

Shopping for Protection

The Politics of Choosing Instruments of Protection in Japan

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Abstract

This paper investigates how states choose among multilateral, bilateral and unilateral instruments to protect domestic industries with a focus on the Japanese government's use of domestic subsidies, VERs, and GATT/WTO-legal protectionist measures since 1980. In contrast to general trade economics or "forum-shopping" literature that tends to overlook the role of domestic politics, I argue that the electoral concerns of politicians have substantial effects on the government's choice of instruments. This paper tests a number of hypotheses linking politicians' electoral incentives and instrument choice with two new datasets on Japan—one regarding domestic actors' preferences constructed from their trade testimony before Diet Committees and another regarding commodity-level data on a government's instrument choice for import regulation between 1980 and 2001. The results confirm my electoral hypotheses that the nature of political competition, politicians' demands for an instrument in the Diet, and electoral reform all had substantial effects on the government's instrument choice.

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Introduction

When do states use multilateral rules and when do they use bilateral or unilateral instruments to protect domestic industries? While scholars have argued that international trade has increasingly become multilateralized and legalized, states use multilateral rules selectively and strategically. The General Agreements on Tariff and Trade (GATT) and World Trade Organization (WTO) have set uniform conditions under which member states are allowed to regulate imports through the adoption of safeguard or anti-dumping measures, for instance, observers find that states' use of these measures vary substantially across countries and over time.¹ Although a vast amount of 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.

This article explores this question with a focus on the Japanese government's choice across unilateral, bilateral, and multilateral instruments of import regulation since 1980: domestic subsidy, VERs, and GATT/WTO-legal protectionist measures, respectively. A government's protection for import-injured industries can take various forms. It may take the form of bilaterally negotiated voluntary restraints (VERs),

¹ On this, see Prusa (1999) and Rodrik (1997). Martin and Goldstein (2001) argues: "Although GATT rules were always obligatory in a legal sense, the provisions for using escape clauses and other loopholes interacted with domestic political realities in a way that made their use increasingly rare." (p.200)

unilaterally imposed import restrictions or subsidies. Alternatively, a government may adopt a multilateral instrument—such as safeguards or anti-dumping measures that are legal under the GATT/WTO—to regulate imports.

Existing explanations for a government’s choice across various instruments of protections have emphasized two factors. Seminal studies in trade economics such as Baldwin (1985) and Bagwell and Staiger (1999) claim that a government chooses an instrument that maximizes the general welfare of a country.² On the other hand, in an emerging “forum-shopping” literature, political scientists and legal scholars argue that a government’s choice of multilateral, bilateral, and unilateral instruments is a strategic decision about which forum is likely to bring the best negotiation outcome.³ The literature emphasizes how factors that are specific to a forum such as the number of actors involved, legal vs. informal natures, and the timing of decisions and so on affect the government’s decision to use institutions.

The two dominant accounts, however, share a similar limitation. Attention to the domestic process of choosing an instrument is generally missing from the literature.

² Baldwin (1985) and Bagwell and Staiger (1999) suggest that governments prefer tariffs to VERs because the former create revenues for the government and the latter transfer rents to the trading partners. Bhagwati and Ramaswami (1963) focus on efficiency of instruments and argue that production subsidies are almost always a preferred policy instrument to tariffs because a subsidy distorts only one margin (*i.e.*, producer decisions) while a tariff distorts two margins (*i.e.*, producer and exporter).

³ Mattli 2001; Reinhardt and Busch 2003; Davis 2004.

These studies have tended to model a choice across instruments as a unitary actor, such as a government or private industry, maximizing its welfare or leveraging the best negotiation outcome.⁴ The unitary actor assumption is problematic as anecdotes suggest that the government's choice is a result of bargaining among multiple actors—*e.g.*, politicians, bureaucracy, and interest groups—each having a distinct set of preferences for different forms of protections.⁵ Indeed, observers found many cases where the government and interest groups agreed to regulate imports, but disagreed on which instrument to employ. One needs to analyze the domestic political context in which such bargaining takes place to better understand whose preference triumphs and why.

This article is one of the first to identify empirically sources of domestic actors' preferences for instrument choice. To do so, I proceed in two steps. First, I see a government's choice of instruments as a decision across different forms of import regulation. I follow Stigler (1971) and Peltzman's view (1976) that "the primary determinant of the form of regulation is the way in which it transfers wealth among members of society".⁶ I show that exporters, import-competing groups, and importers'

⁴ Baldwin 1985; Mattli 2001; Davis and Shirato 2005.

⁵ For instance, in 1993, the Japanese government agreed with the cotton yarn industry that import regulation is necessary, but the government preferred the use of VERs, while the cotton yarn industry preferred the use of Multi Fiber Agreements (MFAs) under the GATT.

⁶ Viscusi, Vernon, and Harrington 1995, p.800. On the literature on endogenous regulation,

preferences across the three instruments vary due to (i) different retaliation risks and (ii) varying amounts of rents associated with the three instruments. In other words, various forms of import regulation (subsidy, VERs, and GATT/WTO) transfer gains and losses arising from protection differently among exporters, import-competing groups, and importers.

Second, I argue that electoral concerns of politicians dominate this process to transfer wealth to some groups over others. I test these arguments with two new datasets on Japan—one on domestic actors' preferences constructed from their trade testimony before the Diet Committees and another on a commodity-level data on a government's instrument choice for import regulation between 1980 and 2001. The two datasets are constructed so that we can assess preference of domestic actors (the demand-side) independently from the actual policy choice (the supply-side).⁷

This article extends existing studies in three ways. First, I bring distributional issues back into the study of when states use multilateral rules.⁸ The analysis stands in contrast to the existing works which theorize states as unitary actors maximizing welfare or leveraging the best negotiation outcome. The government's choice across multi-, bi-, and unilateral instruments, therefore, is not merely a choice over a

see Stigler 1971; Peltzman 1976; Fiorina 1982; Campos 1989.

⁷ Hansen 1990.

⁸ Ruggie 1982; Martin and Simmons 2001; Broz 2005.

negotiation context as the forum-shopping literature has theorized. It is a choice over how to weigh interest groups' competing preferences over the form of protection, which is a decision in which politicians should play a significant role.

Second, this paper explicitly brings in politicians as the nexus between private actors and bureaucracy in choosing an instrument for protection. I develop a series of hypotheses linking politicians' electoral incentives and their instrument choice.⁹ While excellent studies on the U.S. legislators' preference towards international institutions were published,¹⁰ we still know very little about political actors' preference toward using multilateral rules outside of the U.S.

Finally, this article suggests an alternative way to model a government's choice across instruments using a conditional logit framework. Conditional logit allows for a government's utility (*i.e.*, the costs and benefits calculation of adopting a policy) to be based upon characteristics of a government and commodity cases as well as characteristics of instruments themselves.¹¹ Substantively, the framework enables us to examine how these characteristics specific to different forms of protection—the main interests of the forum-shopping literature—interact with domestic political factors such as the legislative strength and electoral cycles to affect a state's instrument choice.

⁹ Mattli 2001; Pekkanen 2001; Davis 2005.

¹⁰ Magee and Baldwin 2000; Broz 2005.

¹¹ Maddala 1983; McFadden 1974; Alvarez and Nagler 1998.

The remainder of this paper proceeds as follows. The next section discusses rationales for choosing Japan as a case and Japan's important institutional features that shape domestic politics of choosing an instrument. The second section draws hypotheses regarding interest groups' and politicians' preference across different forms of import regulation and how the demand and supply-side interact. The third section will describe the dataset and the advantage of using a conditional logit framework over a multinomial logit framework. The fourth section will summarize the results. The conclusion will discuss broader implications of this study's findings for further exploration of international institutions and domestic politics.

Section 1: The Domestic Politics of Choosing Forms of Protection in Japan

The Japanese case provides several advantages in testing the argument linking electoral concerns and a government's choice across instruments. First, the long-term Liberal Democratic Party rule allows us to assess the effects of politicians' electoral concerns on the choice while holding the partisan preference to support particular constituents relatively constant.¹² The legislation governing the import regulation in Japan, moreover, has not gone through major changes for the past three decades. Despite the stable partisanship and rules governing import regulation, the government's

¹² Saito and Horiuchi 2003.

choice across instruments has changed dramatically over time. This poses a puzzle [Graph 1].¹³

Second, in 1994 Japan's election system underwent major electoral reform and was changed from a medium-size member district system to a combination of proportional representation (PR) and small-size member district system (SMD). 200 proportional representation seats are allocated to eleven regional blocks and 300 seats are allocated to SMD. We would expect PR to decrease politicians' incentives to mobilize support from geographically concentrated interest groups which may lead to a decline of the use of subsidies.¹⁴ Instead, politicians should seek to mobilize support from broader constituents. The reform was enacted without major partisan change and we can test how the electoral reform changed politicians' preferences across the three instruments.

Third, Japan's domestic procedures and institutions to adopt GATT/WTO-legal protectionist measures differ substantially from other OECD countries and allow us to test how electoral incentives affect the instrument choice more directly. Under the

¹³ Another puzzling aspect of Japan's instrument choice is that among OECD countries, Japan's use of multilateral rules deviates substantially from the United States, the European Union and South Korea in three respects: (1) the infrequency with which it uses GATT/WTO-legal measures; (2) regional biases in the targets of these measures; and (3) its increasing recourse to safeguard provisions over anti-dumping measures since 1995. Exploring these questions require a cross-national research which is beyond the task of this paper.

¹⁴ Rogowski 1986; Rogowski and Kayser 2002.

Japanese Customs Tariff Law,¹⁵ there is no independent agency such as the International Trade Commission in the United States to investigate and implement GATT/WTO-legal measures. Instead, two to three existing ministries collectively make decisions.¹⁶ Inter-ministerial politics over instrument choice is prevalent as ministries' preferences and jurisdictions differ across various forms of import regulation.¹⁷ This gives much larger room for politics to influence the decisions than a country with an independent agency.

Fourth, domestic legislation does not give private actors such as industries or firms rights ("legal standing") to file complaints and request investigations to adopt GATT/WTO-legal measures. Instead, existing ministries have standing to initiate an investigation. This top-down decision-making process paradoxically gives large room for politicians to insert influence over the use of multilateral rules as demonstrated later

¹⁵ See Ministry of Finance's legal text available in English at <http://www.mof.go.jp/english/tariff/ca2001/ca03.pdf> (accessed February 7, 2006). Interviews with METI and MAFF officials also confirmed this.

¹⁶ 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 (e.g., Ministry of Agriculture, Fishery, and Forestry for agricultural commodities.)

¹⁷ 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). The MAFF tends to represent interests of import-sensitive agricultural sectors while METI tends to represent interests of export-oriented industries and has a strong preference for VERs—the least likely instrument to invoke retaliation. It is important to note that the METI actively pursues multilateral solutions for export promotion. Pekkanen 2005; Davis and Shirato 2005. In the politics of import regulation, however, METI's preference is the opposite—*i.e.*, relying on bilateral, informal solutions.

in this article.¹⁸ To ensure that bureaucrats pick the “right” industries from the sea of informal petition letters, industries depend on powerful politicians to insert their influence over the ministries’ decision-making process.¹⁹

In sum, these institutional features suggest the importance of analyzing political actors’ preferences for instrument choice. The next section will derive industry’s and politicians’ preferences for the choice across instruments.

Demand-side: Interest Groups’ Preferences

Exporters, import-competing, and importers’ preferences across the three instruments vary because different retaliation risks and rents are associated with the three instruments. In a world where retaliation to tariff or quota restrictions is possible, export-oriented industry prefers an instrument that is least likely to provoke retaliation.²⁰ Retaliation by foreign countries can take one of two forms: use of unilateral tariffs and non-tariff barriers and hauling the Japanese government before a GATT/WTO panel, which has its own costs, particularly if Japan loses.

Exporters prefer VERs to GATT/WTO-legal measures because the former is

¹⁸ On the detailed procedure for adopting GATT/WTO protectionist measures in Japan, see METI, *Fukousei boeki hakusho* (Government White Paper on Unfair Trade), 2002.

¹⁹ For a detailed description regarding 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.

²⁰ Destler and Odell 1987, Milner 1988, Gawande and Hansen 2006.

much less likely to provoke retaliatory actions.²¹ The incentives to avoid GATT/WTO-legal measures is also strong for Japanese exporters as they have been a victim, rather than a user of GATT/WTO-legal measures, (*e.g.*, anti-dumping and safeguard measures) adopted by European countries and the United States. Japanese exporters have been strong advocates of more restrictive use of these measures at GATT/WTO negotiation rounds.²² I hypothesize that export industries' incentives to avoid GATT/WTO-legal measures are particularly strong when the size of the export market that will be harmed by a retaliatory action is large.

Subsidies for an import-injured industry can also provoke retaliatory actions.²³ The WTO's new Agreement on Subsidies and Countervailing Measures prohibits the use of narrowly targeted, specific subsidy to "an enterprise or industry or group of enterprises or industries" (Article 2.1).²⁴ If the WTO's Dispute Settlement Body confirms the adverse effects of subsidy, member countries are allowed to adopt counter-veiling duty (CVD) to offset the effect. In reality, however, the CVD to offset a subsidy for an import-injured industry has rarely been used due to difficulty collecting

²¹ Kaempfer and Willett 1989.

²² METI, 2003.

²³ I thank an editor of IO and Miles Kahler for pointing this out to me.

²⁴ The type of subsidy applicable to the context of import regulation (rather than export promotion) is called "actionable subsidies." In this category the complaining country must demonstrate that the subsidy has an adverse effect on its interests by bringing the case to the WTO's Dispute Settlement Body. Otherwise the subsidy is permitted.

information on the nature of domestic subsidy and the costs of bringing the case to the Dispute Settlement Body. Since 1980, Japan was targeted only once by the EU in 1998 for its use of domestic subsidies to the leather industry.²⁵ Moreover, newspaper archival research between 1980 and 2001 suggests that there were no informal retaliatory actions taken by foreign exporters for Japan's use of domestic subsidies to import-injured industries.²⁶ Therefore, although both GATT/WTO-legal measures and subsidies can provoke retaliation, I expect that exporters prefer subsidies to GATT/WTO-legal measures. The size of the export market (the variable named "Exporters Interests") is calculated by the percentage of Japanese exports to a given country per total Japanese exports for a given year. Appendix describes the data source.

H1: Exporters prefer VERs over a subsidy and a subsidy over GATT/WTO-legal measures, especially when the size of the export market that will be harmed by retaliatory action is large.

Import-competing Groups

²⁵ The discussion here applies to domestic subsidies for import-sensitive industries and not to export-promotion subsidies.

²⁶ VERs also creates rents for foreign exporters as seen in Japanese auto industry's adoption of VERs with the United States in the 1980s. I thank an anonymous reviewer for bringing this episode to my attention. Under current Japanese law, however, foreign companies are not allowed to make political donations to politicians or parties. While they are allowed to buy party tickets to fund-raising gatherings, there are no systematic statistics on how much foreign firms spend to purchase these tickets. Gawande, Krishna, and Robbins (2004) test the effect of foreign lobbying on U.S. trade.

Import-injured industries' selection across instruments can be considered as a two-stage process. During the first stage, import-injured industries choose to pursue a political route (*i.e.*, government's protection) versus self-help such as restructuring, outsourcing, or industry consolidation (*e.g.*, mergers). Once an industry decides to pursue the government's protection, it faces the second-stage decision to choose an instrument for protection.

My interviews with bureaucrats, politicians, and interest groups suggest that, due to the industry's lack of "legal standing" to request GATT/WTO-legal measures discussed above, the second-stage decision is highly endogenous to the first stage choice (*i.e.*, import-industries pursue an instrument based on their perceived likelihood of obtaining protection).

Import-injured producers first bring complaints to the ministry that has jurisdiction over the commodity or to politicians representing their district. In the majority of cases, however, they do not express a clear preference for a particular instrument.²⁷ The interest groups' petition letters that are sent to the ministries generally do not specify which instrument they prefer, either.²⁸ They usually demand

²⁷ Interviews, Senior officials at the Japan Fisheries Cooperatives, January 29, 2002 and the MAFF, January 10, 2002, Tokyo, Japan.

²⁸ Petition letters sent to MAFF by The National Farmers Movement Association ("*Nouminren*") and the Japan Fishery Cooperative ("*Zengyoren*"). Interview with a mid-level official at MAFF, January 10, 2002 and interview with *Nominren* official, March 2002, Tokyo.

that a government does “something” about it—whether it be subsidies, VERs, or GATT/WTO-legal measures.²⁹ The import-competing industry’s preference for a particular instrument is generally shaped through their interactions with ministries and politicians to learn which instrument is most likely to materialize as a protection.³⁰

Industry characteristics significantly affect an industry’s assessment of which instrument is most likely to deliver protection.³¹ When an industry is geographically concentrated, it is more likely to pursue subsidies for two reasons. First, a subsidy is the only instrument among the three that is geographically targetable. Industries can monopolize the benefits of a subsidy when they are geographically concentrated. Second, under a majoritarian electoral system, geographically concentrated industries tend to possess stronger influence over politicians, which increases the likelihood of obtaining a subsidy.³² Finally, a subsidy is the only instrument among the three in which politicians possess formal power to request and approve in the Japanese Diet.

As Karen Alter (2001) suggests, organized interests should prefer to work through

²⁹ There have been two exceptions to this indifferent producers’ preference—textile and beef. Industries and politicians have expressed their strong preference to use Multi-Fiber Agreement (MFA) and safeguard measures, while bureaucrats preferred bilateral VERs negotiation with China (the textile) and with the United States (the beef). The textile industries realized that VERs negotiations with China have been ineffective and needed to use multilateral rules.

³⁰ Interview with *Nominren* official, March 2002, Tokyo.

³¹ Ray (1981) and Ray and Marvel (1984) suggest that industry characteristics such as size of employment and the degree of asset specificity determines whether they are protected by tariff or non-tariff barriers. Davis and Shirato (2005) explicitly take the issue of instrument choice and argue that Japanese business in low velocity environment (slower product turnover) tends to pursue WTO adjudication for export promotion.

³² Reinhardt and Busch, 1999; 2000. McGrivvlay 2004.

political channels rather than bureaucratic/legal channels as the former is more likely to deliver protection.

I hypothesize that the more politically powerful a given industry is (measured by its geographical concentration), the more likely it is that industries will pursue a subsidy over the two other instruments.

H2: An import competing industry with high geographic concentration is more likely to pursue subsidies over the two other instruments.

With respect to bilateral VERs, import-competing industries are likely to pursue VERs when the perceived likelihood of reaching the VERs agreement is high. The likelihood of reaching such an agreement partially depends on whether a few number of countries dominate exports to Japan (*i.e.*, the import concentration ratio). When the exports of a given commodity are dominated by a low number of countries, it is easier to negotiate and reach VERs agreements. This is because when fewer states are involved in exports, even one country's adoption of VERs can lead to a substantial reduction of imports to Japan.³³ When exports are dispersed across many countries (*i.e.*, low import concentration ratio), one country's reduction of exports does not bring

³³ 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.

much relief to Japanese import-injured industries. The import concentration ratio (the variable named “Import Concentration”) is calculated by the percentage of import values of a given commodity from a country per total import values of the commodity in Japan.

H3: An import-competing industry with a high import concentration ratio will prefer VERs over GATT/WTO-legal measures.

Thus, GATT/WTO-legal measures are the last resort for import-injured industries that are unlikely to obtain either subsidies or VERs. Import-competing groups will resort to GATT/WTO-legal measures when subsidies or VERs are not feasible (*i.e.*, when an import-competing industry is not geographically concentrated, or when exports are dispersed across many countries).

H4: An import competing industry with a low geographic concentration and a low import concentration ratio is more likely to prefer GATT/WTO-legal measures.

Importers

Importing firms prefer VERs to GATT/WTO-legal measures foremost because the VERs are a more temporal form of protection.³⁴ Importers prefer VERs also because it creates an opportunity to collude with foreign exporters. With VERs,

³⁴ Harris 1985, 800.

importers can buy commodities at the world price and sell it at the higher domestic price.

As Harris (1985) aptly put it: “VERs serves as a device through which partial collusion on price is achieved leading to higher profits for [exporting and importing] firms.”³⁵

Cases such as Japan’s textile and seaweed VERs with China suggest that importing firms indeed cooperated with exporting companies in their VERs process and set the higher price. This incentive is especially strong when a few number of countries monopolize exports (i.e., import concentration ratio “Import Concentration”).

H5: Importers prefer VERs to GATT/WTO-legal measures especially when a few number of countries monopolize exports.

Supply: Politicians’ Preferences

Politicians weigh diverse demands from interest groups and pursue an instrument that maximizes their political support. Votes and political donations are two important factors that shape their preference for instrument choice. Three electoral factors shape politicians’ choice to pursue one instrument over the others: the nature of political competition, electoral cycles, and electoral institutions.

Political Competition

The nature of political competition with opposition parties affects the LDP

³⁵ Harris *ibid.*

politicians' needs to use a subsidy to mobilize political support. A subsidy differs from VERs and GATT/WTO-legal measures because of its geographical targetability—*i.e.*, ability to mobilize political support from geographically concentrated industries.³⁶ A subsidy is also the only instrument over which politicians possess formal decision-making power in the Diet. In particular, the LDP politicians have enjoyed better access and influence over the budget policy for the past five decades.

I hypothesize that when the LDP is strong in the lower-house, it can more easily dole out subsidies for narrow, sectoral and geographic interests—*i.e.*, import-injured industries—without much political scrutiny.³⁷ 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 made the LDP target spending to broader constituents such as social and welfare spending. The LDP strength (“LDP seat share”) is measured by the percentage of seats in the lower-house occupied by the LDP.

H6: When the LDP is strong in the lower house, a subsidy is more likely to be chosen.

Furthermore, this incentive to use subsidy to mobilize political support should be stronger during election years than non-election years.³⁸

³⁶ Busch and Reinhardt 2000; McGillivray 2004.

³⁷ This offers a different hypothesis from Calder's seminal work on political crisis and compensation in Japan. Calder 1988. I will discuss why we reached opposite conclusions later.

³⁸ Nordhaus 1975; Alesina and Roubini 1992.

H7: Politicians prefer subsidies during general election years (lower house or upper house elections).

While the LDP politicians' preference for subsidies is mainly driven by their needs to mobilize votes, their preference for VERs is derived from the needs to raise campaign finance.³⁹ Despite its long-standing party label as rural and agricultural, the LDP receives approximately 70% of its total political donations from the top three exporting sectors (auto, steel, and electronics).⁴⁰ Exporting industries give campaign donations to the LDP to ensure the party's commitment to free trade and open economy. Indeed, when China retaliated against Japan's adoption of WTO-legal safeguard measures by imposing 100% tariffs on Japan's electronics and automobile products in 2001,⁴¹ the proportion of political donations from the targeted two exporting sectors per total exporting sectors' donations dropped from 90% to 60%.⁴² This anecdote suggests that exporting sectors prefer the protectionist 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. Politicians' and parties' need for campaign finance, therefore, should affect how they weigh interest groups' divergent preferences for the

³⁹ Hillman and Urpsprung 1988; Grossman and Helpman 1994; Rosendorff 1996.

⁴⁰ 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.

⁴¹ "China imposes 100% tariffs on Japan" *Financial Times*, June 22, 2001.

⁴² Calculated by the author using official data on political donations available from Ministry of Internal Affairs and Communications' *Seiji Shikin Shushi Houkokusho* (Expenditure and Revenue Report on Political Funds).

three instruments.

A higher level of political competition should encourage LDP politicians to prefer VERs over GATT/WTO-legal measures to raise more campaign financing by accommodating exporters' interests.⁴³ Since VERs and subsidies both provide benefits to import-injured industries, politicians may prefer VERs to subsidies particularly when the LDP is weak in the lower-house.⁴⁴

*H8: Politicians prefer VERs to GATT/WTO-legal measures when the LDP is weak in the lower-house.*⁴⁵

Electoral Reform

We would expect to see that the electoral reform in 1994 would decrease politicians' incentives to use subsidies to mobilize political support. Under the new electoral system which came in effect since the 1996 election, 200 seats are allocated to proportional representation and 300 seats are allocated to small-size districts. The PR should decrease politicians' incentives to use subsidies to mobilize political support

⁴³ My interview with senior officials at the METI and the MAFF revealed that they could not recall a single instance where VER negotiations had been initiated or participated in by politicians. Graph 2 in Appendix, however, shows that politicians very often advocate for VERs by using terms such as "regulated imports" or "ordered imports" (*chitsujo aru yunyu*). Interviews with then-Vice Head of International Adjustment Bureau at the MAFF, January 10, 2002, and with then-Head of Textile Bureau of the METI and a senior official, July 23, 2002 and July 29, 2002.

⁴⁴ Ray 1987. Hillman and Urpsprung 1988.

⁴⁵ Ideally, we would want to include export sector's political donations to the LDP in the model to test this hypothesis systematically. Official and consistent data on political donations, however, is available since 1996 only, which make this impossible.

because politicians now need to target broader constituents to get reelected.

H9: Politicians will have stronger interests in using subsidies under a majoritarian electoral system (1980-1995) than a mixed electoral system (1996-2001).

GATT/WTO-legal measures: “The final trump card that can never be played”

For office-seeking politicians, GATT/WTO-legal measures are the least preferred instrument to mobilize either votes or campaign donations. Before 2001, the government had considered the adoption of anti-dumping and safeguard measures for a handful of cases only and none of them materialized. Bureaucrats have also viewed them as “a final trump card that can never be played” due to Japan’s position as a victim, rather than a user of, GATT/WTO-legal protectionist measures.⁴⁶ 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.”⁴⁷

Second, as explained earlier in this article, only ministries have legal standing to investigate and implement the measures. Neither politicians nor private industry has such standing. The only way politicians can influence the decisions is through

⁴⁶ Interview with then-Head of Textile Bureau of the METI and a senior official, July 23, 2002 and July 29, 2002, Tokyo, Japan.

⁴⁷ Interview with a senior official at the Japan Fisheries Cooperatives (“Zengyoren”), January 29, 2002.

informal channels such as lobbying and pressuring the ministries. Third, the GATT/WTO measures take much longer time to investigate, approve, and implement than VERs or subsidies which makes it an unattractive instrument for politicians' credit-claiming. These characteristics of GATT/WTO-legal measures offer a hypothesis on particular types of politicians who prefer to use multilateral instruments.

H10: GATT/WTO-legal measures are a preferred instrument for politicians (i) who do not rely on export-oriented industry's political donations and (ii) who do not possess strong influence over subsidies.

Section 2: Industry and Government Preferences in a Non-legalized vs. Legalized World

Industry's and politicians' preferences alone are incomplete in explaining their instrument choice because GATT/WTO agreements may constrain their choices in two critical ways: (i) first, whether an instrument is legal or illegal under the agreements ("legality of an instrument"), and (ii) second, whether retaliation is allowed or not allowed for exporting countries. The GATT/WTO rules can both enhance and curb retaliation under different circumstances.

In particular, three revisions of rules from GATT to WTO should affect industry's and a government's choices. First, under the WTO's Agreements of Safeguard (Article 8),⁴⁸ targeted states are not allowed to retaliate against a safeguard

⁴⁸ WTO (1994), *Agreement on Safeguards*, Article 8: Level of Concessions and Other

measure for the first three years. Second, WTO's new Agreement on Subsidies and Countervailing Measures prohibits the use of a narrowly targeted, specific subsidy to "an enterprise or industry or group of enterprises or industries" (Article 2.1).⁴⁹ A subsidy that is limited to certain enterprises located within a particular geographic region is also considered as a specific subsidy (Article 2.2). If the WTO's Dispute Settlement Body confirms the adverse effects of a subsidy, member countries are allowed to adopt counter-veiling duty (CVD) to offset the effect.

The extent to which these multilateral rules constrain state's instrument choice is still highly contested. By analyzing how the Japanese government's instrument choice changed responding to these revisions of the rules, this article opens a new avenue for discussing how domestic politics affect the government's compliance with international rules. I do so by analyzing the Japanese government's choice in three hypothetical worlds. One in which GATT/WTO rules prohibiting retaliation do not constrain a targeted state's retaliation ("non-legalized world"), another in which GATT/WTO rules constrain targeted state's retaliation ("legalized world"), and another in which GATT/WTO rules constrain member state's retaliation but do not constrain non-member states ("partially legalized world"). The final scenario is important as China—Japan's

Obligations.

major trading partner—did not enter the WTO until December 2001.

Empirically, I estimate three different models to analyze the government's instrument choice. For the “non-legalized world”, the effect of exporters' interests (the size of export market of a targeted state) on the government's choice across the three instruments is estimated throughout the GATT and WTO periods (1980-2001). If we find that the exporters' interests have negative effects on the government's choice of the GATT/WTO-legal measure both before and after 1995, it means that exporters and the government are not responding to the revision of rules prohibiting retaliation to the adoption of safeguard.

In the second model, “partially legalized world,” I consider the Japanese exporters' interests in its major trading partner, China. China was not legally constrained by WTO rule prohibiting retaliation until its entry to WTO.⁵⁰ Thus, I hypothesize that even after the transition to WTO, exporters' interests (the size of exporters' markets) will continue to have negative effects on the government's choice to use WTO-legal measure vis-à-vis China but not vis-à-vis member states.

The third model (“legalized world”) estimates the effect of exporters' interests on the instrument choice that are conditional on whether GATT/WTO allow retaliation

⁵⁰ 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.

for the adoption of a given instrument. The exporters' interests (size of export market) is interacted with a dummy variable indicating whether retaliation is allowed or not allowed ("1" for allowed "0" otherwise) for each of the three instruments. Table 3 presents how the effect of exporters' interests on the instrument choice is estimated in the three models.

Alternative Hypothesis: Forum-shopping literature—Characteristics of Fora Matters

Building on existing works on instrument choice, I consider alternative hypotheses. The forum-shopping literature suggests that the government is responsive to characteristics specific to fora (*i.e.*, "an instrument"). To consider this possibility, I include two attributes that are specific to fora.

The first instrument-specific characteristic is whether an instrument is external or domestic. Domestic subsidies differ from GATT/WTO and VERs in that they are financed by Japanese taxpayers and the government in the form of tax transfers.⁵¹ With VERs or GATT/WTO-legal measures, costs of protection are partly transferred to exporting countries.⁵² Therefore, I assign one for the external instruments ("external") which includes VERs and GATT/WTO-legal measures, and 0 for a subsidy

⁵¹ Baldwin 1989.

⁵² Simmons 1994.

(“domestic”).⁵³

The second instrument-specific characteristic is whether a given instrument is legal under the agreements of GATT and WTO. Whereas GATT/WTO measures are legal protectionist instruments allowed by the multilateral agreements, the GATT/WTO rules regarding VERs and subsidies for import-injured industries went through major revisions in 1995. First, under a GATT regime, there existed no rule prohibiting the negotiation of VERs (“legal”), while the new WTO rule specifies that signatory states cannot negotiate VERs (0 for “not legal”) (Article 11-1-(b)).⁵⁴ Second, under a GATT regime, domestic subsidies for import-injured industries were allowed, while the new WTO’s Agreement on Subsidies and Counter-veiling Duty specifies that narrowly targeted, sectoral subsidies are prohibited for member states who signed the agreement (Article 2.1). The summary of how these instrument-specific factors differentiate domestic subsidies, VERs and GATT/WTO legal provisions is presented in Table 2.

These claims predict that states choose to use multilateral rules either because they are external or they are legal, while my electoral hypotheses predicts that politicians choose an instrument that maximizes their chances of staying in office even

⁵³ This paper only includes cases that were granted subsidies for import injury relief, not cases that were granted export subsidies.

⁵⁴ WTO (1994), *Agreement on Safeguards*, Article 11 Prohibition and Elimination of Certain Measures.

after controlling for these characteristics specific to instruments. Exporters' interests shape the politicians' choice especially when they need to mobilize campaign finance.

Table 2 shows industry and politicians' preference orderings among the three policy instruments, and Table 3 shows how these instrument-specific variables interacted with domestic political and economic conditions in the conditional logit analysis.

Controls

We should also consider a set of plausible control variables that could reveal spurious correlations between the electoral factors and policy choices. The changes in the government's political and economic conditions and in the commodity characteristics may affect the government's choice as well. Hence, four factors are included in the model.

First, macroeconomic conditions such as the unemployment rate and the annual growth rate of the government's budget may affect the government's choice of domestic subsidies over other instruments. Thus, the two variables (annual percentage of unemployment and annual growth rate of government budget) are included in the model.

Second, previous qualitative studies suggest that the Japanese government used

VERs almost exclusively against Asian states. To test whether this claim is valid, dummy variables are assigned to distinguish between commodities that are exported by Asian states and those that are not.

Finally, commodity characteristics such as capital versus labor intensity and the degree of geographical concentration may affect the policy choice of the government.⁵⁵ Hence, commodities are categorized into three groups and are assigned dummy variables in the model (1: textile, 2. metal and raw materials, 3. agriculture, fishery and forestry).⁵⁶

Section 3: Testing the Argument

Data Sets

In order to test my electoral hypotheses on instrument choice, I construct two original datasets. First, I have collected the lower-house's official Diet committee discussion records from 1980 to 2001 of how many times per diet-year politicians expressed a need for import regulations.⁵⁷ I coded these testimonies into those

⁵⁵ Ray 1981.

⁵⁶ 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.

⁵⁷ The lower-house is chosen because it is given the higher veto and agenda setting power than the upper-house.

advocating for the use of subsidy, VERs, or GATT/WTO-legal measures.⁵⁸ The data provides a direct measure of changes in politicians' preferences for the instrument choice for pre- and post-electoral reform periods, which is critical to assess the relative validity of my electoral argument over the forum-shopping argument. Detailed coding rule is described in the Appendix. Graph 2 shows this frequency.

Second, I constructed commodity-level data on the government's instrument choice for import regulation between 1980 and 2001. The existing literature on the forum-shopping tends to suffer from case selection bias by only analyzing cases where governments used multilateral rules. The universe of cases also needs to include cases where the government resorts to subsidy and bilateral VERs negotiations. The latter attempts are not usually recorded in the official documents.

I used five major Japanese newspapers,⁵⁹ the Japanese government's whitepapers and internal documents of the ministries to identify the following information: (1) commodities that suffered from a rise in imports, (2) the major exporters, (3) the year when the government granted protection and (4) which form of protection the government chose. A detailed coding rule for the instrument choices is

⁵⁸ This data was originally collected by the author using a document search system at the National Diet Library in Japan (<http://kokkai.ndl.go.jp>). Accessed on February, 2006.)

⁵⁹ *Nihon Keizai Shimbun*, *Nihon Sangyo Shimbun*, *Nihon Kinyu Shimbun*, *Nihon Ryutsu Shimbun* and *Asahi Shimbun*.

described in the Appendix.

Because there were many cases where the Japanese government granted different forms of protection to the same commodity from different exporting countries,⁶⁰ or granted different forms of protection to the same commodity in different periods of time,⁶¹ the unit of analysis for this dataset is a commodity-exporting country-year. 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 forms of protection.⁶²

The three instruments are chosen for the analysis because they are the most commonly used protectionist instruments across countries and they represent unilateral, bilateral, and multilateral forms of protections. Moreover, GATT/WTO rules specifying how member states use these three instruments changed significantly from

⁶⁰ An illustrative case would be the rise in imports of synthetic rubber during 1984. The Japanese government adopted VERs against imports from newly developing countries such as Mexico and Taiwan. Imports from the United States, which were actually 75.3% of total imports, were untouched; none of the three protectionist provisions were applied. *Nihon Keizai Shimbun*, June 22, 1984.

⁶¹ An example of this would be the rise in silk yarn imports from China in 1980 and 1991. In 1980, the Japanese government decided to negotiate VERs with China. In 1991, however, the government only granted the Ministry of Labor's "Employment Adjustment Assistance" to the silk yarn industry, and there was no VERs with China or adopting GATT-legal safeguards or anti-dumping measures. *Nihon Sangyo Shimbun*, February 14, 1980, and *Nihon Keizai Shimbun*, January 30, 1991.

⁶² A potential selection bias issue is that the government's choice of protectionist instruments may be endogenous to the first stage of its decision to grant or not to grant protection. See Hansen 1990. I 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. Hence, the use of conditional logit framework is justified.

the GATT to WTO in 1995 as discussed earlier. This offers an opportunity to explore how domestic politics affect the government's compliance with international rules.

The universe of cases does not include two other oft-used instruments, unilateral tariffs and potential non-tariff barriers. The unilateral tariffs are excluded because Japan has not adopted unilateral tariff increases at any time during the periods covered by this study. Japan's increase in tariffs was always multilateral, *e.g.*, safeguard, anti-dumping, or counter-veiling duties which require proper consultation with GATT/WTO. Second, the universe of cases also does not include potential cases of non-tariff barriers (NTBs) such as barriers to entry that is attributable to distribution systems or domestic rules enforcing food industries to declare the country of origin.⁶³ These controversial, potential cases are difficult to track systematically from the official documents or news articles and hence are not included in the data.

Methodology—Conditional Logit Model

Testing the relative validity of the electoral argument over the forum-shopping literature poses two methodological issues. Conventionally, the effect of electoral

⁶³ MAFF, July 28th, 2005. “*Gaishoku ni okeru gensanchi hyoji no gaido lain*” (Guideline for Declaring the Country of Origin for Food Industries). On the cross-national study on NTBs, see Mansfield and Busch 1995. Their hypotheses aim to explain the cross-national variance in the incidence of NTBs rather than states' choice to use NTBs over other instruments of protection.

reform on the government's policy is estimated indirectly through temporal variable (a dummy variable indicating pre- and post-reform period). For the Japanese case, however, years under a WTO regime (1995-present) and years under the new electoral system (1996-present) overlap. By dividing the cases into the pre-1995 and post-1995 groups and identifying changes in the government's instrument choice, we are not able to assess whether it was the transition from the GATT to the WTO or the electoral reform that brought about the changes.⁶⁴

Second, despite the progress made to theorize the interactions between international institutions and domestic policy choices, existing studies often fail to capture the interactions empirically. When studies estimate the effect of changes in international institutions, such as legalization of dispute settlement mechanisms⁶⁵ or increasing the credibility of IMF rule enforcements,⁶⁶ they are usually estimated indirectly through a temporal variable.

For instance, to show how the change in the IMF executive board's rule enforcement affected states' decisions to voluntarily commit to Article VIII, Simmons (2001) indirectly estimates the effect by "controlling for time" in her logit model—*i.e.*,

⁶⁴ Studies have shown the link between a country's high trade dependence and its electoral system. Rogowski suggests that PR tends to be associated with high trade dependence. Rogowski, 1989.

⁶⁵ Reinhardt and Busch 2003.

⁶⁶ Simmons 2001.

by incorporating a year dummy to indicate the passage of time.⁶⁷ The temporal variable is not interacted with any government characteristics to see how the international and domestic changes jointly affect the state's policy choices. Likewise, Busch and Reinhardt (2003) examine to what extent the WTO's more legalistic Dispute Settlement Understanding has contributed to the success of poor complainants in inducing concessions from defendants by estimating "an ordered probit model of the defendants' levels of concessions by the regime (a variable coded 1 for the WTO period, and 0 otherwise) and the complainant's level of development."⁶⁸ The effect of major legalization that occurred from GATT to WTO is estimated only indirectly through a temporal variable in their analysis as well. The variable indicating the transition from the GATT to WTO regime, moreover, is interacted with only one government characteristic (the complainants' level of economic development).

This article offers two remedies to this problem. First, instead of the indirect estimation through a temporal variable, this article uses the politicians' testimony data as a direct measure of changes in politicians' preference for the instrument choice for pre and post-electoral reform periods. For instance, there is a significant decline of politicians' advocating for the use of subsidies and the sudden rise of politicians

⁶⁷ Simmons 2001,p.203.

⁶⁸ Busch and Reinhardt 2003, p.11.

advocating for the use of GATT/WTO-legal measures around the electoral reform of 1994. I use two further pieces of evidence to show that these changes in politicians' preferences were due to the electoral reform rather than the transition from GATT to WTO. One, the data on party affiliation of politicians' testifying for the use of WTO-legal safeguard measures suggests that the electoral reform has had significant effects on the minor opposition party, the Japan Communist Party's party-wide campaign to realize the safeguard measures. Second, my interviews with bureaucrats, politicians, and interest groups involved in the lobbying activities to realize the adoption of safeguard measure also confirm the story.

Second, I analyze the government's instrument choice using conditional logit framework. Conditional logit allows for a government's utility (*i.e.*, costs and benefits of adopting a policy) to vary not only across the commodity cases and over time, but also across the three policy instruments.⁶⁹ This means that the government's instrument choice is modeled as a result of conditions that are specific to the government (such as the LDP's electoral strength and electoral reform) and to commodity cases as well as conditions that are specific to policy instruments (whether an instrument is external vs. domestic or legal vs. illegal. These are called

⁶⁹ Maddala 1983; McFadden 1974; Alvarez and Nagler 1998, Desposato 2006.

“instrument-specific characteristics”):

$$\text{Government's Choice} = \beta(\text{INSTRUMENT-SPECIFIC})_{ij} + \psi_j(\text{CASE-SPECIFIC})_i + u_{ij}$$

Where (INSTRUMENT-SPECIFIC)_{ij} indicates a variable measuring the characteristics of policy alternative *j* relative to a case *i*. (CASE-SPECIFIC)_i is a vector of characteristics of the *i*th commodity case or characteristics of the government at time *i*.

The model yields one coefficient (β) for each instrument-specific variable and *J* coefficients ($\psi_1, \psi_2, \dots, \psi_J$) for each case-specific variable where *J* is the number of alternatives (*i.e.*, instruments). The difference between the multinomial and conditional logit models is that the multinomial model cannot include alternative-specific variables, whereas the conditional logit model can.

To illustrate the advantages of this model over a multinomial logit model, consider the following statement: “the Japanese government is more likely to rely on WTO-legal measures to protect politically powerful industry during election years.”⁷⁰ In order to test the validity of this argument, a multinomial logit model would estimate the effects of industry-level characteristics and the government’s characteristics (*e.g.*, the strength of ruling party and election years) on the probability of Japanese

⁷⁰ Such an argument was widely believed when the Japanese government adopted a temporal safeguard measure against imports from China in 2001. Takii *ibid*.

government choosing GATT/WTO-legal measures. A conditional logit model, on the other hand, could estimate how characteristics of industry and the government *as well as* characteristics of instruments affect the probability of the government's choice of GATT/WTO-legal measures, such as whether prohibition of the use of VERs under the WTO regime has increased Japan's recourse to the safeguard measure.

The dependent variable is unordered, categorical policy choices: subsidies, VERs, and GATT/WTO-legal measures. Independent variables include three instrument-specific and nine commodity- and the government-specific variables, and one interaction term between the instrument-specific and case-specific factors (whether retaliation is allowed or not interacting with exporters interests. see Table 3).

In the conditional logit model, original errors are assumed to be distributed log-Weibull and error terms of each policy instruments are assumed to be independent from each other. Substantively, 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"). In order to confirm whether this IIA assumption held in my data, I also conducted a Hausman specification test.⁷¹ Another potential problem with the IIA

⁷¹ Hausman 1978; Madalla 1983. Two sets of Hausman tests were performed to identify whether the three policy alternatives are mutually independent or substitutive. The first set

assumption is that government decisions to grant a certain form of protection may be serially correlated.⁷² 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.⁷³ 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.⁷⁴

Section 4: Results

Table 4 shows descriptive statistics of the variables used for the analysis. Table 5 show coefficients estimates and predicted probabilities for the instrument choice. Throughout the three models, my electoral hypotheses fit the Japanese case quite well. The government's instrument choice is not a response to characteristics specific to

compares the three-policy-outcome model with the two-policy-outcome model (domestic subsidies and VERs) using domestic subsidies as a base category. The test proves that the IIA assumption is not violated and it is acceptable to use a conditional logit model. The second set of tests compares the three-policy-outcome model with the alternate two-policy-outcome model. This time, coefficients are estimated for domestic subsidies and GATT/WTO protectionist provisions. The second test also proves that the IIA assumption is not violated.

⁷² I thank anonymous reviewer for pointing this out to me. Stata Version 8 and 9 do not deal with serial correlation in multiple choice, conditional logit models. Thus, I see the government's choice to grant a certain form of protection (e.g., subsidy) as a binary choice (0-1) and check the serial correlation in the binary choice data using xtgee command. I thank Langche Zheng for suggesting this.

⁷⁴ Following Chris Achen's (2000) suggestion on the lagged dependent variable regression, I do not include a year dummy in the conditional logit model. As Achen argues, when the model already includes several variables that trend, including a year dummy or the lagged dependent variable can suppress the explanatory power of other variables in the model. Achen 2000.

fora—such as external vs. domestic and legal vs. illegal instruments—as the forum-shopping literature has theorized. The new legal changes at WTO did not significantly change Japan’s instrument choice raising the question of the efficacy of international institutions in shaping states’ behaviors.

Instead, domestic electoral politics—the nature of political competition, politicians’ demands for an instrument, and an electoral reform all have substantial effects on the choice. Politicians are seeking to maximize their electoral returns, such as votes and political donations, when choosing an instrument of protection. I discuss specific results below.

Political Competition

The nature of political competition, (*i.e.*, the strength of LDP in the lower-house) 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 when the LDP is strong. Subsidies appears to decline in the face of higher political competition. The LDP’s seat share does not have systematic effects on the government’s choice to use GATT/WTO-legal measures which is consistent with the hypothesis (H10) that the LDP, which relies heavily on exporting sectors’ political donations, would not pursue GATT/WTO-legal measures. These findings are

consistent with the electoral hypotheses.

Substantive impact of the LDP seat share on the instrument choice is large.⁷⁵ 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 point (60% to 20%) and will increase the predicted probability of using subsidies by 40 percentage point (Graphs 4 and 5).

The relationship between the LDP strength and the instrument choice is not spurious as the data on politicians' testimony—a more direct measure of politicians' preference—also confirms the hypotheses. Graph 2 illustrates that, first, there has been a general decline in the frequency of statements that expressed need for VERs in the past two decades. Second, Graph 6 shows that when the LDP was stronger in the lower house, the need for VERs was expressed less often in the Diet. This means that politicians indeed had a stronger preference for VERs when the LDP was weaker. The politicians' policy preferences revealed here are consistent with the actual government's decision to employ VERs, as the conditional logit analysis shows. 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.

⁷⁵ The software to simulate the higher number of coefficients estimates, such as CLARIFY, is not compatible with a conditional logit model. Hence, predicted probabilities for the government adopting each instrument is calculated using Stata version 8.

When the LDP was weaker in the Diet, they may have needed more campaign money to win back seats in the lower house.

These findings suggest that the nature of party competitions have substantive effects on the government's decision to choose an instrument of protection. The finding is surprising, if not disconfirming, in light of Calder's study (1988) that suggests that the LDP used subsidies and compensation to mobilize political support when they faced severe competition from opposition groups.⁷⁶ The result here shows that the government relied more on the VERs when the LDP was weaker in the lower house. This article reached a different conclusion from Calder's for three reasons. One, the article looks at the government's choice across various instruments of protection while Calder looks at subsidies. Second, Calder's work looks at the number of compensation-related legislation passed in the Diet as a measurement, while I look at the incidence of subsidies. Finally, this article examines Japan's import regulation since 1980, while Calder's study terminates with mid-1980s.

Electoral Reform and Politicians' Demands

Table 5 shows politicians' preferences expressed before the Diet Committees ("Diet Testimony") have substantial positive effects on the government's decision to adopt VERs and weak yet systematic positive effects on its choice for

GATT/WTO-legal measures. The finding confirms the importance of politicians in choosing an instrument of protection. The effect of politicians' demands is much larger on the government's choice for VERs than on GATT/WTO-legal measures as expected.

Graph 2 shows the frequency of politicians' testimony advocating for the three instruments before the Diet committees between 1980 and 2001. The graph suggests that until year 1995, there were only a handful instances where politicians advocated for the use of safeguard measures and that subsidies and VERs were their preferred instrument. This confirms that GATT/WTO-legal measures are generally the least preferred instrument for office-seeking politicians. Despite the politically undesirable characteristics of GATT/WTO-legal measures, politicians' interests in the adoption of safeguard suddenly rose around 1995.

Graph 3 shows this frequency by politicians' party affiliations. Since 1995, the Japanese Communist Party (the JCP) politicians dominated the testimony advocating for Japan's adoption of safeguards.⁷⁷ In 1996, the JCP's party effort was at its peak testifying at eleven occasions requesting the government's adoption of safeguards for the first time in its history. The JCP's strong interests in WTO-legal measures are surprising given its long-standing position against GATT/WTO.

The JCP's party-led campaign to realize safeguards is consistent with the hypothesis developed earlier (H10). First, the JCP's main constituents are import-competing groups and consumers and the party does not depend on their

⁷⁷ Interview with a mid-level official at MAFF also confirmed that the JCP's party-wide campaign was instrumental in eventually realizing the safeguard adoption. Interview, January 10, 2002, Tokyo.

campaign donations from export-oriented industries.⁷⁸ This means that the JCP politicians do not risk seats or campaign money by advocating for the use of WTO-legal measure. Second, contrary to the LDP politicians who enjoy access to and influence over the budget, the JCP does not have much access or influence over the budget. The only instrument the JCP could legitimately claim credit for was a multilateral instrument. The JCP recognized that obtaining the WTO-legal safeguard protection as a promising party platform.⁷⁹

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 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.⁸⁰

The JCP's campaign alone was insufficient to realize the government's adoption of safeguards. The LDP politicians who represented agricultural districts ("agricultural tribe politicians") eventually bandwagoned on the JCP's campaign and pressured the

⁷⁸ The JCP's major source of revenues is the nation-wide subscription of their newspaper called *Akahata* ("Red Flag").

⁷⁹ An officer at *Nouminren* (The National Association of Farmers' Movement which is associated with the JCP) believes that its membership doubled since 1995, despite declining JCP popularity and agricultural population, due to their campaign to realize safeguards. Interview with *Nouminren*'s officer, Tokyo, January 24, 2002 and internal document on the membership increase obtained at *Nouminren* office.

⁸⁰ Kenjiro Yamahara of the Japanese Communist Party, for instance, ran from the first district in Kochi Prefecture in Shikoku Island. During his tenure in the Diet after the 1994 reform, Yamahara began referring to declining industries in neighboring prefectures in Shikoku PR block—mitten industry in Kagawa prefecture and towel industry in Ehime prefecture—rather than appealing on behalf of declining industries in his own Kochi prefecture. Kenjiro Yamahara's Testimony before the Sixth Sub-Committee on Budget, February 21, 1995.

ministries to adopt the 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 protection.

The JCP’s role in the process of safeguard adoption suggests that multilateral instruments may offer an opportunity for credit-claiming for politicians who do not possess influence over the more politicized instruments of protection such as subsidies or VERs. Due to its transparent and legal nature, multilateral rules can be “the weapon of the weak” because it offers the weak an alternative to political influence.

Exporters’ Interests in Non-legalized, Partially Legalized, and Legalized World

The third important finding concerns whether GATT/WTO rules prohibiting or allowing retaliation by a targeted state shape exporters’ and the government’s instrument choice. Table 5 compares whether exporters’ interests shape the government’s choice to use GATT/WTO-legal measures in the non-legalized, partially legalized, and legalized world. Exporters’ interests have negative effects on the government’s choice to use multilateral instruments but the effect is conditioned by WTO’s rules prohibiting retaliation by a targeted state. Exporters’ interests have systematic effects on the government’s choice to use multilateral rules only when interacted with GATT/WTO

rules prohibiting or allowing retaliation (Model II and III). This means that the Japanese government has been responding to GATT/WTO rules prohibiting retaliation by a targeted state when choosing an instrument of protection.

Indeed, the Japanese government responded very differently to the two major revisions of WTO rules. First, contrary to the global trend of relying increasingly on anti-dumping measures over safeguard,⁸¹ since 1995 Japan has more often chosen safeguard measures in response to the three-year prohibition on retaliatory measures against them. Second, however, Japan's use of VERs has not decreased since 1995, despite the new WTO rule prohibiting their use. In fact, even after 1995, Japan chose VERs to protect domestic industries in 25% of the total cases.⁸² The Japanese government's diverging responses to the two revisions also confirms that the Japan's trade policy has not been moving uniformly toward "legalism" or "multilateralism." Rather, politicians relied on multilateral rules selectively and strategically in order to balance the interests of exporters and import-injured industries.

⁸¹ Dani 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)

⁸² The major target of Japan's demand for VERs under WTO was China which was not admitted to the WTO until 2001. 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. I thank Len Schoppa for bringing this to my attention.

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 measure decreases by 89 percentage point. The result may explain why Japan has never adopted anti-dumping or safeguard measures against the United States, the largest exporting market for Japan, while it extensively targets smaller economies.

The Characteristics Specific to Fora

The characteristics specific to fora—the focus on the forum-shopping literature—has no systematic effects on the instrument choice. There is no strong evidence to support the proposition that whether the instrument is external or domestic and legal or illegal *per se* has effects on the instrument choice. Instead, the electoral strength of the LDP and politicians' demands in the Diet committees have substantial effects on the government's instrument choice.

Several control variables are shown to have expected effects on policy choice. When fewer countries monopolize export to Japan (*i.e.*, higher import-concentration ratio), the more likely the government chooses VERs. An interesting finding here 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 provisions as well. This is because in most of the GATT/WTO-legal measures, cases were withdrawn before the Japanese government actually adopted them.⁸³ The Japanese government may have relied on the shadow of GATT/WTO-legal measures to induce VERs from targeted states. If this is the case, it may come as no surprise that the import concentration ratio, which has a positive effect on the government's choice of VERs, also has a positive effect on its choice of GATT/WTO-legal measures.

One macroeconomic condition, the rate of unemployment, has a strong positive effect on the government's use of VERs, which is statistically significant. It does not, however, have a statistically significant effect on the government's decision to use GATT/WTO provisions. 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 contradict several beliefs about Japanese trade policy. First, this study shows that politicians rather than bureaucracy have substantial influence on

⁸³ Rosendorff 1996.

Japan's choice on how to protect domestic industries. The finding calls for bringing politicians to the center of the analysis and reconsidering existing studies that exclusively looks at bureaucracies such as the Ministry of Economy, Industry, and Trade.

Second, the majority of studies on Japan's trade policy have exclusively focused on the bilateral relations between the U.S. and Japan.⁸⁴ This empirical scope has significantly biased the existing analyses on Japan's trade policy. In his study of the government's response to declining industries in Japan, for instance, Robert Uriu (1996) divides the policy choices into "three—compensation, stabilization, and preservation" (p.12) and dismiss external adjustments (*e.g.*, passing protection costs to foreign countries via VERs) as non-option as they will provoke retaliation. Once we broaden the scope to Japan's choice of instruments vis-à-vis all the major exporters including Asian exporters, as done in this paper, we see a very different picture. The Japanese government passed the costs of protection onto foreign countries via VERs quite often when the cost of invoking retaliation was low.

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 policy choice.

⁸⁴ Destler and Fukui 1979; Schoppa 1993, 1997; Davis 2004.

This is surprising given several qualitative studies suggesting that the Japanese government relied most heavily on VERs against Asian NIEs.⁸⁵ Instead, the analysis shows that the most important factors were economic and political, such as a given commodity's import-concentration ratio and the LDP strength in the lower house, not whether exporting countries are Asian or not. The finding also suggests that we need to reconsider the common assertion that Asian regional integration is characterized by its informal negotiations and non-legal "Asian culture."⁸⁶ Rather, economic and political factors may have a systematic effect on Asian states' choice of policy instruments.

Conclusion

In a democratic system where politicians bet their survival on votes and political donations, legislators weigh competing preferences of interest groups with respect to different instruments of protection. Although the international trade system has become multilateralized and legalized in the eyes of some, this paper has shown that domestic electoral politics continues to affect how states use multilateral rules. Exporters' interests are critical in this process as they are the major contributor of political donations to the LDP in Japan.

⁸⁵ Dore 1986; Uriu 1996.

⁸⁶ On a critique to the cultural argument, see Kahler 2001.

Contrary to the arguments made by some of the studies on legalization and international relations, this paper has shown that characteristics specific to instruments—such as whether an instrument is legal or illegal or external or domestic *per se*—did not have systematic effects on Japan’s instrument choice. Rather, multilateral rules interacted with domestic political conditions—such as the nature of political competition and electoral institutions—to shape the government’s policy choice. Politicians responded to revisions of multilateral rules selectively and strategically for political survival.

The broader implications of this study are three-fold. First, we need to reconsider the unitary actor assumption often used in the forum-shopping literature. A more pluralist approach is necessary as interest groups have competing preferences for different forms of import regulation and politicians weigh such preferences strategically to mobilize political support. Political institutions should be an integral part of the analysis as they shape politicians’ preferences for different forms of protection.

Second, this paper has brought politicians to the center of the analysis of international institutions and domestic politics. Today, more than a half of the countries in the world are democratic and comprise more than fifty percent of the total

population.⁸⁷ However, the international political economy literature has not paid sufficient attention to politicians and their preferences toward international institutions and multilateral rules. Studies often infer politicians' preference *post hoc* from actual policy outcomes without systematic empirical research. This paper has suggested one way to measure politicians' preferences more directly using politicians' 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 framework. This conditional logit framework is widely applicable to other issue areas of research in international relations where actors' choices are a function of attributes of actors as well as the attributes of the choices themselves. Issues such as states' compliance with international law, forum-shopping, and dispute settlements are the examples of such issue areas.

In concluding, I suggest a few promising directions for the future study of international institutions and state policy choices. First, the finding that electoral incentives affect government decisions to use multilateral rules suggests the fertile ground for comparative, cross-national research. In particular, the study of how

⁸⁷ Zakaria 1997, Diamond 2002.

domestic electoral systems shape politicians' incentive to use a particular instrument of protection interacting with GATT/WTO rules will be a promising line of research. Another promising line of comparative research would be to examine how different domestic procedures and laws regarding how complaints are filed and investigated for the use of GATT/WTO-legal measures shape states' decision to use multilateral rules.⁸⁸ A country such as South Korea would be an interesting case because the authority to investigate and adopt multilateral measures were transferred from existing ministries to an independent agency in 1993.

⁸⁸ Alter *ibid.*

Coding Rules for the Choice across the Three Instruments

(a) Domestic Subsidies

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 Measures

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.

Diet 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 (see Table 2).

Import Concentration: the percentage of import values of a given commodity from a country per total import values of the commodity in Japan (% caculated 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).

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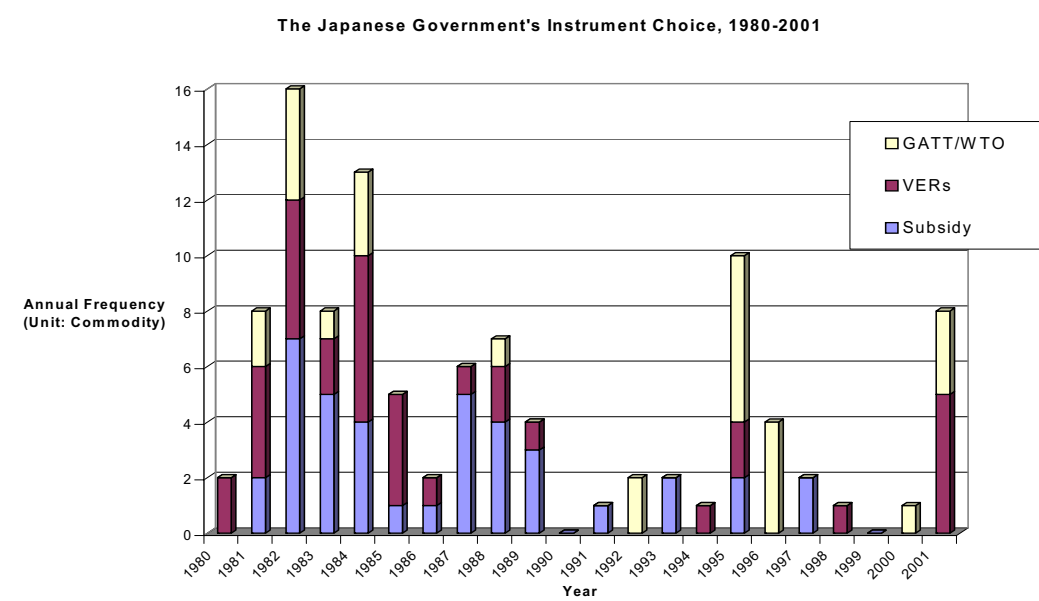
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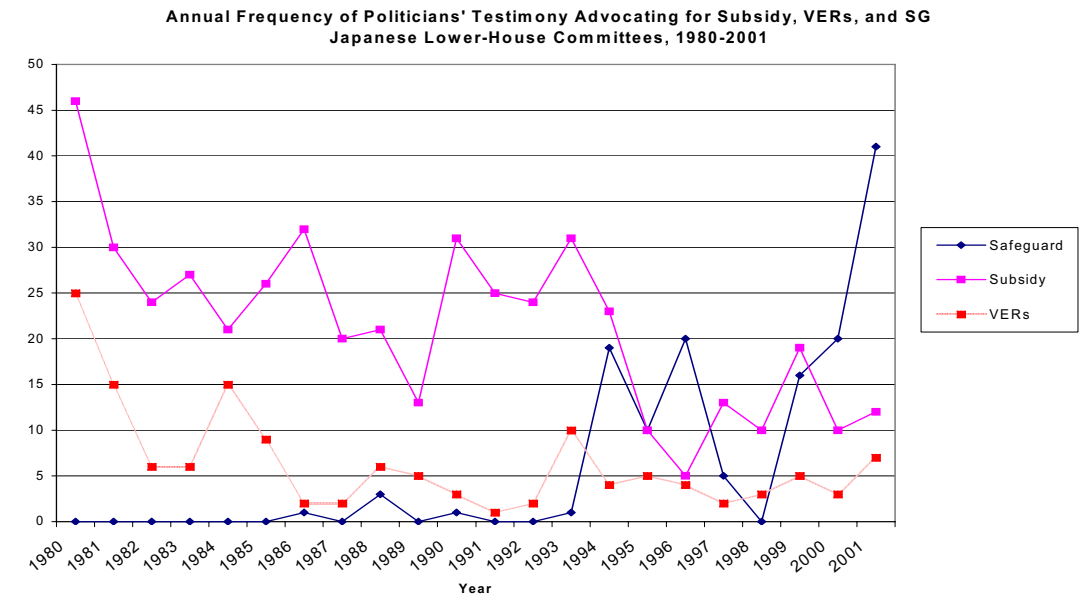
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[Graph 1] The Japanese Government’s Instrument Choice, 1980-2001



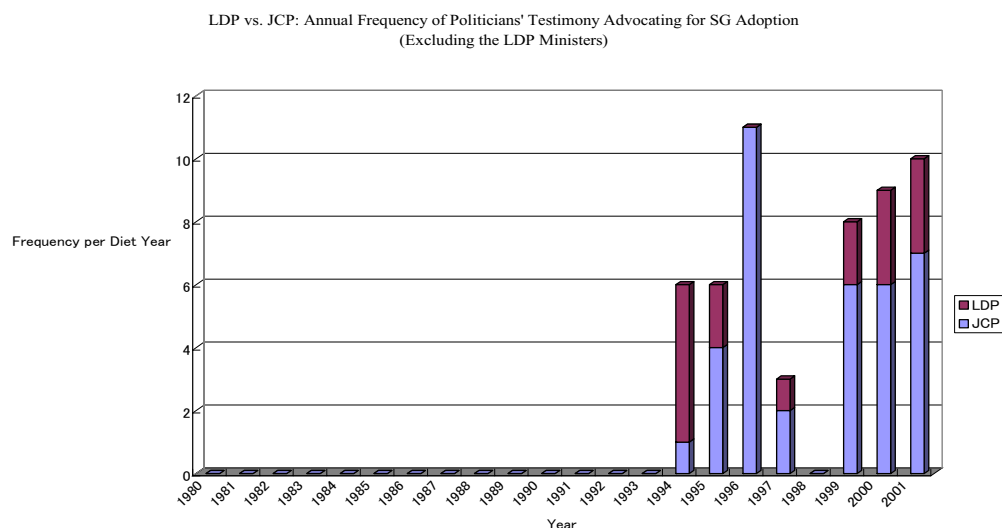
Source: Author’s original dataset.

[Graph 2] Annual Frequency of Politicians’ Testimony Advocating for Subsidy, VERs, and Safeguard Measures



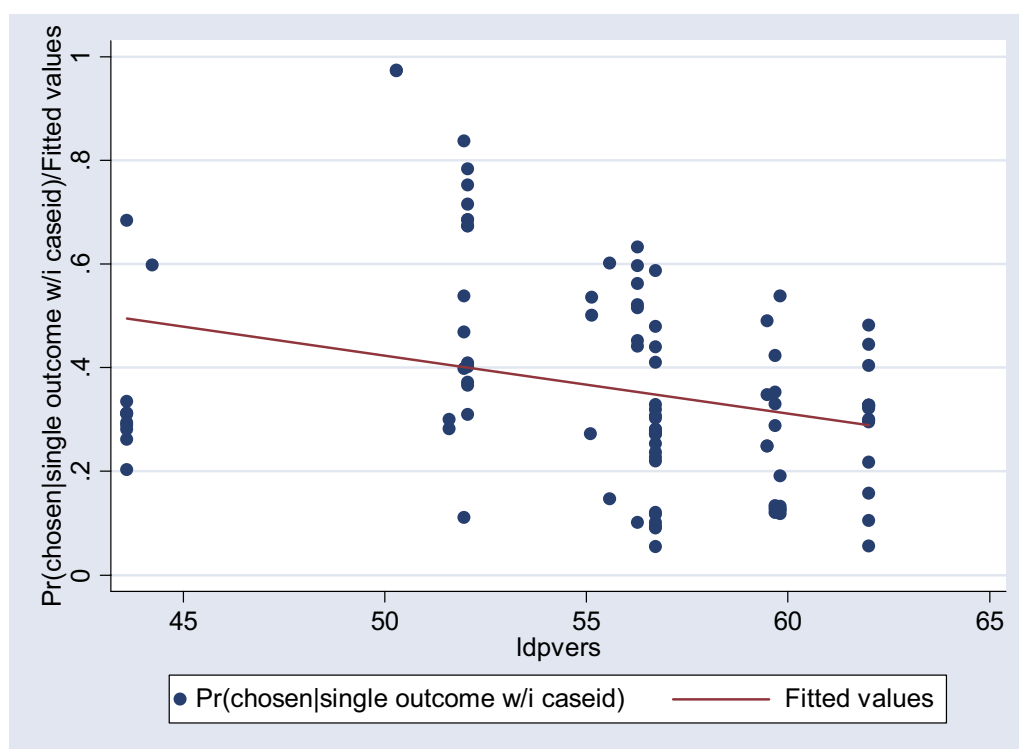
Source: Original data collected by the author using the search engine at the National Diet Library in Japan ([http:// kokkai.ndl.go.jp](http://kokkai.ndl.go.jp). Accessed on February, 2006.)

[Graph 3] Liberal Democratic Party vs. Japan Communist Party: Annual Frequency of Politicians' Testimony Advocating for Safeguard Adoption

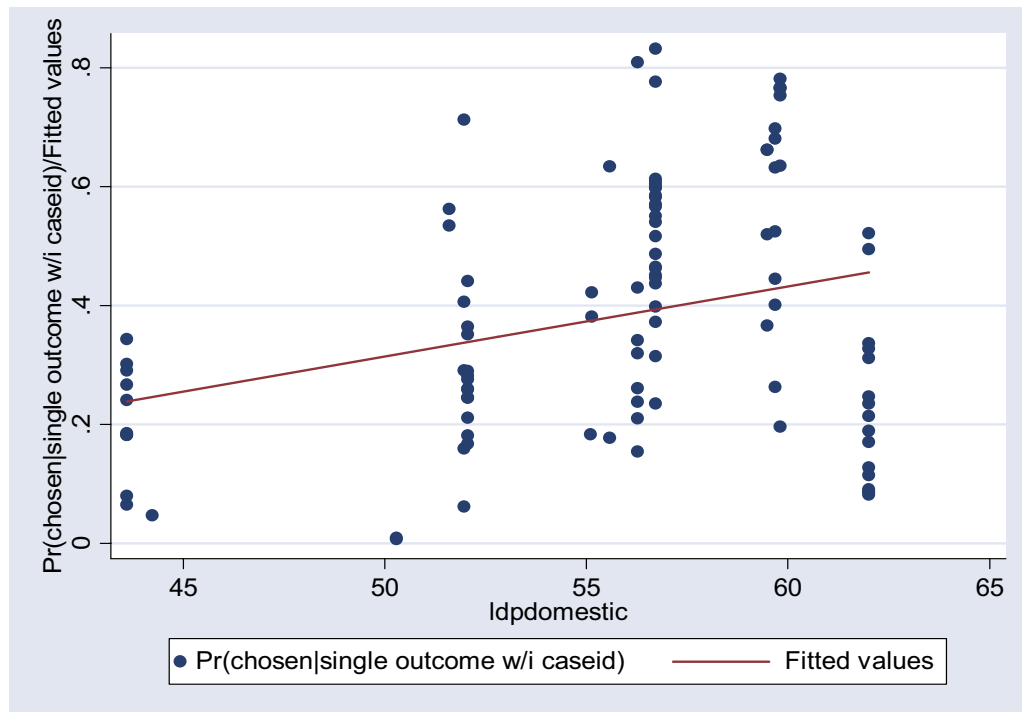


Source: Author's original data. The LDP testimony excludes the LDP ministers who mentioned (rather than advocated for) the term "safeguard" in their Diet speeches.

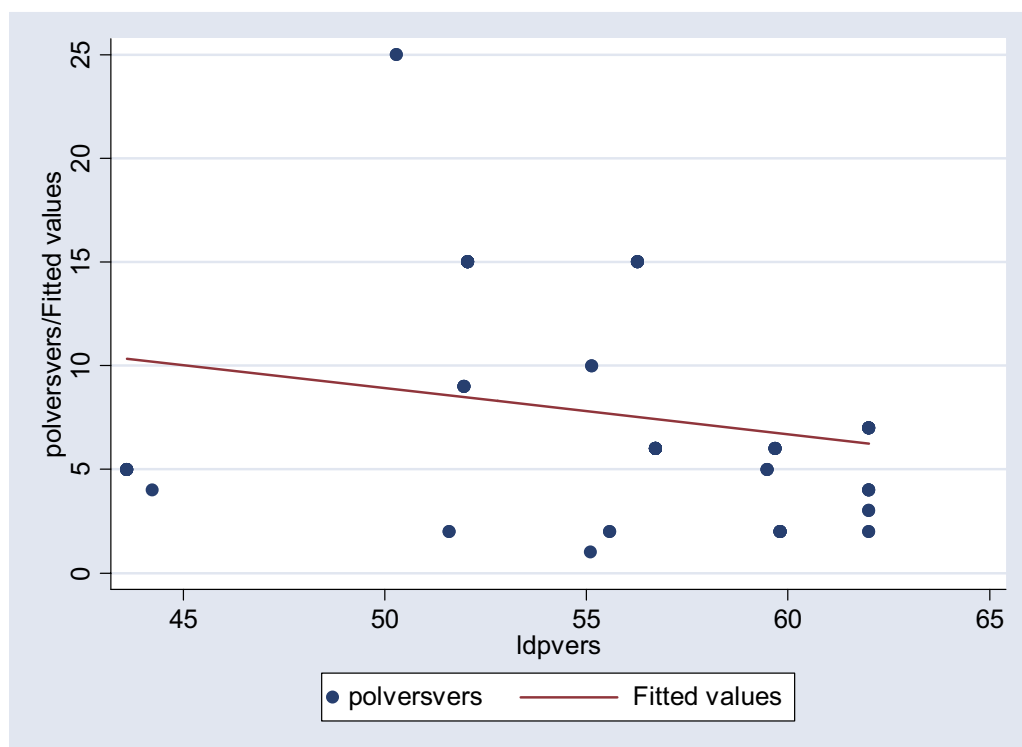
[Graph 4] The LDP Seat Share (x-axis) and Probabilities of the Government Adopting VERs (y-axis)



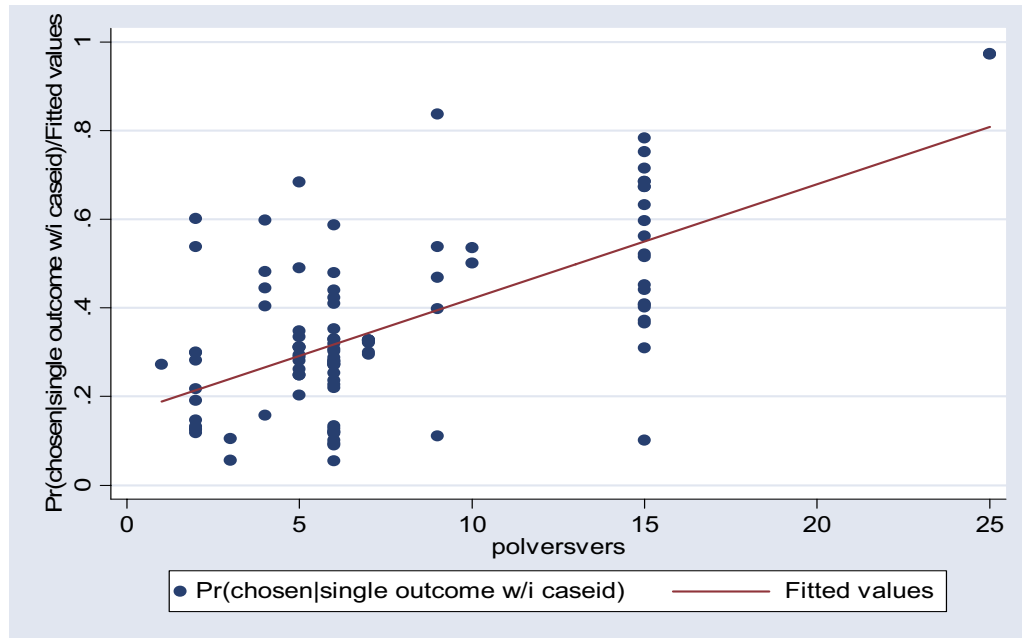
[Graph 5] The LDP Seat Share (x-axis) and the Government Probabilities of Adopting Subsidy (y-axis)



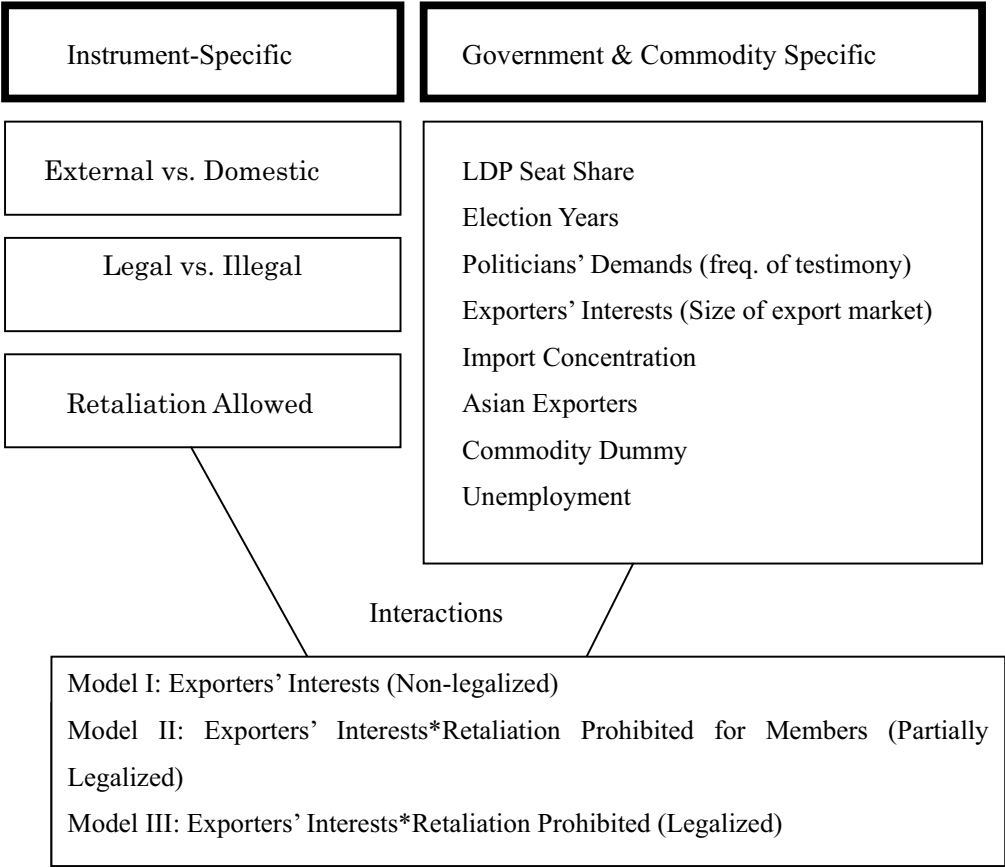
[Graph 6] The LDP Seat Share (x-axis) and Frequency of VERs Testimony (y-axis)



[Graph 7] Frequency of VERs Testimony (x-axis) and the Probability of Choosing VERs (y-axis)



[Table 1] Conditional Logit Model of Instrument Choice



[Table 2] Forum-shopping Hypotheses: Characteristics Specific to Fora Matter

Instrument-Specific Attributes	Subsidy	VERs	GATT/WTO
(1) External ("1") vs. Domestic ("0")	0	1	1
(2) Legality (legal "1", illegal "0")			
GATT (1980-1994)	1	1	1
WTO (1995-2001)	0	0	1
(3) Retaliation (Allowed "1" vs. Prohibited "0")			
GATT (1980-1994)	0	0	1
WTO (1995-2001)	1	0	0

[Table 3] The Effect of Exporters' Interests (" α " = Size of Export Market of a Targeted State) on Instrument Choice Conditioned by GATT/WTO Rules Prohibiting Retaliation

Non-legalized vs. Legalized	Subsidy	VERs	GATT/WTO
<i>Non-legalized World</i>			
GATT (1980-1994)	α	0	α
WTO (1995-2001)	α	0	α
<i>Partially Legalized World</i>			
GATT (1980-1994)	0	0	α
WTO (1995-2001) Member States	α	0	0
WTO (1995-2001) China	α	0	α
<i>Legalized World</i>			
GATT (1980-1994)	0	0	α
WTO (1995-2001)	α	0	0

Note: Variables for the "Legalized World" is interaction terms between the exporters' interests " α " and the dummy variable indicating whether retaliation is allowed ("1") or not allowed ("0") under the GATT/WTO rules.

Table 4 Descriptive Statistics

Variable	Obs	Mean	Std.Dev.	Min	Max
<i>Case-specific</i>					
LDP Seat Share	103	55.486	5.294	43.6	62
VERs Testimony	103	7.699	4.931	1	25
WTO Testimony	103	5.650	11.563	0	41
Exporters' Interests	103	5.671	6.897	0	37.141
Election Year	103	0.272	0.447	0	1
Import Concentration	103	33.688	32.080	0	99.977
Asian Exporter	103	0.786	0.412	0	1
Commodity	103	1.864	0.755	1	3
Unemployment	103	2.850	0.754	2	5
Budget Growth	103	3.628	1.119	0.766	5.037
<i>Instrument-specific</i>					
Chosen Instrument (dependent variable)	309	0.333	0.472	0	1
External	309	0.667	0.472	0	1
Legal	309	0.832	0.375	0	1
<i>Interactions</i>					
ExpInterests*Non-legal	309	1.890	4.788	0.216	37.141
ExpInterests*Partially-legal	309	1.626	4.520	0	37.141
ExpInterests*Legalized	309	1.331	4.396	0	37.141

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).

Conditional Logit Model of Instrument Choice

Chosen Instrument	Non-legalized World		Partially Legalized (China Factor)		Legalized World	
	Model I	Model II	Model I	Model II	Model I	Model II
	VERs	GATT/WTO	VERs	GATT/WTO	VERs	GATT/WTO
<i>ELECTORAL Hypotheses</i>						
LDP Seat Share	-0.141** (0.058)	-0.079 (0.060)	-0.122** (0.059)	-0.057 (0.062)	-0.127** (0.059)	-0.062 (0.061)
Diet Testimony	0.128** (0.055)	0.062* (0.034)	0.130** (0.055)	0.065* (0.035)	0.129** (0.055)	0.050 (0.035)
Exporters Interests	-0.062 (0.046)	-0.065 (0.044)	-0.062 (0.044)	-0.101* (0.052)	-0.061 (0.044)	-0.089* (0.050)
Election Year	0.828 (0.646)	-0.435 (0.859)	0.717 (0.645)	-0.492 (0.866)	0.740 (0.646)	-0.435 (0.857)
<i>ALTERNATIVE: Forum-Shopping & Legalization</i>						
External	4.589 (3.050)		3.710 (3.052)		3.970 (3.034)	
Legality	0.537 (0.721)		0.320 (0.726)		0.346 (0.722)	
<i>CONTROLS</i>						
Import Concentration	0.024** (0.011)	0.026** (0.012)	0.022** (0.011)	0.027** (0.012)	0.022** (0.010)	0.026** (0.012)
Asian Exporter	1.178 (0.763)	-0.804 (0.797)	1.095 (0.764)	-1.002 (0.811)	1.100 (0.764)	-0.945 (0.808)
Commodity (Geo Con)	0.434 (0.430)	-0.360 (0.480)	0.389 (0.433)	-0.454 (0.493)	0.397 (0.432)	-0.454 (0.496)
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%