Online Data Appendix for "Trade Disputes and Settlement"

Giovanni Maggi   Robert W. Staiger

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1. The GATT-Era Data

The GATT-era data used in this paper is drawn from the 207 Dispute Settlement cases described in the Appendix of Hudec (1993), which covers all documented GATT disputes from 1948 to 1989. We build from the data set in Reinhardt (1996, 2001) to provide a coding into Excel of these cases. While Hudec's catalog of GATT disputes does not break disputes with multiple claimants or respondents into separate bilateral records, we follow standard practice (e.g., Horn, Johannesson and Mavroidis, 2011) and distinguish each pair of disputants, leading to 242 bilateral GATT-era disputes over the period 1948-1989. For the purposes of our analysis, we divide the GATT cases into two separate time periods: GATT-I, 1948-1978 (109 disputes); and GATT-II, 1979-1989 (133 disputes). As described in the paper, we exclude the GATT-II era from our analysis, and focus on the GATT-I (and WTO-) era disputes.

1.1. Dependent variables

For regressions that include the GATT–I era, the dependent variable for claim-level regressions is $ClaimES_{kj} = 1$ if dispute j that includes claim k settles early and 0 if dispute j that includes claim k does not settle early; and the dependent variable for dispute-level regressions is $ClaimES_j = 1$ if dispute j settles early and 0 otherwise. As explained in the text, we do not attempt to distinguish among cases where a mutually agreed settlement was reported, where the complaint was withdrawn, or where the complaint was simply suspended. Hence, if a claim is included in a dispute and there is no ruling, then we say that the claim "settled early," i.e., settled before a ruling was issued. Also as explained in the text, for the GATT-I era we do not have information on which claims in a dispute were ruled upon and which were not, hence all the claims included in a dispute are said to be settled early if and only if the dispute does not go to a ruling, implying $ClaimES_{kj} = ClaimES_j$ for all claims k included in dispute j. Especially in the earlier GATT disputes, there is some degree of judgement in determining whether a ruling was issued (see Hudec, 1993, Chapter 4 and pp. 369-72, for a discussion on this point). We follow Reinhardt's (2001) coding in defining $ClaimES_j$ (the complement of the "ruling" variable in Reinhardt). Using Hudec's description of each case, we also define the variable Post-Ruling Settlement (PRS), whose j^{th} element takes the value of 1 if there was a settlement agreement reached in dispute j after a ruling by the panel, and takes the value of 0 otherwise. This variable is not used in our regressions (we have too few observations to run

regressions over the sample conditional on a panel ruling), but it is used in the numbers we report in the Introduction of the paper.

1.2. Independent variables

The independent variables consist of binary variables indicating whether or not a GATT article (or subarticle) is raised as a claim in a dispute. Specifically, for each GATT Article k (or relevant sub-Article), we define a variable $CLAIM_k$ whose j^{th} element takes the value of 1 if dispute j contains claims for GATT Article k or any of its subarticles, and 0 otherwise. The list of GATT Articles claimed in each GATT dispute are taken from the Appendix of Hudec (1993). The mapping from claim names in Table 1 of the paper to GATT Articles is provided in Table A1.

1.3. Control variables

Our list of constructed control variables and the details of their construction is as follows. First, we define the variable LDC_{resp} whose j^{th} element takes the value of 1 if the respondent in dispute j is a non-industrialized country, and 0 otherwise. Our definition of industrialized countries uses the original OECD membership from 1961 as a base. The changes in OECD membership over time then allow for the change in status for countries over the 40 years of GATT data. From this base, we then reclassify the following countries: Australia, Israel, and Japan are assumed to be industrialized over the entire GATT period even though they joined OECD in 1971, 2010, and 1964 respectively; and Hong Kong is assumed to be industrialized by the time of its first involvement in a GATT dispute in 1989. Second, we define the variable LDC_{comp} whose j^{th} element takes the value of 1 if the complainant in dispute j is a non-industrialized country, and 0 otherwise. And using LDC_{resp} and LDC_{comp}, we define the additional controls $LDC_{comp}LDC_{resp}$ whose j^{th} element takes the value of 1 if both the complainant and respondent in dispute j are non-industrialized countries, and 0 otherwise; $DC_{comp}LDC_{resp}$ whose j^{th} element takes the value of 1 if the complainant in dispute j is an industrialized country but the respondent is a non-industrialized country, and 0 otherwise; and $LDC_{comp}DC_{resp}$ whose j^{th} element takes the value of 1 if the complainant in dispute j is a non-industrialized country but the respondent is an industrialized country, and 0 otherwise. Third, as a control for cases with multiple disputants, we define the variable $DISP_{\#}$ whose j^{th} element is the number of separate claimants that are involved in a dispute with the defendant over the same issue.

2. The WTO-Era Data

The WTO-era data used in this paper is largely based on the WTO Dispute Settlement Database (see Horn, Johannesson and Mavroidis, 2011 for a description). This data set is maintained by the World Bank, and its current coverage includes each of the 426 documented WTO disputes between 1995 and August 2011.[1] We exclude from our analysis the 24 disputes that were initiated after January 1 2010 (because a number of these disputes are still ongoing); and we exclude as well the 36 disputes that did not involve claims about GATT Articles (e.g., WTO disputes about TRIPS, TRIMS or GATS commitments).[2] We also exclude from our analysis 8 cases where the issue returns in a later dispute (which we include) or is simply handled in another dispute (which we include).[3] And there are 5 multi-complainant cases which were each treated as a single dispute by the WTO (i.e., each of the claimants against the common respondent was listed under the same WTO dispute number) which we also drop from our analysis, on the grounds that these cases reflected especially tight links across the claimants involved that would likely have a strong impact on settlement behavior and about which our model is silent.[4] Finally, on May 5 1998 the United States initiated 5 separate WTO disputes against Belgium, The Netherlands, Greece, Ireland and France claiming that certain income tax measures adopted by these countries constituted illegal export subsidies under WTO rules. We view these 5 cases, which did not proceed past the request for consultation stage, as best interpreted as a retaliatory response by the United States to the EU's earlier claim and request for consultation on November 18 1997 that certain U.S. income tax measures (Foreign Sales Corporations) constituted illegal export subsidies under WTO rules (and leading to the EU request for a panel on July 1 1998). As such we exclude these 5 cases from our analysis as well.[5] After this set of exclusions we are left with 348 WTO disputes.

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[1] Each dispute is associated with a unique DSnumber, which is the official case number recorded in WTO documents. Thus this data set includes disputes from DS1 to DS426.

[2] The 36 excluded cases are DS28, DS35, DS36, DS37, DS42, DS45, DS50, DS79, DS80, DS82, DS83, DS86, DS97, DS112, DS113, DS114, DS115, DS117, DS124, DS125, DS153, DS160, DS164, DS170, DS171, DS176, DS196, DS204, DS243, DS285, DS287, DS362, DS367, DS372, DS373, DS378.

[3] The 8 excluded cases are DS3, DS16, DS52, DS101, DS106, DS185, DS228, DS271, which repectively return or are handled in DS41, DS27, DS65, DS132, DS126, DS187, DS230, DS270.

[4] The 5 excluded cases are DS27, DS58, DS158, DS217, DS234

[5] The 5 excluded cases are DS127, DS128, DS129, DS130, DS131.

2.1. Dependent variables

For regressions that include the WTO era, the dependent variable for claim-level regressions is $ClaimES_{kj} = 1$ if claim k in dispute j settles early and 0 if claim k in dispute j does not settle early; and the dependent variable for dispute-level regressions is $ClaimES_j = 1$ if dispute j settles early and 0 otherwise. As explained in the text, we do not attempt to distinguish among cases where a mutually agreed settlement was reported, where the complaint was withdrawn, or where the complaint was simply suspended. Hence, if a claim is included in a dispute and there is no ruling, then we say that the claim "settled early," i.e., settled before a ruling was issued.[6] Unlike the case of GATT-I era disputes, for WTO-era disputes we can take a claim-level perspective in operationalizing the construction of $ClaimES_{kj}$ by making use of the more detailed claim-level data available from the WTO Dispute Settlement Database. Specifically, this database records the claims made at two distinct junctures in a dispute: first, when one government – the claimant – requests that another government engage with it in formal "consultation" (the initial step in any formal GATT/WTO dispute); and second, when the claimant requests that a "panel" of judges be formed to consider the arguments of both sides in the dispute and issue a ruling. The WTO database also records those claims that are ruled upon in each dispute. Utilizing this more detailed claim-level WTO data, and defining a claim as settled prior to the ruling ("early settlement") if and only if the claim was made in a dispute and there was no ruling on it, the resulting claim-level definition of early settlement then includes claims that were listed in the request for consultation but not listed in the request for a panel (which we interpret as settled prior to the request-for-panel stage) and it also includes claims that were listed in the request for a panel but were not ruled upon (which we interpret as settled after the panel was formed but prior to the panel ruling).

We also define the variable Post-Ruling Settlement (PRS), whose j^{th} element takes the value of 1 if there was a settlement agreement reached in dispute j after a ruling by the panel, and 0 otherwise. This variable is not used in our regressions (we have too few observations to run regressions over the sample conditional on a panel ruling), but it is used in the numbers we report in the Introduction of the paper, and it is constructed based on the classification of WTO dispute status contained on the WTO web page *Current Status of Disputes*.

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[6]In general, we define the circulation of an interim report as the occurrence of a WTO ruling. However, there are 4 exceptions where the interim report simply records the mutually agreed settlement of the parties: these are the cases DS7, DS12, DS14 and DS72. We treat these cases as early settlement.

2.2. Independent variables

The independent variables consist of binary variables indicating whether or not a GATT article (or subarticle) is raised as a claim in a WTO dispute. Specifically, for each GATT Article k (or relevant sub-Article), we define a variable $CLAIM_k$ whose j^{th} element takes the value of 1 if dispute j contains claims for GATT Article k or any of its subarticles, and 0 otherwise. The list of GATT Articles claimed in each WTO dispute are derived from the WTO Dispute Settlement Database, where we can distinguish between GATT Articles claimed in a request for consultation and GATT Articles claimed in the request for a panel. We utilize this distinction in the claim-level construction of $ClaimES_{kj}$ that we describe above.

2.3. Control variables

Our list of constructed control variables is analogous to the list described for the GATT data in section 1.3. The main difference is our definition of industrialized countries, where the WTO era we follow Horn, Johannesson and Mavroidis (2011, Table 1).[7]

References

Horn, Henrik, Louise Johannesson and Petros C. Mavroidis (2011), "The WTO Dispute Settlement System 1995-2006: Some Descriptive Statistics," *Journal of World Trade*, vol. 45(6)

Hudec, Robert E. (1993), *Enforcing International Trade Law: The Evolution of the Modern GATT Legal System*, Butterworth Legal Publishers: USA

Reinhardt, Eric R. (1996), *Posturing Parliaments: Ratification, Uncertainty, and International Bargaining*, Chapter 4, Ph.D. dissertation (New York: Columbia University, December 11)

Reinhardt, Eric R. (2001), "Adjudication without Enforcement in GATT Disputes," *Journal of Conflict Resolution,* 45:2, April, 174-195

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[7]Specifically, for the WTO era our list of industrialized countries is as follows: Australia, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Estonia, Hong Kong, Hungary, Iceland, Israel, Japan, Korea, Latvia, Liechtenstein, Lithuania, Malta, Mexico, New Zealand, Norway, Poland, Romania, Singapore, Slovak Republic, Slovenia, Switzerland, Turkey, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, UK, US, EU. There is only one OECD member country that is not in this list: Chile.

Table A1: Mapping

CLAIM	GATT ARTICLE(S)
Nondiscrimination	GATT:I
Schedule of concessions	GATT:II
National treatment	GATT:III
Film provisions	GATT:IV
Transit	GATT:V
Antidumping/countervailing duty	GATT:VI;SCM:10;AD
Customs valuation	GATT:VII
Fees/formalities	GATT:VIII
Marks of Origin	GATT:IX
Administration of trade regulations	GATT:X
Quantitative restrictions	GATT:XI
Balance of payments	GATT:XII
Nondiscriminatory quotas	GATT:XIII
Exceptions to nondiscrimination	GATT:XIV
Exchange arrangements	GATT:XV
Domestic subsidies	GATT:XVI.1;SCM:5,6
Export subsidies	GATT:XVI [excluding XVI.1];SCM:3
State trading	GATT:XVII
Government development assistance	GATT:XVIII
Escape clause	GATT:XIX
General exceptions	GATT:XX
Security exceptions	GATT:XXI
Violation nullification or impairment	GATT:XXIII [excluding XXIII.1(b) and XXIII.1(c)]
Nonviolation	GATT:XXIII.1(b),XXIII.1(c)
Free trade agreements/customs unions	GATT:XXIV [excluding XXIV.6]
Modification of schedules	GATT:XXVIII,XXIV.6