

# Trade Negotiations at the (Possible) End of Multilateral Institutionalism

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## Abstract

Multilateral negotiations are often facilitated through international organizations, but are not coterminous with them. This essay advances a few ‘mid-level’ propositions with respect to the negotiation structure that provides an overall context and the negotiation process where tactics guide the exchange of concessions. In terms of negotiation structure, a stable institutional structure is giving rise to a transitional one resulting in system spoilers in international negotiations leading to deadlocks and no-agreements. The bargaining phases are marked with games of chicken and grand-standing making it hard to effectively practice common negotiation tactics such as coalition-building, trade-offs and linkages. The article provides examples from the Uruguay Round and the breakdown of the Doha Round of trade negotiations through the World Trade Organization. The essay’s propositions address the breakdown of existing multilateralism through international organizations, but also document the continuation of underlying multilateral principles.

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## Keywords

multilateralism – international organizations – trade – General Agreements on Tariffs and Trade (GATT) – World Trade Organization (WTO) – negotiation structure – negotiation process

The recent deadlocks and the decline in multilateral negotiations through international organizations such as the World Trade Organization have raised concerns about the future of international trade and, at times, negotiations themselves. The optimistic predictions at the turn of the century favoring rules-based bargaining facilitated through international forums and organizations now seem incorrect and optimistic (Slaughter 2004; Davis 2004; Odell 2006). The United States has fast emerged as a leading protectionist country, especially in the years of the Trump administration. If all the tariffs under consideration in the U.S. were to go into effect, they would average above 8 percent, four times greater than 2017, and higher than the average tariffs of the G20, OECD, or the BRICS (*Financial Times*, July 10, 2019). However, world merchandise exports have continued to grow at an average of 3.0 percent during 2010–2018 following the negative rates during the financial crisis, and reached a high of 4.7 percent in 2017 (WTO 2019: 96). Polling data also show that 56 percent of Americans support free trade (Pew 2018). These mixed data, implying a great degree of interdependence, predicate a future for trade, but do not address issues about the types of negotiations that will underlie international trade.

How are trade negotiations being conducted as international organization-led multilateralism faces significant challenges? This article follows Ruggie's (1992: 568) definition of multilateralism as "coordinating relations among three or more states in accordance with certain principles." These principles for trade include reciprocity, non-discrimination, and shared though unequal benefits. Trade negotiations facilitated through international organizations present a 'multilateral institutionalism' nested within various types of negotiation structures and reflecting underlying principles. It is tempting to label such scenarios anarchic but such a supposition is difficult to sustain. Negotiations in anarchic structures can move toward agreement – coerced or cooperative – with a preponderant power to build coalitions and contain defections. Such a concentration of power reveals a hierarchy where a preponderant power acting alone, or in concert with other great powers, dictates the rules of bargaining and consequently the outcomes (Krasner 1991; Drezner 2007). A negotiation structure with power distributed across several great and emerging powers and issue-areas, in contrast, is termed diffusion of power (Singh 2008,

2015; building on Lax & Sebenius 1986). The former distribution favors power-based bargaining, while the latter favors pragmatic rules-based bargaining (see Steinberg 2002 for distinction between power-based and rules-based bargaining).

This essay revisits the concentration versus diffusion of power negotiation structures to speak of a transitional power structure in the context of the recent rise of the 'high-politics' of international trade albeit in the absence of a preponderant power that can bring everyone to agreement. The essay advances a few propositions with respect to the *negotiation structure* which provides the overall context for negotiations and the *negotiation process* or the bargaining phase of the negotiations where negotiation tactics guide the exchange of concessions among the parties. In terms of the negotiations structure, the inability of multilateral institutionalism to function toward agreement is giving rise to (and is further encouraged by) system spoilers in international negotiations leading to deadlocks and no-agreements. With no countervailing power and the breakdown of rules, system spoilers can play a vocal role. The biggest disruptions to the system have come from emerging powers such as China and, in the last two years, from incumbents such as the United States.<sup>2</sup> The bargaining phases of negotiations are marked with a great degree of the game of chicken and grand-standing making it hard to effectively practice common negotiation tactics such as coalition-building, trade-offs, and linkages.

The first part of the article provides an empirical example from the Uruguay Round and the breakdown of the Doha Round of the trade negotiations under the World Trade Organization. The rise of China and an increasingly confrontational United States contributed to the breakdown of the Doha Round. Therefore, the current U.S.-China trade dispute is also important to the discussion.<sup>3</sup> Next, the essay turns conceptually to the inherent instability of negotiation structures in both concentration and diffusion of power scenarios. The move away from diffusion of power does not improve the best alternative to a negotiated agreement, which usually heightens the importance of agreement for parties. However, in the current scenario agreements are hard to obtain. The essay then discusses negotiation processes. System spoilers defect often from negotiations in maneuvers that can be termed 'grand-standing' rather than a

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2 Factors accounting for the rise of a potentially 'hegemonic' China or a 'nationalist' United States are beyond the scope of this article. However, the discussion does attend to the negotiation structures and processes during the 'transitional structure' that encompasses or reflects the behavior of these states.

3 At times, the article also refers to the UK's Brexit negotiations with the European Union. The Brexit negotiations offer an instance of an exit from one type of multilateral institutionalism, in this case the UK's from EU, but ostensibly to follow that of the WTO for trade.

pragmatic search for solution (in a diffusion of power) or ability to impose solutions (in a concentration of power). The conclusion provides the implications of the system breakdown for the legitimacy of negotiations, and the future of multilateral negotiations. Just as there are various types of power structures, there are many types of multilateralism; the tensions of multilateralism fostered through WTO may not mean the end of multilateralism.

### The Uruguay and Doha Rounds as Illustrations

There is inherent instability in any type of a negotiation structure in a multilateral bargaining situation. In a concentration of power scenario, a preponderant power can stabilize the system and move parties to agreement if the others acquiesce or can be excluded. The history of General Agreements on Tariffs and Trade (GATT) negotiations from its creation in 1946 to the end of the Tokyo Round (1974–79) where most of the negotiations concluded at the behest of the United States and the European Community meets this requirement. In a diffusion of power, new powers wield influence and cannot be excluded, even if great powers set the rules of the game. The new powers may subscribe to the socially-accepted rules of conduct but after questioning them deeply. At the same time, old powers that framed those rules of conduct may not find them to be in their interest, or are unable to garner concessions from others. The conclusion of the Uruguay Round (1986–94), after some difficult negotiations, moved the multilateral trading powers to agreement. The emerging powers led by India and Brazil advocated hard for their interests but eventually played a pragmatic role in the search for solutions. Most of the gains accrued to incumbent powers.

The breakdown of the Doha Round illustrates the moves away from both a concentration and a diffusion of power in the recalcitrance of new powers, and the inability of the old to enforce rules of conduct. As emerging powers increase their share of world trade, the old powers find it increasingly hard to practice negotiation tactics that yield them a majority share of the bargaining outcomes. A brief comparison below between the Doha Round (2001–) and the diffusion of power at the Uruguay Round (1986–94) helps to tease out the points further about agriculture, intellectual property, and services trade negotiations in resolving the underlying issues of concern. The Uruguay Round of trade through GATT was mostly a North-South negotiation. The developing countries did not make significant gains but they could not be excluded from the negotiations like earlier multilateral trade rounds had done. They formed coalitions and participated in issues of interest to them, but they also

followed the bargaining rules laid out in previous periods. However, either the developing world caved into the developed world’s agenda or discovered new sources of comparative advantage in issues such as services that would ultimately threaten the developed world. After the Uruguay Round ended, the lack of progress on issues of importance to the developing world and China’s accession to the WTO in 2001 complicated the arithmetic for the great powers to continue to effect gains in these negotiations and may be contributing to the breakdown of the multilateral institutional trading order. Four issues are discussed below to provide some context for understanding a transitional power structure.

*Agriculture*

The Uruguay Round Agreement on Agriculture (URAA) offered little to the developing world. Fig. 1 shows how the net positive gains received in agricultural negotiations mostly accrued to the developed world, with the United States receiving the most concessions over those given, followed by Australia and the EU states. Most developing countries made more concessions than they received except for pro-trade Cairns groups agricultural states such as Argentina and Uruguay. URAA monetized the non-tariff barriers into tariffs, sought to reduce export subsidies, and classified agricultural commodities into tariff boxes

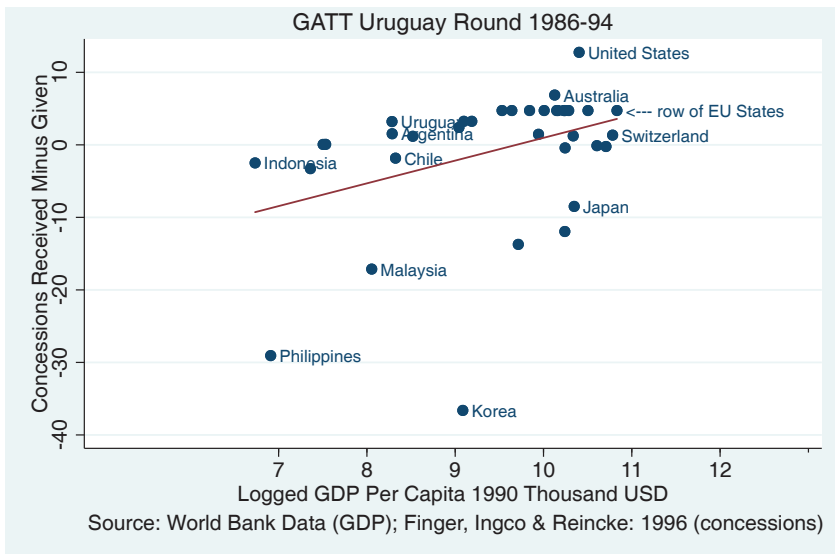


FIGURE 1 Percent agricultural concessions received minus given  
 SOURCE: WORLD BANK DATA (GDP, FINGER, INGCO & REINCKE: 1996 (CONCESSIONS))

that needed to be either eliminated (amber), reduced (red), or could be tolerated (green). In practice, developed countries tried to move import-competing products into red or green boxes and found it hard to cut export subsidies. Imports of agricultural products from the developing world decreased after the Uruguay Round. The total level of subsidies was \$271.2 billion in 1986–88 when the Uruguay Round started and this increased to \$330.6 billion in 1998–2000, a few years after it ended in 1994 (Clapp 2006).

By the time the Doha Round opened in November 2001, the developing world was ready to fight the lack of agricultural liberalization. The Cancun Ministerial in 2003 came undone over agriculture. The developing country interests were also diverging: those seeking liberalization including the Cairns group on agriculture, and those seeking to extend the Special and Differential Treatment that offered limited quota-fixed tariff-free access to their agricultural products. The former strategy favored the efficient producers. In 2006, a G110 coalition emerged to pool all the divergent developing country interests. The July 2008 Framework agreement could have prevented the breakdown of the Doha Round: The United States offered to cap its subsidies at \$14.5 billion. However, talks broke down. The United States blamed India and China initially, though most of the blame now goes to China.

Attempts to get around the breakdown of the Doha Round after July 2008 were largely unsuccessful. India rejected the Bali Ministerial accord in 2014 over food safety concerns, although India's concerns were accommodated in November 2014. Further, the recent rise of China in the global trading order has meant that the country has become a major hurdle to any agricultural liberalization. China is now the biggest subsidizer in agriculture with its export subsidies, including those in cotton, far exceeding those of the United States: China provided \$212 billion in subsidies in 2016, greater than any other country including the U.S. at \$33 billion and the EU at \$100 billion (Hopewell 2019: 211). China's reluctance to open its agriculture imports further has emerged among the salient trade issues of the Trump administration. China has responded to U.S. tariffs since 2016 on steel, aluminum, and its manufactured products by enacting tariffs on U.S. agriculture exports among other commodities. In turn, the Trump administration compensated the farmers for the trade war with China, giving \$12 billion in subsidies in 2018, and is poised to pay around \$16 billion in 2019.

Table 1 below provides a sense of the underlying dynamics shifting the politics of trade negotiations. Among the top ten agriculture exporters, the share of the developed countries in agriculture exports has declined from 64.3 percent in 2000 to 52.8 percent in 2017. China, India, and Mexico feature the highest growth rates in exports, and the three countries are also among the top

TABLE 1 Top 10 exporters and importers of agricultural products (in billions of dollars and percentages)

Exporters	Value 2017	Share in World Exports		Annual % Change
		2010	2017	2010–2017
EU 28	681	42.0	37.4	3
Extra EU (28)	181	10.1	10.0	4
USA	172	13.0	9.5	2
Brazil	93	2.8	5.1	4
China	83	3.0	4.5	6
Canada	69	6.3	3.8	4
Indonesia	46	1.4	2.5	3
Thailand	44	2.2	2.4	3
India	39	1.1	2.2	7
Australia	38	3.0	2.1	4
Mexico	35	1.7	1.9	8
Total	1301	76.5	71.5	

Importers	Value 2017	Share in World Exports		Annual % Change
		2010	2017	2010–2017
EU 28	688	42.8	37.2	3
Extra EU (28)	186	13.3	10.1	2
China	191	3.3	10.5	8
USA	71	11.6	9.3	5
Japan	83	10.5	4.5	1
Canada	40	2.6	2.2	3
Korea	39	2.2	2.1	5
Russia	31	1.3	1.7	-2
Mexico	31	1.9	1.7	3
Hong Kong	30	...	...	...
India	28	0.7	1.7	6
Total	1325	77.9	71.8	

SOURCE: WORLD TRADE ORGANIZATION, WORLD TRADE STATISTICAL REVIEW 2019, P. 111

ten importers in the world with growth rates. Interestingly, the growth rate for Chinese imports is greater than its export growth rate.

### High-Tech Issues: Intellectual Property

Developing countries had opposed the developed world's introduction of 'high-tech' issues before the Uruguay Round but concentrated most of their attention on the burgeoning agenda for liberalization of trade in services. The United States had also inserted manufacturing of 'counterfeit products' on the trade round but the developing world perceived this to be a narrow issue. After the round started, the developing world was caught off-guard from the way the U.S. negotiators, with support from European and Japanese counterparts, pieced together a much grander intellectual property agenda than one limited to counterfeit products (Sell 2003). This threatened issues such as the availability of seeds and medicines in the developing world, and pressured resource-thin developing world states to closely monitor and prevent intellectual property infringements. After several deadlocks and protests, the Uruguay Round ended with the Trade-related Aspects of Intellectual Property Rights (TRIPS) agreement. In deference to demands from the developing world, TRIPS included Article 31, which would allow developing countries to break patents for public health emergencies, in a procedure known as compulsory licensing. Until the start of the Doha Round, the scope of Article 31 had not been defined and pharmaceutical firms in the developed world feared a compromise.<sup>4</sup>

The Uruguay Round context foreshadowed and influenced the negotiations at the Doha Round on intellectual property. When the multilateral meetings began in Doha in November 2001, they were initially deadlocked due to pressures from the developing world on the issue of access to medicines for public health emergencies. In a few cases, this would mean compulsory licensing but the developing world also asked for parallel imports of drugs from countries that manufactured them cheaper, an international trade practice opposed by the big pharmaceutical firms. The Doha Round impasse was broken with a health declaration, especially its Para 6 that urged "solutions for countries experiencing public health emergencies." This task was completed in 2003, but few compulsory licenses have been issued and, with U.S. pressures, have been

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4 In the U.S., compulsory licensing is allowed for national security reasons. An example was the period after the 11 September 2001 attacks when Anthrax was mailed to members of media and Congress. The government did not issue a compulsory license for the drug Cipro from Bayer but employed the threat to negotiate discounted prices.



applied only to a limited list of public health emergencies. Critics note that the U.S. leads in compulsory licenses itself but restricts them to the rest of the world (*The Economic Times*, 20 May 2014). Meanwhile the United States aggressively pursued far more restrictive intellectual property agreements, sometimes called TRIPS++, in its bilateral and multilateral agreements. The Trans-Pacific Partnership (TPP) had been perceived as a triumph for intellectual property interests until the U.S. walked out in January in the first month of the Trump administration.<sup>5</sup>

### *High-tech Issues: Services*

Services negotiations provide a different story from that of intellectual property. While the developing world stood opposed to services negotiations at the beginning of the Uruguay Round, countries like India ‘discovered’ their competitive advantage in many services products as the negotiations proceeded. Further, the developing world effected changes in the evolving General Agreement on Trade in Services (GATS) that allowed for a sequential and tailored approach. After the Uruguay Round, the services sector proceeded with ‘autonomous liberalizations’ from the developing world, meaning that countries undertook liberalizations that went beyond their existing commitments. Numerous attempts to re-start the Doha Round after July 2008 acknowledged that the services sector commitments toward liberalization were far ahead of other sectors. World trade in commercial services was \$5.6 trillion in 2018 and the top ten commercial exporters ranked China as fifth and India as eighth largest service exporters in the world (WTO 2019: 111) with a percentage change of 17 and 11 percent respectively over the previous year. The share of developing countries in services trade has risen from 28 percent in 2005 to 34 percent in 2015 (Roy 2019: 12).

### *China and Special and Differential Treatment*

China acceded to the WTO in 2001 after fifteen years of negotiations and seven and a half years after the close of the Uruguay Round. The United States has consistently run merchandise trade deficits with China. The U.S. has been a major critic of China’s trade policy, blaming China for the failure of the Doha Round specifically for rejecting the July 2008 compromise on agriculture. Table 3 provides a profile for the two biggest exporting countries in the world. The Trump administration’s hardline stance and threats follow up on earlier

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5 The remaining eleven TPP states renegotiated the agreement among themselves, now renamed Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which came into effect December 2018.

frustrations with China's role in international trade. As Chinese exports have grown, the country's status as a developing economy and the size of its internal subsidies to agriculture and industry have been an additional source of friction. The United States, as also other developed countries, has also complained about intellectual property infringements and forced technology transfers to firms establishing businesses in China. Finally, after accession to the WTO in 2001, China has not played by international rules as expected. Its refusal to agree to a potential July 2008 Doha Round is a leading instance of these concerns, but there are many others.

The Trump administration imposed a 25 percent tariff on Chinese steel imports and 10 percent on aluminum in March 2018. By July 2019, the United States had imposed a 25 percent tariff on \$250 billion in tariffs on Chinese imports and has a list to threaten an additional \$325 billion. In turn, the Chinese have increased tariffs on \$110 billion American products. On the eve of another round of trade talks in Beijing in July 2019, the Chinese foreign ministry criticized the Trump administration for its "wayward arrogance and selfishness" (*Financial Times*: 30 July 2019). The negotiations ended in deadlock and the Trump administration announced tariffs for the additional \$325 billion of trade to go into effect by September 2019, which were subsequently deferred to December. In effect, the tariffs would cover over 90 percent of the exports from China to the United States.

The special and differential treatment status accorded to China at the time of its accession to the WTO allows it to maintain higher tariffs on its imports. While China is the leading importer of agricultural products (see Table 1), the United States argues that its tariffs and subsidies on agriculture harm U.S. exports, including cotton. The latter case is ironic because U.S. cotton subsidies allowed the country to maintain its competitive advantage over other countries in exports to markets like China (Rivoli 2005; Singh 2014; Hopewell 2019).

In July 2019, the Trump administration called for several countries' developing country status to be revoked at the WTO. These included South Korea, Singapore, and Mexico – classified either as high-income in the World Bank classification, or members of the high-income OECD club. Further, the United States argued that states with more than 0.5 percent of world merchandise trade should not be classified as developing countries. While the number was deemed arbitrary at the WTO, it revealed the frustration of dealing with the world's leading exporter China while it claims developing country status.

In summary, the empirical example above provides details on both the breakdown of the multilateral institutionalist order and the inability of the United States to dictate rules to emerging powers such as China. The current breakdown, however, needs to be traced back to outstanding issues from the

Uruguay Round such as agriculture and intellectual property. The entry of China to the WTO complicated the negotiations on these issues, leading to the breakdown of the Doha Round following the July 2008 negotiations. The next section takes up the issue of conducting trade negotiations in the interregnum of a concentration and diffusion of power.

### Changing Negotiation Structure

Multilateral institutionalist negotiations take place within a power structure. This section first describes the two negotiation structures identified above – concentration of power or diffusion of power – before turning to power structure breakdowns or transitions. The two power structures can be broken into elements that can allow for agreement among nation-states.<sup>6</sup>

Table 2 below illustrates three elements that can facilitate convergence of interests among the two types of negotiation structures. The difficulty of convergent interests with a diffusion of power should be apparent with multiple issues and no preponderant power. This problem was seen to be resolved in the past with reference to a rules-based and institution-led international liberal order, best articulated first by Keohane (1984). Liberal institutionalism showed conceptually and empirically that a hegemony, meaning the resources and willingness to provide a global public good, is neither necessary nor sufficient for nation-states to find convergent solutions in negotiations (Zacher & Sutton 1996; Slaughter 2004; Cowhey & Aronson 2017). Institutions can also embody ideas that lead to continuity of practices: through ideational influences in domestic institutions (Goldstein 1993 discusses liberal trade), or through changing interests that states accommodate (Moravcsik 1997). Kahler (1993) also argued that GATT was able to accommodate large numbers of states at the Uruguay Round beyond the developed states club that shaped the earlier negotiations, thereby speaking to the adaptability of international institutions.

The role of socialization in negotiations and bargaining was another important element brought to bear upon both types of power distributions, although constructivist insights extend beyond multilateral institutionalism. Wendt's fundamental point was that anarchy comes in varied forms depending on the type of socialization in place that provides the basis for how agents will act within any structure: "I argue that it is impossible for structures to have effects apart from the attributes and interactions of agents. If that is right, then the

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6 While other actors are present, multilateral agreements addressed in this article are among nation-states facilitated through international organizations.

TABLE 2 Concentration versus diffusion of power

Negotiation Structure	Concentration of Power	Diffusion of Power
<b>Resources of great powers</b>	Hierarchical with preponderant resources for a singular power or a concert of powers	No preponderant concert of power. Diffused powers among several states
<b>Interests of great powers states</b>	Convergent	Convergent and divergent depending on context
<b>Number of issues and sub-issues</b>	Limited – often with an overarching security dimension or external threat	Multiple issues – security concerns marginal to negotiation

challenge of ‘systemic’ theory is not to show that ‘structure’ has more explanatory power than ‘agents’ as if the two were separate, but to show how agents are differently structured by the system to produce different effects” (Wendt 1999: 12). Constructivists, after accounting for socialization, argue that once in place, structures have longevity in the international system. For example, they point out the increasing use of science to confront climate change through its effects on epistemic communities (Haas 1992), the increase of human rights practices (Keck & Sikkink 1998; Crawford 2002), and the increasing use of pragmatic bargaining in trade (Singh 2007). Constructivists may have overstated the role of socialization in not anticipating the decline of recent multilateral institutionalism. Nevertheless, a general lesson from this literature remains important for this article: following Wendt, agents are ‘differently structured’ in different negotiation configurations – concentration of power, diffusion of power, or transitional structure.

The empirical examples provided above illustrate the concentration of power before the Uruguay Round and the diffusion of power thereafter. The deadlocks at the Doha Round and the current breakdown of the multilateral order provide pause for the optimistic forecasts about the conceptualizations described in this section about the continuity of negotiations with liberal institutionalism or the socialization of nation-states over the long-run. With some caution, this article forwards four suppositions on the fate of multilateral negotiations through negotiation structure transitions. All of them follow the experience of the transitional negotiation structure in the last decade that was described earlier.

### *Role of System Spoilers*

With breakdowns in hegemony and no ready convergence of interests through multilateral institutions, the role of system spoilers to halt negotiation processes or defect from multilateral rules that already exist increases. The two primary examples are China's inability to subscribe to international rules after joining the WTO and the frequent attacks on the WTO from the United States starting with the Obama administration. Stepping beyond the WTO, another example may be UK's Brexit referendum in June 2016 and the all too frequent grand-standing in Westminster deliberations over the Brexit negotiations with the European Union.

### *Lack of Coalitions*

The United States has had very limited success in getting allies to join in the WTO bashing and China is finding itself increasingly isolated from old or new powers such as the U.S., EU, Japan, South Korea, India, and perhaps even ASEAN states. Although many developing countries are reluctant to critique China, they have not formed any strong coalitions with the country either.

### *Role of Security Interests*

Concentration of power scenarios are strongly informed with security interests but overriding security interests are not apparent in the current scenario. The rise of free trade in Europe in the nineteenth century was strongly informed by the need to establish trading ties with a Germany that was increasingly unified after the *zollverein*, a customs union in 1833, and the rising power of Brandenburg/Prussia. GATT negotiations in the post-war era took place in the shadow of the Cold War. Concerns about China's security dominance are often expressed in analyses of its Belt and Road Initiative geared toward establishing infrastructural project and links with 152 countries. However, even the BRI strategy must be first analyzed as an act of economic domination rather than a militarist one. This indicates the unlikely replacement of power transition with a negotiation structure that is highly responsive to security concerns in trade.

### *Role of Changing Interests*

While there are significant departures from multilateral institutionalism, it is too early to tell if states' fundamental underlying societal interests have changed overwhelmingly for or against multilateralism. Both liberalism and constructivism accord attention to changing interests in the international system. Remember that liberal institutionalism underscores domestic interests in the configuration of international interests, while constructivists underscore socialization through multiple influences such as transnational movements,

international institutions, and networks that join local to global levels and in issue-areas. It is hard to see a systemic breakdown at present through either of the two paradigmatic lenses. As noted earlier, global trade has so far increased just as multilateral institutions have weakened suggesting that those who gain from trade have an interest in maintaining the system. This includes in an economic sense producers, consumers, and nation-states. The European Union remains in favor of multilateralism. Even the UK wants to return to WTO rules after breaking away from the EU.

### **Best Alternative to a Negotiated Agreement**

The concept of Best Alternative to a Negotiated Agreement (BATNA) is useful for translating the four negotiation structure propositions into outcomes. If the BATNA is good, negotiations end in deadlock. The BATNA can be specified or calculated prior to actual bargaining among states but also as bargaining ends to discern why agreement may or may not have reached.

The transitional negotiation structure leads to considerable “noise” in calculating BATNA through multilateral institutionalism. The United States has not completely abandoned the WTO and has won crucial cases through its dispute settlement mechanism during the Trump administration. These include the October 2019 authorization that allows the U.S. nearly \$7.5 billion worth of annual countermeasures for the subsidies that the EU provides to Airbus. Even the “bilateral” U.S.-China trade dispute has a multilateral dimension: China (as also the EU and other countries) has challenged steel, aluminum, and other tariffs from the U.S. through the WTO dispute settlement body (DSB). Similarly, in 2018 the U.S. requested consultations with China through the DSB for intellectual property rights infringements. However, the U.S. has also blocked appellate body appointments and it could close down in December 2019 when two of the minimum three members serving at present (from the total of nine) finish their terms.

A defection from multilateral institutionalism may mean economic nationalism or bilateral negotiations. However, the BATNA does not look good at least in economic terms for the two preponderant powers – United States and China – in current bilateral negotiations. For the United States, the statistics on the economic damage to the country from its trade wars are the stuff of daily headlines. China’s defection from multilateral negotiations would be equally anomalous. China’s official explanation for maintaining trade restrictions is that the country’s development and trade strategy has lifted hundreds

TABLE 3 Trade and GDP Profiles (2018)

	Merchandise exports (\$ trillion)	Annual % change (2010-18)	Services exports (\$ trillion)	Annual change (2010-18)	Trade (% of GDP)	GDP (\$ trillion)	GDP per capita (\$)
China	2.49	6	.27	NA	19.1	13.41	\$8803
United States	1.66	3	.81	5	13.4	20.49	\$60136

SOURCE: COUNTRY PROFILES, WORLD TRADE ORGANIZATION, ACCESSED  
OCTOBER 17, 2019

of millions of people out of poverty but that still does not correlate with its frequent ability to defect from trade negotiations. Nevertheless, an export-dependent economy cannot afford a prolonged trade war. Table 3 shows the enormous dependence on trade in the Chinese economy, therefore a defection from the multilateral trading order is not in China's interest. If the long-term strategy is going to work out through a China-led trading order such as BRI, the details or implications are not yet clear.

### Changes in Negotiation Processes

Given these pre-bargaining BATNAs, what can be expected from bargaining behavior? With bad BATNAs, negotiating parties work hard to strike deals at negotiations under both a concentration and a diffusion of power, while practicing various negotiation tactics. In the power structure transition suggested in this article, a bad BATNA has not led to the expected negotiation behavior. Again, four propositions are derived from the currently on-going trade negotiations

#### *Game of Chicken rather than Prisoner's Dilemma*

The characteristic bargaining game for stable power distributions, whether concentration or diffusion of power, is prisoner's dilemma (PD). The will to defect from a hard to obtain commonweal leaves everyone worse off in the short-run. However, the game when played iteratively leads to internalization of the benefits of cooperation and a willingness to reach agreement (Axelrod



1985, 1997). Even if the agreement is sub-optimal, the BATNA is worse. The overall agreement reached at the Uruguay Round may have been sub-optimal, especially for the developing world, but meets the conditions of a PD game played iteratively to lead toward cooperation.

In a transitional power structure, system spoilers generally follow a modified version of the game of chicken, with the caveat that it is unclear if the iterated game would lead to cooperation. The U.S.-China trade dispute and the Brexit negotiations offer contrasting examples of the lack of clarity: the former of disregarding cooperation through the WTO, and the latter of the UK negotiating its own rules with the WTO directly rather than what the EU negotiated if Brexit does happen. In the U.S.-China example, each side can be seen as not swerving from the path of tariff escalations, hoping the other side would relent before a fatal crash. The tariffs and the threats of tariffs have escalated on each side, and each seems willing to pay the domestic cost of playing this game. China's waiting game on U.S. tariffs, meaning potential change in the hardline U.S. administration with the 2020 elections, can also be interpreted in game of chicken terms: China could wait for the U.S. to swerve because of the latter's domestic politics.

The UK's Brexit negotiations with the EU offer another instance of the end of the game of chicken through multilateral institutionalism. Ostensibly after exiting one type of multilateral institution (the EU), the UK would negotiate its own rules for trade through the WTO. After his election in mid-July 2019, Prime Minister Boris Johnson practiced brinkmanship threatening to crash the UK out of the EU unless the latter renegotiated important provision of the current deal negotiated by his predecessor Theresa May. The brinkmanship largely failed to make EU swerve and the UK was forced to make concessions to the EU. There was a deal on the table mid-October 2019 but it was not clear if this was an improvement over the earlier agreement from Theresa May or if it would be approved through UK's Parliament.

### *Domestic and International Grand-standing*

The bargaining until the Doha Round at GATT/WTO was marked with legitimizing metaphors and the deployment of various bargaining tactics even when there were serious deadlocks. These tactics included careful agenda-setting, trade-offs and linkages, and coalition-building. The legitimizing metaphors and tactics are now replaced with grand-standing. Consider the following statement from USTR Robert Zoellick after the standoff in 2006 that lists various negotiation positions that could move parties positively toward agreement.



Can the Doha Round be saved? Possibly. To do so, the ministers of key countries need to change their negotiating approach. They need to shift from obstinate posturing to working together as strategic problem-solvers. Helped by Pascal Lamy, the able director-general of the World Trade Organization. Instead of holding back, negotiating with 149 parties across multiple topics requires sharing information, testing creative combinations and assisting one another. The common goal is to open markets and cut subsidies, stretching but not overreaching domestic political support (Zoellick: 25 September 2006).

USTR Zoellick was often seen to disregard developing country interests but the statement above is important in reiterating the basic principles of multilateralism, namely mutual benefits and diffused reciprocity. Contrast the above statement with this mid-2019 press release from USTR office that lays all blame on China and suggests nothing by way of negotiation processes, or why China will relent, characteristic of a bully tactic common to a game of chicken:

It is important to note that the impetus for the discussions was China's long history of unfair trade practices. Our negotiating positions have been consistent throughout these talks, and China back-pedaled on important elements of what the parties had agreed to. One such position was the need for enforceability, a position necessitated by China's history of making commitments that it fails to keep. But our insistence on detailed and enforceable commitments from the Chinese in no way constitutes a threat to Chinese sovereignty. Rather, the issues discussed are common to trade agreements and are necessary to address the systemic issues that have contributed to persistent and unsustainable trade deficits (USTR, 3 June 2019).

### *Inability to Build International Coalitions*

Generally, the developing world builds coalitions to confront the strong but the strong arrive with tacit understanding themselves for a course of action, in other words coalition-like behavior. Coalitions are thus an important part of negotiations: any negotiation structure prior to the bargaining process features coalitional patterns, which then change or shift during the actual bargaining.

The high-technology negotiations at the Uruguay Round featured coalitions that began before the negotiations and strengthened during the bargaining phase. Although the United States began to introduce high-tech issues such as services and intellectual property to the GATT in the early 1980s, it went about

building an international coalition of support prior to the actual negotiations at the Uruguay Round. The intellectual property negotiations were especially remarkable for US-EC-Japanese coalitional cohesiveness with a transnational coalition of businesses backing this coalition.

The United States has not built an international or a strong domestic business coalition of support for its trade war with China, nor has it reached out to EU and Japanese allies. If anything, the United States has also escalated a trade war with EU ensuring that the steel and aluminum tariffs apply to them. There is no cohesive domestic coalition of support either: there was demurrals from the aluminum and steel industries in the U.S. on these tariffs. From the standpoint of a two-level game in bargaining (Evans et al. 1993; Putnam 1985), the Chinese side can view the cracks in the domestic and international levels and would be wise to play a waiting game while the United States has increasingly less domestic support for its hardline position. Meanwhile, the Chinese have not picked up any significant allies in their trade war with the US, though so far China has managed the domestic economic repercussions of the trade war through budgetary transfers and, in August 2019, through a devaluation of the yuan that would counteract the high tariff.

#### *Credibility, Waiting Game, and Worsening BATNA*

Bargaining tactics are effective if during the negotiation one party can worsen the other side's BATNA. This is hard to do when negotiations are less focused on issues and interests and more on overall ideology and grand-standing. Again, the negotiations with China may be illustrative of such a transitional power structure. The Chinese economy seems to be set to ride out a couple of years of pressures from the Trump administration. China has made promises and not relented with any significant concessions. The war of words is heated: for every "jab" from Washington, DC, Beijing replies with equal impunity. In late-July 2019, before the start of another round of negotiations, the Chinese asked the United States to show "integrity" and sincerity" (*Financial Times* 31 July 2019).

The deal UK's Brexit negotiators brought home in early 2019 after a year and half of negotiations with the EU was widely regarded as the best deal the country could obtain. Several votes on this deal and indicative votes on other options during March–April 2019 confirmed that the Brexit package was the best on the table with no other package getting the ruling Conservative parties votes. Nevertheless, the Brexit package was still rejected in the Parliament and led eventually to the removal of Prime Minister Theresa May in July 2019. As noted, the new Prime Minister Boris Johnson accelerated the game of chicken vowing to crash the UK out of the EU end-October without a deal. The UK Parliament successfully blocked a no-deal Brexit but it was unclear that the

agreement UK worked out with the EU mid-October 2019 could be ratified in the UK Parliament either. Lacking credibility and with a bad BATNA, the negotiation tactic of brinkmanship did not yield the UK anything. Brussels was willing to call out Boris Johnson's bluff and refused to renegotiate the terms of Brexit on UK's terms. Contrary to what the staunch Brexiters wanted, the agreement in October 2019 does not institute a hard border between Ireland and North Ireland.

### Conclusion

Negotiation outcomes through multilateral institutions are constrained within different negotiation structures and specifically shaped during the negotiation or bargaining process. This article takes an empirical strategy centered on trade negotiations for identifying the concentration of power until the end of the Tokyo Round (1979) and a diffusion of power through the end of the Uruguay Round (1994). The Doha Round features a transitional power structure; as of yet, it is unclear if the transition would settle in favor of a move back to a diffusion of power that EU would favor, a concentration of power in favor of China or the United States, or a complete overhaul such as China's early moves toward BRI might undertake. Transitional power structures are interstitial and can lead to a concentration or a diffusion of power if the underlying principles of multilateralism remain in place.

Theory based on emergent empirical details about the breakdown or transformation of negotiation structure and process is always risky. A few conceptualizations stand out. First, stating the obvious, it remains useful to speak of negotiation structures and processes with a BATNA before and after negotiations. Second, current negotiation concepts do remain relevant. The identification of the game of chicken as opposed to prisoner's dilemma is one such concept. Others include the relevance of two-level games, coalition-building, and moves away from the table (China's recent devaluation of the yuan).

In terms of the complete breakdown of multilateralism, the article takes an ambiguous position reflecting empirical reasons. The Chinese economy is heavily dependent on trade as is the EU, especially Germany – one of its chief protagonists. The UK's Brexit strategy is still predicated on a return to WTO rules. The Trump administration has followed the most populist or nationalist strategy on trade – in terms of appeal to a political base rather than sound economic sense of situating the strategy in terms of economic payoffs to producers and consumers. Whether this type of populism will wreck the international trading system and its multilateral order is a difficult question to

answer. Populism can be seen to be inconsistent with underlying multilateral principles, such as non-discrimination and mutual benefits. Eventually, the structural ambiguity of the transitional power distribution – neither concentration nor diffusion – coupled with existing levels of interdependence and lack of domestic resonance may act as checks on system spoilers.

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