puzzling. First, for office-seeking politicians, GATT/WTO-legal instruments had long been the least preferred instrument in terms of mobilizing either votes or campaign donations. Japanese exporters have been against the government’s use of GATT/WTO-legal instruments because they are more likely to provoke retaliatory actions than VERs or import-injury relief subsidies. Indeed, at GATT/WTO negotiation rounds, Japan has consistently advocated more restrictive use of these measures as one of the most targeted economies. Exporters use campaign contributions to lobby legislators for an instrument of protection that is least likely to provoke retaliation such as a VER.

Second, GATT/WTO-legal instruments take much longer time to investigate, approve, and implement than VERs or subsidies which makes it an unattractive instrument for politicians’ credit-claiming. Finally, bureaucrats also have viewed safeguard measures as “the treasured shield that can never be drawn” due to Japan’s position as a target.

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14 VERs also gives exporters an opportunity to collude with foreign importers to set the price higher than the world market as formalized by Hillman and Urpsprung 1988. When China retaliated against Japan’s adoption of WTO-legal safeguard measures by imposing 100% tariffs on Japan’s electronics and automobile products in 2001, the proportion of political donations from the targeted two exporting sectors per total exporting sectors’ donations dropped from 90% to 60%. This anecdote confirms that exporting sectors prefer the instrument that is least likely to provoke retaliatory actions and campaign contribution is one of the ways to influence the LDP politicians to pursue VERs. To test this link between exporters’ campaign donations and the government’s instrument choice more directly was not possible as the record of campaign donations was not available before 1996.

15 The Japanese proverb (“denka no houtou”) means “the final trump card that can never be played.”
rather than a user, of GATT/WTO-legal instruments.\textsuperscript{16}

Existing explanations for the Japan puzzle described above have identified bureaucracy (Pekkanen 2001; 2005; forthcoming) and the market environment (Davis and Shirato 2007) as major forces behind the surge of interest in using legal options.\textsuperscript{17} These studies, however, tend to miss the domestic actors’ divergent preferences to use legal options (i.e., exporters vs. import-competing groups). The heterogeneity of the demand-side preferences makes the role of legislators critical as they strategically weigh these preferences to stay in the office.

Section 2: Legislators’ Preferences across Three Instruments

Who Decides? Institutional Settings

Under the Japanese Customs Tariff Law,\textsuperscript{18} there is no independent agency such as the International Trade Commission in the United States to investigate and implement GATT/WTO-legal protection. Instead, two or three ministries collectively make decisions.\textsuperscript{19} Inter-ministerial politics over instrument choice is prevalent as ministries’ preferences and jurisdictions differ across various instruments of protection.\textsuperscript{20} This provides much greater

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{16} Interview with then-Head of Textile Bureau of the METI and a senior official, July 23, 2002 and July 29, 2002, Tokyo, Japan. Interview with a senior official at the Japan Fisheries Cooperatives (“Zengyoren”), January 29, 2002. The senior official at the Federation of Japan Fisheries Cooperatives aptly put: “well-informed politicians will never request the adoption of safeguards—they should know how hard it is to succeed and do not want to lose face to their constituents by attempting in vein.”
\item \textsuperscript{17} To be accurate, Pekkanen (2001a, b) discusses increasing legalization of trade policy over time, while Davis and Shirato 2007 discuss variations among firms’ use of WTO panel ruling after 1995.
\item \textsuperscript{19} Three ministries are: the Ministry of Finance, the Ministry of Economy, Trade, and Industry (METI) and the ministry with a jurisdiction over a given commodity.
\item \textsuperscript{20} The METI has jurisdiction over quota restriction (Foreign Exchange and Foreign Trade Control Law) while the Ministry of Finance has jurisdiction over tariffs (Customs Tariff Law, sec.9).
\end{itemize}
\end{footnotesize}
opportunity for legislators to influence decisions than in a country with an independent agency since elected legislators who represent their constituents’ interests occupy ministerial positions.21

Furthermore, domestic legislation does not give private actors such as industries or firms the right (“legal standing”) to file complaints and request investigations into the adoption of GATT/WTO-legal protection. Instead, ministries have standing to initiate such investigations. To ensure that bureaucrats pick the “right” industries from the sea of informal petition letters, industries depend on powerful politicians to exercise their influence over the ministries’ decision-making process.22 This top-down decision-making process paradoxically gives legislators ample space to exert influence over the use of GATT/WTO-legal protection.23

Legislators’ Preferences

Import-injured industries are relatively indifferent to the choice of instrument because all three provide protection. However, export-oriented industries and legislators are more sensitive to the choice of instrument because they differ with respect to the risk of provoking retaliation from targeted states and electoral returns.24 Three electoral factors

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21 Hansen 1999 shows systematically that even with the independent agency like ITC in the United States, interest groups influence the anti-dumping rulings via lobbying legislators.
22 On how the LDP’s “agricultural policy tribe” politicians pressed the MAFF to adopt a safeguard measure, see Takii Hiroomi, “Korekara dousuru safeguard” (What to do next with safeguard measures?), Ronza, October, 2001.
23 On the procedure to adopt GATT/WTO escape clauses in Japan, see METI, Fukousei boeki hakusho (Government White Paper on Unfair Trade), 2002.
24 While voluminous literature on endogenous trade policy suggests legislators’ electoral incentives affect trade policy outcomes (Krueger 1974; Hillman 1982; Magee et al. 1989; Grossman and Helpman 1994), they tend to explain the levels of trade protection as opposed to the instrument choice. Furthermore, these studies
shape legislators’ choice to privilege exporters vs. import-competing interests: the nature of political competition, electoral cycles, and electoral institutions.

The nature of political competition with opposition parties affects the LDP politicians’ need to use a subsidy to mobilize political support. A subsidy differs from VERs and GATT/WTO-legal protection because of its ability to mobilize political support from geographically concentrated industries.25 A subsidy is also the only instrument over which politicians possess formal decision-making power in the Diet.26 In particular, the LDP politicians have enjoyed better access and influence over the budget policy than opposition party politicians for the past five decades.

We hypothesize that when the LDP is strong in the lower-house, it can more easily dole out subsidies for narrow, sectoral or geographic interests—i.e., import-injured industries—without much political scrutiny. On the other hand, during the two periods in which the LDP was weak, the opposition parties tended to represent urban workers and consumers which forced the LDP to target spending to broader constituencies, increasing social and welfare spending. Furthermore, we hypothesize this incentive to use subsidies to mobilize political support should be stronger during election years than non-election years.27

**H1**: LDP Politicians prefer subsidy when the party is strong and during general election years.

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26 In particular, LDP politicians have enjoyed better access and influence over budget policy than opposition party politicians for the past five decades.
While the LDP politicians’ preferences for subsidies are mainly driven by their need to mobilize votes, their preference for VERs is derived from the need to raise campaign financing.\textsuperscript{28} Despite its long-standing platform as a rural and agricultural party, the LDP receives approximately 70% of its political donations from the three main exporting sectors (auto, steel, and electronics).\textsuperscript{29} Politicians’ and parties’ need for campaign finance, therefore, should affect whether they privilege exporters’ preferences. This need for campaign finance is directly related to the level of political competition. A higher level of political competition should encourage LDP politicians to prefer VERs over GATT/WTO-legal protection in order to increase political donations by accommodating exporters’ interests.\textsuperscript{30}

**H2:** LDP Politicians prefer VERs when the party is weak in the lower-house.

**Electoral Reform**

Under the new electoral system, which came into effect with the 1996 election, 200 seats are allocated to proportional representation and 300 seats are allocated to single-member districts (“SMD”). PR seats are divided into eleven regional blocks and each block encompasses a much more diverse set of industries and constituencies than did the previous multi-member districts (“MMD”).

Following Rogowski’s (1987) logic that PR should insulate legislators from

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\textsuperscript{28} Hillman and Urpsprung 1988; Grossman and Helpman 1994; Rosendorff 1996.

\textsuperscript{29} Exporters give campaign donations to the LDP to ensure the party’s commitment to an open economy. The data is from 1996. Calculated by the author using Kazuo Saigusa (1998), *Seiji Shikin to Houseido* (Political Donations and Laws), Meiji Daigaku Syakai Kagaku Sousyo, Tokyo. P.207.

pressure from narrowly concentrated interests, we expect that this electoral reform would decrease legislators’ incentives to use subsidies to mobilize political support from import-competing groups. Instead, PR should encourage legislators to target broader constituencies by advocating for the use of GATT/WTO-legal instruments.

**H3**: Politicians will have stronger interests in using subsidies under a majoritarian electoral system (1980-1995) than a mixed electoral system (1996-2001).

**H4**: Politicians will have stronger interests in using GATT/WTO-legal measures under a mixed electoral system (1996-2001) than a majoritarian system (1980-1995).

Another important debate concerns whether politicians need more campaign financing under an MMD system than a SMD system. Cox and Thies (1998) find that the LDP politicians spent more money under MMD system due to intra-party competition in electoral districts. If VERs are preferred as a means to extract campaign donations from exporting firms, we would expect LDP politicians to have stronger incentives to use VERs under the MMD system (1980-1995) than the SMD/PR system.

**H5**: Politicians will have a stronger interest in using VERs under the MMD system (1980-1995) than the SMD/PR system (1996-2001).

**Partisan Preferences for GATT/WTO-legal Instruments**

Finally, two characteristics of GATT/WTO-legal instruments—the instrument least favored by export-oriented industries (and hence the LDP) and its relative unattractiveness for credit-claiming compared to subsidies—offer a hypothesis about the particular types of politicians who prefer to use them.

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31 Cox and Thies (1998), however, do not discuss the financial sources of such expenditures.

32 PR portion of the new electoral system should also require much less money than the previous MMD system, although systematic empirical tests of this claim are few and far between.
**H6**: GATT/WTO-legal measures are a preferred instrument for opposition party politicians (i) who do not rely on export-oriented industry’s political donations and (ii) who do not possess strong influence over subsidies.

**Section 3: Instrument Choice Dataset and Methods**

Our dependent variable is the unordered, categorical policy choice: subsidies, VERs, and GATT/WTO-legal instruments. We use official reports to identify the commodity cases where the government launched official investigations on GATT/WTO-legal protection and newspaper reports, the government’s whitepapers and internal documents obtained at various ministries to track the decisions on VERs and subsidies. From these documents, we identified commodities that suffered from an increase in imports, the year when the government granted protection, and which instrument the government chose. The data consists of the government’s instrument choice in 103 commodity-level cases between 1980 and 2001. Detailed coding rules are described in the Appendix. Graph 2 shows the annual usage frequency of the three instruments.

Because there were many cases where the Japanese government used different instruments of protection for the same commodity from different exporting countries or in different periods of time, the unit of empirical analysis is a commodity-exporting

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33 We used five newspapers: *Nihon Keizai Shimbun, Nihon Sangyo Shimbun, Nihon Kinyu Shimbun, Nihon Ryutsu Shimbun* and *Asahi Shimbun*.

34 The government adopted VERs to protect the synthetic rubber industry in 1984 from Mexico and Taiwan, but imports from the United States, which consisted 75.3% of total imports, were untouched. *Nihon Keizai Shimbun*, June 22, 1984.

Unilateral tariffs are not included in the data because Japan has not adopted unilateral tariff increases without using GATT/WTO-legal protection at any time during the period covered by this study. Quality NTBs—e.g., regulation to make producers declare the country of origin—are also excluded as they are difficult to track systematically from the official documents or news articles.

Electoral Incentives: Competition, Cycles, and Reform

We use the percentage of LDP seats in the lower-house in year $t$ as an indicator of the level of electoral competition (“Ldp seat share”). We assign a dummy variable a value of one for years with general elections and zero otherwise to estimate the effect of electoral cycles on instrument choice (“Election years”). For our measure of the effect of electoral reform on legislators’ incentives, we have collected records of the lower-house’s official Diet committee discussions from 1980 to 2001 to determine how many times per diet-year legislators expressed a need for import regulations. We coded these testimonies according to whether they are advocating for the use of subsidies, VERs, or GATT/WTO-legal measures and calculated the frequency of testimony demanding each instrument per year (“Testimony”). The variable provides a direct measure of legislators’

36 This universe of cases excludes industries that did not demand the government’s intervention (self-help) and industries that were not granted one of the three instruments of protection. A potential selection bias issue is that the government’s instrument choice may be endogenous to the first stage of its decision to grant or not to grant protection. Hansen 1990. We used a nested logit framework that allows us to model the government’s choice as a two-stage decision, and found that there is no endogeneity between the first and the second stage of selections.
preferences for the various instrument choices in both the pre- and post-electoral reform periods.\footnote{Detailed coding rules are described in the Appendix. One could argue that legislators’ preference for instrument choice expressed in the Diet is not entirely independent of the government’s actual policy choice—legislators are likely to express interests in an instrument that is more likely to materialize as protection. To test whether this endogeneity is a serious concern, we analyzed the testimony data as a dependent variable to see what political and economic covariates affect the pattern of testimony. The results suggest that macroeconomic factors such as unemployment, GDP growth, and election years have systematic effects on the frequency of testimony but the LDP seat share does not have systematic effects. Thus, endogeneity between electoral factors and the pattern of testimony is not a serious concern.}

*Alternative Hypotheses: Legality vs. Retaliation*

To demonstrate the relative validity of our electoral incentives argument, we test for two alternative channels through which international law affects government’s instrument choice: legality and retaliation. First, the government’s instrument choice may simply be a response to the legal status of the instruments under GATT/WTO. Two changes in the WTO rules during the period of our study may affect the government’s instrument choice. First, while the use of VERs was allowed under GATT, a new WTO rule prohibits the use of VERs by member states. Second, the WTO’s new Agreement on Subsidies and Counter-veiling Measures prohibits the use of a narrowly targeted, specific subsidy to “an enterprise or industry or group of enterprises or industries” (Article 2.1).\footnote{A subsidy that is limited to certain enterprises located within a particular geographic region is also considered as a specific subsidy (Article 2.2).} We create a dummy variable taking a value of one for legal instruments under GATT and WTO rules and zero otherwise.

The government’s motivation to comply with the GATT/WTO rules may be normative (e.g., pressures of international legitimacy, habit of compliance), or, interest-driven (e.g., law raises the costs of reneging by *ex post* punishment or via
reputation mechanism).\textsuperscript{39} We investigate the relative validity of these motivations by testing whether it is the legal status of an instrument \textit{per se} or the cost of \textit{ex post} punishment for using an illegal instrument (\textit{i.e.}, retaliation in the form of counter-veiling, anti-dumping duties, or safeguard) that shapes the government’s instrument choice. If the motivation is normative and it is legality \textit{per se} that influences the government’s choice, \textit{Legality} alone should be positively associated with the government’s propensity to use instruments that are legal under GATT and WTO agreements. Conversely, if the government’s motivation is interest-driven, we expect to see the government’s recourse to international law when the risk of provoking retaliation is low or none.

To test these motivations, we leverage an additional revision of rule that altered the costs of provoking retaliation. Under the WTO’s Agreements of Safeguard (Article 8),\textsuperscript{40} which were in effect beginning in 1995, targeted states are not allowed to retaliate against a safeguard measure for the first three years. Under GATT rules, however, immediate retaliation was allowed. We analyze how the Japanese government’s choice of instrument changed in response to this revision of the rules by estimating the effect of exporters’ interests (“\textit{Exporters’ interests}”)—a variable capturing Japan’s exports to country \(j\) as a percentage of Japan’s total exports in year \(t\)—on the instrument choice in three different hypothetical situations. One in which GATT/WTO rules prohibiting retaliation do not constrain a targeted state’s retaliation, \textit{i.e.}, a realist’s view of an anarchic world (“non-legalized world”), another in which GATT/WTO rules fully constrain targeted state’s retaliation as the formalistic view of legalization suggests (“legalized world”), and another

\textsuperscript{39} Hathaway 2002, 2005; Tomz 2007.
\textsuperscript{40} WTO (1994), \textit{Agreement on Safeguards}, Article 8: Level of Concessions and Other Obligations.
in which GATT/WTO rules constrain member state’s retaliation but do not constrain non-member states (“partially-legalized world”).

Empirically, we estimate three different models. For the “non-legalized world”, the effect of exporters’ interests on the government’s instrument choice is estimated throughout the GATT and WTO periods (1980-2001). If we find that the Exporters’ interests continue to have negative effects on the government’s choice of the GATT/WTO safeguard measures after 1995, it suggests that exporters and the government perceived that the prohibition of retaliation would not constrain retaliation from the targeted state. This is a scenario in which governments avoid using GATT/WTO-legal instruments because they do not perceive that international law will constrain state behavior.

In the second model, “partially legalized world,” we consider the Japanese exporters’ interests in its major trading partner, China. China was not legally constrained by WTO rules prohibiting retaliation until its entry to WTO in December 2001. We hypothesize that even after the transition to WTO, Exporters’ interests will continue to have negative effects on the government’s choice to use WTO-legal instruments vis-à-vis China but not vis-à-vis member states. This is a scenario in which a government complies with international law only when doing so is compatible with legislators’ electoral incentives.

The third model (“legalized world”) estimates the effect of Exporters’ interests on the instrument choice conditional on whether GATT/WTO rules allow retaliation for the adoption of a given instrument. Exporters’ interests is interacted with a dummy variable

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41 This does not necessarily mean China did not embrace any WTO rules before its entry. China has used WTO rules prohibiting the government’s involvement to VERs as an excuse not to accommodate Japan’s request for VERs. Yoshimatsu 2001.
indicating whether retaliation is allowed or not allowed ("1" for allowed "0" otherwise) for each of the three instruments. If we find that Exporters’ interests have positive effects on the government’s choice to use a legal instrument that prohibits a targeted state’s retaliation (i.e., safeguard under WTO), we reason that the government’s motivation to comply with international law is interest-driven (i.e., law raises the cost of violation by ex post punishment) rather than norm-driven.

**Controls**

Building on existing works on choice of trade instrument, we include a battery of controls. First, the import-competing industry’s characteristics significantly affect the instrument choice.\(^42\) Hence, commodities are categorized into three groups (1. textile, 2. metal and raw materials, 3. agriculture, fishery and forestry) and are assigned dummy variables in the model ("Commodity").\(^43\)

Second, politically powerful groups should prefer to lobby for a more politicized instrument (i.e., subsidy) rather than for safeguard or anti-dumping measures as the former is more likely to deliver protection. We include geographical concentration of industries ("Geo Con") as a measure of political power in the model.

Third, studies on states’ use of international law posit that whether an instrument is external or domestic has important political implications because governments use the

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\(^43\) This industry classification is widely used in Japanese Ministries and the government’s industry surveys. The second category (metal and raw materials) includes commodities related to steel, rubber, pulp, oil, and nonferrous metal.
former to shift blame or to externally commit (Simmons 1994; Pekkanen 2001). To control for this, we create a dummy variable taking a value of one for two external instruments (GATT/WTO-legal measures and negotiated export restraints) and zero for domestic subsidy (“External”).

The likelihood of reaching VERs agreement partially depends on whether a few countries dominate the market in exports to Japan. When fewer exporting countries are involved, it is easier to negotiate and reach VERs agreements than when exports are dispersed across many states.\textsuperscript{44} “Import concentration” is calculated as the import value of a given commodity from country $i$ in year $t$ as a percentage of the total import value of the commodity in Japan.

Macroeconomic conditions may affect the government’s choice of domestic subsidies over other instruments. Thus, the unemployment rate (“Unemployment”) and the annual growth rate of the government budget (“Budget growth”) are included in the model. Previous qualitative studies suggest that the Japanese government used VERs almost exclusively with Asian states. To test this claim, dummy variables are assigned to distinguish between commodities that are exported by Asian states and those that are not (“Asian exporters”).

\textit{Model and Measures}

\textsuperscript{44} To illustrate, consider the following case involving a two-commodity economy. One country exports commodity X, which represents 80\% of Japan’s total import value of commodity X, whereas each of five major exporters exports 20\% of total import values of commodity Y. Other things being equal, the government will choose VERs for commodity X but not for commodity Y because negotiating with one major exporter is easier than negotiating with five major exporters.
A major hurdle in analyzing the effects of electoral reform on trade policy is the issue of simultaneous change. The transition from GATT to WTO (1995) and the electoral reform from a majoritarian to a mixed SMD/PR system (1994) occurred around the same time in Japan. Conventionally, the effect of electoral reform on the government’s policy is estimated indirectly through a temporal variable (a dummy variable indicating pre- and post-reform period) but the simultaneous change makes this approach indeterminate at best.

This paper addresses this problem in two ways. First, we analyze the government’s instrument choice using a conditional logit model also known as McFadden’s choice model. The conditional logit model allows us to estimate how attributes of cases (a government- and commodity-specific characteristic) interact with attributes of the instruments themselves (e.g., whether an instrument is legal or illegal, whether retaliation is allowed for a targeted state under GATT/WTO agreements) to affect the government’s instrument choice. Table 1 in appendix describes the conditional logit model with instrument-specific and case-specific variables.

The conditional logit model is thus useful for situations where not only the attributes of the actors but also the characteristics of the choices themselves change over time, such as analyzing voting decisions when the left-right positions of political parties changed over time (Alvarez and Negler 1998) or estimating legislators’ party switching

45 The problem is not unique to Japan—Italy (1993), New Zealand (1996), South Africa (1994), or Thailand (1997), to name a few. Each of these countries transitioned from a majoritarian to a, at least partially, proportional representation system around the time that GATT transitioned to WTO. Rogowski (1987) has shown that this may not be a coincidence because highly trade-dependent small countries are more likely to adopt PR systems.

decisions when party systems changed over time (Desposato 2006). The model is specified as follows:

\[
\text{Instrument Choice } ijt = \beta_0 + \beta_1(\text{INSTRUMENT-SPECIFIC})_{ijt} + \psi_j(\text{CASE-SPECIFIC})_{ijt} + \epsilon_{ijt}
\]

Where \((\text{INSTRUMENT-SPECIFIC})_{ijt}\) indicates a variable measuring the characteristics of instrument \(j\) relative to a case \(i\) at time \(t\). \((\text{CASE-SPECIFIC})_{ijt}\) is a vector of characteristics of the \(i^{th}\) commodity case or characteristics of the government at time \(t\). The model yields one coefficient \((\beta)\) for each instrument-specific variable and \(j\) coefficients \((\psi_1, \psi_2, \ldots, \psi_J)\) for each case-specific variable where \(J\) is the number of alternatives (i.e., instruments). Original errors are assumed to be distributed log-Weibull and the error terms of each policy instrument are assumed to be independent of each other. The estimated models also include several case-specific variables that trend over time (politicians’ testimony, budget growth, and unemployment rate) to control for the passage of time.

Second, we address the issue of simultaneous change by estimating the effect of

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47 To illustrate the advantages of this model over a conventionally used multinomial logit model, consider the following statement: “the Japanese government is more likely to rely on safeguard measures to protect politically powerful industry under a new WTO rule prohibiting retaliation by a targeted state.” In order to test the validity of this argument, a multinomial logit model would estimate the effects of industry-level and the government’s characteristics on the probability of Japanese government choosing GATT/WTO-legal measures. A conditional logit model, on the other hand, could estimate how characteristics of industry and the government interact with characteristics of instruments themselves to affect the probability of the government’s choice of GATT/WTO-legal measures. See Alvarez and Nagler 1998 for the further discussion.

48 This means that the ratio of the likelihood of choosing domestic subsidies to choosing VERs does not change if one adds another policy option such as GATT/WTO provisions to the model (Independence of Irrelevant Alternatives “IIA”). We conducted a Hausman specification and confirmed that the IIA assumption holds. Another potential problem with the IIA assumption is that government decisions to grant a certain form of protection may be serially correlated. I conducted a test by comparing the three results from estimating the unstructured, independent, and AR (1) correlation matrixes and found that it is safe to assume that serial correlation is not an issue.

49 Achen 2000.
the annual frequency of legislators’ testimony advocating for a particular instrument ("Testimony") on the instrument choice. “Testimony” captures legislators’ preferences across the three instruments annually, and, thus, is a more direct indicator of the effect of electoral reform on legislators’ preferences than a temporal dummy variable. Thus including Testimony as covariates allows us to isolate the effect of the GATT-WTO transition from the effect of electoral reform. The partisan affiliations of legislators who advocated for the use of safeguard measures are also identified in order to test H6.

Section 4: Results

Table 2 shows descriptive statistics for the variables used in the analysis. Table 3 shows the coefficient estimates and Graphs 3 to 5 show predicted probabilities for each instrument choice. Throughout the three models, our electoral hypotheses fit the Japanese case quite well. The nature of electoral competition and an electoral reform have substantial effects on the choice of instrument. The government’s decision to use GATT/WTO-legal instruments is responsive to legislators’ demands for such instruments, which suddenly rose after the electoral reform of 1994. We discuss specific results below.

Electoral Competition

LDP seat share has substantial effects on the instrument choice. Politicians prefer VERs when the LDP is weak in the lower house. On the other hand, they prefer subsidies

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50 Including “Testimony” as one of the covariates has three advantages over the temporal dummy variable. First, testimony is annual data (as opposed to periodized 0-1 dummy) which captures the structural breaks (i.e., sudden changes) in legislators’ preferences. Second, testimony is a continuous variable which measures the strength of such preferences and its changes over time. Finally, testimony is an instrument-specific variable (i.e., we estimate the frequency of testimony for each instrument on the instrument choice) as opposed to the temporal dummy that cannot capture the instrument-specific changes.
when the LDP is strong (H1). Subsidies appear to decline in the face of higher political competition.\textsuperscript{51} LDP seat share does not have a systematic effect on the government’s decision to use GATT/WTO-legal protection which is consistent with the expectation that the LDP, which relies heavily on the exporting sectors’ political donations, would not pursue GATT/WTO-legal instruments.

The substantive impact of LDP seat share on the instrument choice is large.\textsuperscript{52} A ten percentage-point increase in the LDP seat share (from 52% to 62%) will decrease the predicted probability of the government’s using VERs by 40 percentage points (60% to 20%)\textsuperscript{53} and will increase the predicted probability of using subsidies by 40 percentage points (Graphs 3 and 4).

Electoral Reform and Legislators’ Demands

Table 3 shows that legislators’ preferences expressed before the Diet Committees ("Testimony") have substantial positive effects on the government’s decision to adopt VERs and weak, yet systematic, positive effects on its choice of GATT/WTO-legal instruments. The finding confirms the importance of legislators in choosing an instrument of protection. The effect of legislators’ demands is much larger on the government’s

\textsuperscript{51} The finding contradicts a seminal study by Kent Calder 1988 which shows that the LDP increased the level of subsidy when it faced more political competition with opposition parties. We believe that our finding differs from his for two reasons. First, we focus on the choice to use subsidy as opposed the levels of subsidy which he looked at. Second, our data spans from 1980 to 2001 while his data ends in the mid 1980’s.

\textsuperscript{52} CLARIFY is not compatible with a conditional logit model. Hence, predicted probabilities for the government adopting each instrument is calculated using Stata version 8.

\textsuperscript{53} The relationship between LDP seat share and the instrument choice is not spurious as the data on legislators’ testimony—a more direct measure of politicians’ preferences—also confirms the hypotheses. Legislators indeed had a stronger preference for VERs when the LDP was weaker. The legislators’ policy preferences are consistent with the government’s actual decision to use VERs as Table 3 suggests. The finding is consistent with Hillman and Ursprung’s formalization 1988 that politicians prefer VERs to tariffs because of campaign donations from exporting and importing industries.
choice for VERs than on GATT/WTO-legal protection as expected.

Partisan Preferences for GATT/WTO-legal Instruments

Graph 6 shows this frequency by party affiliations. Since 1995, the Japanese Communist Party (the JCP) politicians have dominated in the testimonies advocating for Japan’s adoption of safeguards. \(^{54}\) The JCP’s strong interests in GATT/WTO-legal instruments are consistent with \(H_5\). The JCP politicians do not risk seats by advocating for the use of GATT/WTO-legal instruments as their main constituents are import-competing groups and consumers. The party does not depend on campaign donations from export-oriented industries, either. \(^{55}\) Furthermore, unlike LDP politicians who enjoy influence over the budget, the JCP does not. GATT/WTO-legal instruments provide an opportunity for the JCP to legitimately claim credit, due to instrument’s unpopularity among ruling party politicians and a general lack of knowledge among legislators about the procedures necessary to implement GATT/WTO-legal protection. The JCP recognized that obtaining the WTO-legal safeguard protection was a promising party platform. \(^{56}\)

Another important factor driving the JCP’s campaign was the electoral reform which came into effect in 1996. The shift from MMD to SMD meant that the JCP could not win a seat in a SMD district. For the party to survive, it needed to win broader support from PR regional blocks. The JCP’s motivation was clear from their trade policy

\(^{54}\) Interview at MAFF, January 10, 2002, Tokyo.

\(^{55}\) The JCP’s major source of revenues is the nation-wide subscription of their newspaper, *Akahata*.

\(^{56}\) An officer at the National Association of Farmers’ Movement which is associated with the JCP believes that its membership has doubled since 1995, despite declining JCP popularity and agricultural population, due to their campaign to realize safeguards. Interview with *Nominren’s* officer, Tokyo, January 24, 2002 and internal document on the membership increase obtained at *Nouminren* office.
testimony—the JCP candidates who testified before the Diet for safeguard adoption tended to call for support to declining industries in a broader regional block than their home districts which confirms H3.57

The JCP’s campaign alone was insufficient to realize the government’s adoption of safeguards. The LDP politicians who represented agricultural districts eventually bandwagoned with the JCP and pressured the ministries to adopt safeguard measures for scallions, rush-woven floor mats (“tatami”), and shiitake mushrooms in 2001. The adoption of safeguard measures provoked retaliation from China—imposition of 100% tariffs on Japan’s exports of automobiles, mobile phones, and air conditioners. The estimated economic loss to the Japanese economy was 25 billion yen—seven times more than the benefits enjoyed by the three commodities that were granted the safeguard protections. Exporters who were harmed by the retaliation reduced their campaign donations to the LDP by 30 percentage points (fn 14).

The JCP’s role in the process of safeguard adoption suggests that GATT/WTO-legal instruments may offer an opportunity for credit-claiming for opposition party politicians who do not possess influence over the more politicized instruments of protection such as subsidies or VERs.

Legality vs. Retaliation: Exporters’ Interests in a Partially Legalized World

The third important finding concerns the two alternative channels through which international law affects the government’s instrument choice: legality and retaliation. The GATT/WTO rules specifying Legality of an instrument per se proved to have no systematic

57 Kenjiro Yamahara’s Testimony before the Sixth Sub-Committee on Budget, February 21, 1995.
effects on the government’s instrument choice. The Japanese government continued to use VERs after 1995 in 25% of the total cases, despite the new WTO rule prohibiting their use. Legislators strategically deviated from the WTO rule when it was electorally beneficial to do so (i.e., the higher levels of electoral competition).58

On the other hand, GATT/WTO rules prohibiting or allowing retaliation have systematic effects on the government’s instrument choice. Table 3 compares whether Exporters’ interests are associated with the government’s choice to use GATT/WTO-legal instruments in the non-legalized, partially-legalized, and legalized worlds. Exporters’ interests have systematic, negative effects on the government’s choice to recourse to international law only when retaliation is allowed under GATT/WTO agreements (Model II and III).

The substantive impact of exporters’ interests on the instrument choice is large. The result suggests that when the size of the export market increases by ten percentage points (e.g., the percentage of Japan’s export to a given country per total export increases from ten percent to 20 percent), the likelihood of the government choosing GATT/WTO-legal protection decreases by 89 percentage points. The result may explain why Japan has never adopted anti-dumping or safeguard measures against the United States, the largest export market for Japan, although it extensively targets smaller economies.

The Japanese government’s different responses to the revisions of GATT/WTO rules suggest that Japan’s trade policy has not been moving uniformly toward “legalism” or “multilateralism.” Rather, legislators have used GATT/WTO-legal instruments selectively

58 Even when Japan was negotiating VERs with non-member state (China), it still violates the WTO’s rule as it specifies that a member state cannot initiate or participate in the VERs negotiation.
and strategically for political survival. The electoral reform of 1994 encouraged some legislators to demand safeguard measures and the strength of such demands in the Diet committees have had substantial effects on the government’s choice to use GATT/WTO-legal instruments.

Several control variables have the expected effects on policy choice. When fewer countries monopolize export to Japan (i.e., higher import-concentration ratio), the more likely the government is to choose VERs. An interesting finding is that the import-concentration ratio, which should only affect the government’s choice of VERs, has a similar, positive effect on the government’s choice of GATT/WTO-legal instruments. This is because most of the GATT/WTO-legal investigation cases were withdrawn before the Japanese government actually adopted them.\(^\text{59}\) The Japanese government may have relied on the shadow of GATT/WTO-legal instruments to induce VERs from targeted states.

One macroeconomic condition, Unemployment has a strong positive effect on the government’s use of VERs. It does not, however, have a systematic effect on the government’s decision to use GATT/WTO-legal instruments. No strong evidence is found to support the effect of electoral cycles in the government’s choice across instruments. The government’s choice does not systematically differ among the three commodity groups (textile, row/metal materials, and agricultural/fishery/forestry), either.

The findings here also contradict several beliefs about Japanese trade policy. First, this study shows that legislators have substantial influence on the government’s

\(^{59}\) Rosendorff 1996.
decision to use international law. The finding is surprising given the importance attached to
bureaucracy in the existing studies on Japan and international institutions in general and
trade policy in particular. Second, the majority of studies on Japan’s trade policy have
focused on bilateral relations between the U.S. and Japan. This empirical scope has set
the tone of the existing analyses on Japan’s trade policy as ‘bullied’ rather than a ‘bully.’
The Japanese government frequently passed the costs of protection onto emerging
economies via VERs particularly when legislators had stronger needs to raise campaign
finance from export-oriented industries at home.

Finally, the analysis does not find any systematic evidence that whether an
exporting country is Asian or not has an effect on the government’s instrument choice.
This is surprising given several qualitative studies suggesting that the Japanese government
relied most heavily on VERs against Asian NIEs. Instead, factors that account for the
choice of VER were the material and strategic interests of legislators, such as a given
commodity’s import-concentration ratio and the LDP strength in the lower house. The
finding suggests that we need to reconsider the common assertion that Asian regional
integration is characterized by its informal negotiations and non-legal “Asian culture.”

Conclusion

Contrary to the arguments that international trade has moved toward
multilateralism and legalism, this paper has shown that domestic electoral politics continues
to loom large when governments choose the legal rules specified by GATT/WTO from

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60 Destler and Fukui 1979; Schoppa 1993, 1997; Davis 2004.
61 Dore 1986; Uriu 1996.
62 On a critique to the cultural argument, see Kahler 2001.
among the wide array of protectionist instruments. Legislators turn to multilateral rules selectively and strategically when it is electorally beneficial to do so, but the legal status of an instrument under GATT/WTO *per se* does not prove to have systematic effects on the instrument choice. The effect of international law on how states protect domestic industries is filtered through electoral politics.

Our argument that electoral incentives affect a government’s recourse to legal rules provides fertile ground for comparative, cross-national research. The testable implications of our electoral argument, particularly its generalizability beyond the Japanese case, are two-fold. First, three conditions must be met for legislators to be responsive to exporters’ interests and, therefore, to pursue alternative instruments, rather than resorting to international law: (i) ministries with politically appointed ministers, instead of an independent trade commission, initiate and decide anti-dumping or safeguard investigations, (ii) campaign finance regulation allows firms to make donations to legislators or political parties and (iii) electoral campaigns are costly (i.e., money matters for electoral success).

Thus, it makes sense that some of the heaviest users of anti-dumping and safeguard measures have domestic institutions that insulate themselves from exporters’ lobbying when making decisions about AD/SG use, such as independent International Trade Commissions (e.g., the U.S. and South Africa), or supra-national trade commissions (e.g., EU).63 Contrary to the established findings on the benefits associated with central bank independence,64 the independence of trade commissions often enhances the relative power

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63 The cross-national ranking of frequency of AD/SG usage, calculated by absolute frequency per year and per import U.S. dollar, is available at Chad Bown 2006.
64 Alesina and Summers 1993; Keefer and Stasavage 2003.
of import-competing industries by blocking exporters’ and legislators’ influence from entering the government’s strategic calculation about the instrument choice.

On the other hand, New Zealand’s domestic institutions resemble those of Japan in that the Minister of Economic Development has discretionary authority to initiate and conduct anti-dumping and safeguard investigations and the Minister of Commerce has authority to impose trade remedies such as anti-dumping duties (Ministry of Economic Development 2008).\(^{65}\) This ‘political filter’, to borrow a term coined by Sykes (2005), indeed allows New Zealand to have one of the lowest records of anti-dumping investigations and initiations among OECD countries.\(^{66}\) One of the promising lines of comparative research thus would be to examine how different domestic procedures regarding how complaints are filed and investigated for the use of GATT/WTO-legal protection shape states’ propensity to resort to international law.\(^{67}\) A country such as South Korea would be an interesting case because the authority to investigate and adopt GATT/WTO-legal protection was transferred from existing ministries to an independent agency in 1993.

The second generalizable finding is that the availability of alternative means of protection—such as subsidies and VERs—and their relative electoral returns vis-à-vis GATT/WTO measures affect the government’s propensity to turn to international law for

\(^{65}\) Like the Japanese system, firms in New Zealand can informally “inquire” about the possibility of anti-dumping and safeguard investigations, but do not have legal standing to make an official request for investigation. Over 47 percent of investigations were terminated without a remedy being provided. New Zealand’s Ministry of Economic Development Website. http://www.med.govt.nz/templates/Page____3860.aspx#P2_328

\(^{66}\) New Zealand only investigated 82 AD cases since 1982, one of the lowest usages of anti-dumping measures among OECD countries. This is surprising given the fact that it was one of the first countries to institute domestic anti-dumping law.

\(^{67}\) Alter *ibid.*
recourse. This may explain why some of the heaviest users of GATT/WTO-legal instruments—both old and new—are federal states where decentralized political and fiscal structures tend to lower the electoral returns of import-injury subsidies and the decentralized enforcement authorities makes VER negotiations harder to coordinate and enforce (Naoi 2007). Argentina, South Africa, the United States, and Canada are some of the examples of federations that have been the most aggressive users of GATT/WTO contingent protection measures.⁶⁸

The third generalizable finding concerns the effect of electoral systems—*i.e.*, majoritarian or proportional—on the governments’ propensity to recourse to international law. Compared to proportional representation systems, we expect that majoritarian governments are less likely to choose GATT/WTO-legal measures to protect domestic industries due to the higher electoral returns of unilateral and bilateral instruments (subsidy and VERs).⁶⁹ The cross-national study of how electoral systems shape legislators’ incentives to use a particular instrument of protection interacting with GATT/WTO rules thus will be a promising line of research.

The broader implications of this study are three-fold. First, the literature on international institutions and domestic policy choices tends to understudy legislators’ divergent preferences over recourse to international law.⁷⁰ Our approach to modeling how legislators’ weigh heterogeneous constituents’ interests in using legal options should be

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⁶⁸ Of course, a systematic empirical test of this claim linking federalism and GATT/WTO-contingent protection is a task for another paper which is currently in progress.

⁶⁹ Note that this hypothesis concerns the likelihood to choose GATT/WTO-legal instruments over other instruments of protection, not the frequency of using GATT/WTO-legal instruments.

⁷⁰ Exceptions are Simmons 1994 and Dai 2005.
applicable to other issue areas where such heterogeneity exists such as forum-shopping in dispute settlements and compliance to international agreements.

Systematic empirical work, moreover, on legislators’ preferences about international institutions and multilateral agreements has lagged far behind the theoretical progress made in the literature (exceptions are Magee and Baldwin 2000; Broz 2005). Studies often infer legislators’ preference post hoc from actual policy outcomes without examining their preferences. This paper has suggested one way to measure legislators’ preferences more directly and independently from the policy outcomes by using their testimony before the Diet Committees.

Finally, this paper has offered a methodological suggestion to analyze the interactions between international institutions and domestic politics more rigorously using a conditional logit model. This conditional logit model is widely applicable to other areas of research in international relations where actors’ choices are a function of attributes of the actors as well as attributes of the choices themselves. Issues such as states’ compliance with international law, forum-shopping, and dispute settlements are examples of such issue areas.

Although international trade has become multilateralized and legalized in the eyes of some, the effect of international law is filtered through domestic electoral politics. Further study on how different electoral systems shape legislators’ incentives to comply with international law will be beneficial for improving the design of multilateral agreements in the future.
Coding Rules for the Choice across the Three Instruments

(a) Domestic Subsides
Include all cases that were given narrowly defined, commodity-level compensation by the Ministry of Industry and Trade, Ministry of Agriculture, Forestry and Fishery and Ministry of Labor from 1980 to 2001. Cases that were granted more broadly defined compensation packages, such as subsidies for “small and medium-size companies” or for “vegetable farmers” are not included in this category.

(b) VERs
Include all cases where the Japanese government or industries negotiated VERs with exporting countries, or where importing companies in Japan restricted imports in response to the government’s administrative guidance. Whether the negotiations induced successful VERs from exporting countries is not the focus of this study. The focus is whether the Japanese government chose VERs over other protectionist instruments.

(c) GATT/WTO-legal instruments
Include all cases where the Japanese government officially investigated or adopted safeguards (special and general safeguard measures), anti-dumping, or counter-veiling measures.

Operationalization of Variables

LDP Seat Share: the percentage of lower house seats held by LDP politicians.

Testimony: the number of times that politicians expressed a need for subsidy (“hojokin” or “taisakuhi”), VERs (“import regulations (yunyu kisei) or “ordered imports” (chitsujo aru yunyu)) or GATT/WTO-legal measures (“seifu ga-do”) in the lower-house committee discussions in the Diet per diet year.

Exporters Interests: the percentage of Japanese exports to a given country per total Japanese exports calculated using Ministry of Finance, Gaikoku Boueki Gaikyo (Overview of Foreign Trade), Various Years. Percentages are calculated in Yen.

Election Year: a dummy variable (1) represents years with general upper-house and lower-house elections and (0) represents years without them.

External: a dummy variable (1) represents VERs and GATT/WTO-legal measures, and (0) for subsidy.

Legality: a dummy variable (1) represents legal measures under GATT and WTO, and (0) represents otherwise.

Import Concentration: the percentage of import values of a given commodity from a country per total import values of the commodity in Japan (% calculated in Yen). Calculated using Japanese Custom Association under Ministry of Finance, Jikkou Kanzeiritsuhyo (Customs Tariff Schedules of Japan), Various Years.
Asian Exporter: a dummy variable (1) represents South Korea, China (PRC), Taiwan, Thailand, Malaysia, Indonesia, Pakistan and the Philippines, and (0) represents otherwise.

Commodity: a dummy variable (1) represents textile commodities, (2) represents row and metal materials, and (3) represents agricultural, fishery, and forestry commodities.

Unemployment: the annual unemployment rate (%) available at World Bank’s World Development Indicators (WDI).

Budget Growth: annual growth rate of government budget available at World Bank’s World Development Indicators (WDI).
Bibliography


[Graph 1] Annual Frequency of Politicians’ Testimony Advocating for Subsidy, VERs, and Safeguard Measures

Source: Original data collected by the author using the search engine at the National Diet Library in Japan (http://kokkai.ndl.go.jp. Accessed on February, 2006.)


Source: Author’s original data.
[Graph 3] The LDP Seat Share (x-axis) and Probabilities of the Government Adopting VERs (y-axis)

[Graph 4] The LDP Seat Share (x-axis) and the Probabilities of the Government Adopting Subsidy (y-axis)
[Graph 5] Frequency of VERs Testimony (x-axis) and the Probabilities of Choosing VERs (y-axis)

[Graph 6] LDP vs. JCP: Annual Frequency of Politicians Testimony Advocating for SG Adoption (Excluding the LDP Ministers)

Source: The testimony data collected by authors. The LDP testimony excludes the LDP ministers who mentioned (rather than advocate for) the term “safeguard” in their Diet speeches.
**Table 1  Conditional Logit Model of Instrument Choice**

<table>
<thead>
<tr>
<th>Instrument-Specific</th>
<th>Government &amp; Commodity Specific</th>
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</thead>
<tbody>
<tr>
<td>External vs. Domestic</td>
<td>LDP Seat Share</td>
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<tr>
<td>Legal vs. Illegal</td>
<td>Election Years</td>
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<tr>
<td>Retaliation Allowed</td>
<td>Politicians’ Demands (freq. of testimony)</td>
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<td>Import Concentration</td>
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<tr>
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<td>Asian Exporters</td>
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<td>Commodity Dummy</td>
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<td></td>
<td>Unemployment</td>
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<tr>
<td></td>
<td>Budget Growth, Geo Con</td>
</tr>
<tr>
<td></td>
<td>Exporters’ Interests (Size of exp market)</td>
</tr>
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</table>

Interactions

Model I: Exporters’ Interests (Non-legalized)
Model II: Exporters’ Interests*Retaliation Prohibited for Members (Partially Legalized)
Model III: Exporters’ Interests*Retaliation Prohibited (Legalized)
Table 2: Descriptive Statistics

<table>
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<th>Std.Dev.</th>
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<th>Max</th>
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<tr>
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<td>ExpInterests*Non-legal</td>
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Note: The number of observations for case-specific variables is N=103, and N=309 for instrument-specific variables. This is because when conditional logit models are estimated, all the case-specific variables are assigned to each instrument choice (subsidy, VERs, and GATT/WTO) to generate three coefficient estimates for each of the three instruments (N=103*3=309).
<table>
<thead>
<tr>
<th>Table 3  Conditional Logit Model of Instrument Choice</th>
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<tr>
<td>Non-legalized World                  Partially Legalized World</td>
</tr>
<tr>
<td>(China Factor)                      (China Factor)</td>
</tr>
<tr>
<td>Model I                             Model II                  Model III</td>
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<tr>
<td>Chosen Instrument</td>
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**ELECTORAL Hypotheses**

<table>
<thead>
<tr>
<th></th>
<th>Model I</th>
<th></th>
<th>Model II</th>
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<th>Model III</th>
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<tbody>
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**ALTERNATIVE: Forum-Shopping & Legalization**

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**CONTROLS**

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**Observations** 309 309 309

NOTE: Standard errors in parentheses. Subsidy is used as a base group.
* significant at 10%; ** significant at 5%; *** significant at 1%