The Causes and Effects of Leaks in International Negotiations

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International negotiations are founded on secrecy. Yet, unauthorized leaks of negotiating documents have grown common. What are the incentives behind leaks, and what are their effects on bargaining between states? Specifically, are leaks offensive or defensive: are they intended to spur parties to make more ambitious commitments, or are they more often intended to claw back commitments made? We examine these questions in the context of trade negotiations, the recurring form of which affords us rare empirical traction on an otherwise elusive issue. We assemble the first dataset of its kind, covering 120 discrete leaks from 2006 to 2015. We find that leaks are indeed rising in number. Leaks are clustered around novel legal provisions and appear to be disproportionately defensive: they serve those actors intent on limiting commitments made. The European Union (EU) appears responsible for the majority of leaks occurring worldwide. Using party manifesto data to track changing ideological positions within the EU, we find that the occurrence of leaks correlates with opposition to economic liberalization within the average EU political party. Moreover, leaks appear effective in shifting public debate. We examine trade officials’ internal communications and media coverage in the wake of a specific leak of negotiations between Canada and the EU. A given negotiating text attracts more negative coverage when it is leaked than when the same text is officially released. In sum, political actors leak information strategically to mobilize domestic audiences toward their preferred negotiating outcome.

Introduction

Much of politics is designed to be hidden from public view. Citing commercial interests, national security, or diplomatic practice, governments purposefully keep a significant part of their activity from their own audiences. But the walls often prove porous: private information gets leaked. This may be especially true during times of political upheaval and discord.

The administration of US President Trump, for instance, has been plagued by leaks. Investigations into leaksers have reportedly tripled compared to the prior administration. In September 2017, National Security Advisor H.R. McMaster proposed a government-wide crackdown on unauthorized disclosures not only of classified information, but also of controlled unclassified information. Tellingly, this antileak memo was itself leaked to the press. Leaks from the Trump administration reveal a divided White House. As one seasoned Republican strategist suggests, "Trump’s White House is not leaky because of a few bad apples. The no. 1 reason why it leaks is because his team lacks unity ...many of the leaks are about the very staff infighting that is causing the leaks." The international setting is proving just as porous. In international negotiations, especially, leaks of draft texts, chapters, or negotiating positions have become increasingly salient. What are the motivations for these targeted leaks, and what effect do they have on bargaining outcomes? Leaks can have profound effects on bargaining: a single leak in the Transatlantic Trade and Investment Partnership (TTIP) negotiations is largely to blame for having turned public opinion against the deal. At a time when global integration is increasingly politicized, what can a better understanding of leaks reveal about the politics of international negotiations? The answer, we argue, shares much in common with explanations behind the White House leaks.

Far from being independent, one-off events, our claim is that leaks during international negotiations are strategic and that this makes them analytically tractable. We begin by striking a distinction between offensive and defensive leaks. Offensive leaks occur when a party leaks information to get the opposing negotiating party to concede to more, as when bringing to light an opposing party’s intransigence. Defensive leaks take place when the leaked information is meant to hinder negotiations, as when revealing a position or concession that will prove unpopular. Both types of leaks aim to mobilize domestic audiences in order to place political pressure on negotiators. Offensive leaks seek to spur; defensive leaks seek to spoil. In both cases, they are a means for dissatisfied individuals to bring the outcome of negotiations closer to their own ideal by mobilizing a sympathetic audience, either foreign or domestic.

We use these insights to try and predict the occurrence of leaks in the empirical setting that has witnessed the greatest number of discrete leaks in recent years: international trade negotiations. No major trade accord has been negotiated without its share of leaks, though there is significant variation in the number and extent of those leaks by agreement. We collect a comprehensive record of all the leaks of documents in trade negotiations over the last decade, from 2006 to 2015, amounting to 120 discrete cases of leaked documents. Because trade negotiations deal with
recurring issues, these data offer us unprecedented insight into the motives behind, and the effects of, leaks in bargaining between states.

The results are striking. First, the data confirm that the number of leaks is indeed increasing over time during the last decade. Secondly, from descriptives of the leaked documents alone, we find that the European Union (EU) appears responsible for the majority of leaks occurring worldwide. And the frequency of those leaks is also increasing, even accounting for the number of EU trade negotiations. This suspicion is consistent with widespread beliefs about how the structure of the EU and its emphasis on transparency within the negotiating process make it especially prone to leaks.4

We further test this belief by turning to party-manifesto data. The occurrence of leaks attributable to the EU appears highly correlated with opposition to economic liberalization within the average EU political party: more left-leaning positions among European parties make leaks significantly more likely. We also find that as the divide between Right and Left increases, so does the incidence of leaks. As in the domestic setting, when European politics are more polarized, leaks in international negotiations grow more common.

We also derive expectations over the content of leaks. Most leaks are targeted; they do not contain an entire agreement, but some small portion of it. What explains which parts of negotiated agreements get leaked? Reasoning through the incentives underlying leaks, we argue that, if leaks are strategic denouncements, they should target those areas where they will be most effective in shifting debate. As a result, we expect to see more leaks in the “unsettled” areas of the international trade and investment regime, in which past agreements have yet to establish clear expectations about how issues will be regulated.5

Do leaks work? We address this question by examining the fallout from one specific high-profile leak. The negotiating text of the Canada-EU Comprehensive Economic and Trade Agreement (CETA) was leaked in August 2014, just one month prior to being officially released. Canadian governmental email correspondence reveals trade officials correctly anticipated domestic political mobilization against CETA as a result of the leak. Moreover, we find that news coverage of the leak was significantly more negative than the coverage of the official release, despite the fact that the text at issue was the same document. These findings suggest leaks can damage governments’ efforts to positively frame, and therefore to domestically ratify, international trade agreements.

The remainder of the article proceeds as follows. The next section develops a theory of leaks—what are the incentives to leak in international negotiations, and what are their effects? We then rely on descriptive statistics to provide the first comprehensive overview of leaks in trade. Next, we use regression analysis to test the link between the occurrence of leaks and EU politics. We then show that leaks are more likely in “unsettled” areas of the international trade regime. Finally, we examine the fallout from a specific leak, to illustrate how leaks have the potential to mobilize targeted groups and affect public debate on trade agreements. We conclude by considering leaks in international negotiations from a normative perspective. Because leaks are targeted, in that they expose some parts of an negotiated agreement but not others, they may increase the odds of mobilization against an agreement that could, in aggregate, benefit the median voter. In this way, leaks do increase transparency of the negotiating process, but they may also end up blocking socially beneficial reforms.

A Theory of Leaks in International Negotiations

The Role of Secrecy

International negotiations are founded on secrecy.5 Parties keep their positions from one another and jealously guard the offers and demands made during negotiations from their respective domestic audiences until a final outcome is reached.6 Most plainly, each party in a negotiation stands to gain if it can keep its allowable set of bargaining outcomes private, so that it may appear more intransigent than it is and extract greater concessions from the opposing side. But secrecy does not only help one party at the expense of the other; it may also increase the odds of a deal being reached.7

Of the welfare-enhancing reasons for secrecy in negotiation, issue linkage may be the most common.6 Governments rarely negotiate a single issue on a one-dimensional spectrum, like a buyer and a seller bargaining over the price of a house. Most often, a number of issues are linked together, such that concessions that matter to one side can be exchanged against different concessions that matter to the other. Governments may agree to give in on one issue, if they can secure some sizeable advantage in another. In this way, the odds of achieving agreement increase when many issues are combined.8 But if each concession is made known as soon as it is offered, domestic interest groups will mobilize against the deal before it can be proven to be welfare-enhancing in aggregate.9 For this reason, the default design of treaty negotiations is to maintain secrecy until a final agreement is reached, and then to seek ratification through an up-or-down vote.10 This design reflects the notion that most international commitments, from trade agreements to climate accords, seek to benefit the country as a whole, but they also create domestic winners and losers in the process. Import-competing industries usually stand to lose from liberalizing agreements, but their decision to mobilize against an agreement is spurred by precise concessions, such as the reduction of a rule-of-origin requirement on car imports from 60 percent regional content to 45 percent.11 If the winning and losing stakes are precisely identified from the start, those on the losing end will mobilize to block an agreement before the overall beneficial reform has a chance to pass.12

As is well-known, negotiators of international agreements spend as much time negotiating with their domestic constituencies as with their foreign counterparts.13 Secrecy also

4The EU’s emphasis on transparency was articulated in the October 14, 2015, release of the European Commission’s Trade for All strategy, the second pillar of which is transparency in trade negotiations. This policy responded to the increasing politicization of trade within the EU (Commission 2015).

5Pouliot (2010, 83).


7Haas (1980). In a classic example, institutionalized linkages between agricultural and industrial issues are thought to have encouraged domestically challenging agricultural liberalization in both Japan and Europe (Davis, 2004).

8Haas (1980); Davis (2004); McGinnis (1986).

9Korennesou, Lipson, and Suidhal (2001), 785-86.

10See Meunier’s discussion of the EU’s difficulty of negotiating under conditions of transparency (Meunier 2005, 95; also, Starkey, Boyer, and Wilkenfeld 2005, 135).

11This was one of the more contentious concessions within the TPP negotiations.

12For analogous reasons, Goldstein and Martin (2000) warned that the increasing legalization of international relations, by detailing who stood to lose how much from agreements, would lead to mobilization against welfare-enhancing agreements by import-competing groups, who tended to represent more concentrated interests.

plays a key function in this two-level aspect of bargaining. Since any bargaining outcome must be satisfactory not only to the executives of each country but also to the domestic ratifying audience, negotiators must clear bargaining room for themselves on both the domestic and the international side. They do this by playing one level against the other. Once a deal is completed, negotiators from both sides routinely return home and declare that they have obtained a favorable deal, in an attempt to secure ratification. This process becomes impossible if the offers made during negotiations are made known to the other level. Secrecy can thus increase the allowable set of outcomes for each side, magnifying the odds of any agreement being reached.

For these reasons, governments have always sought to hold negotiations in secret, and diplomacy in general is traditionally a closed realm. Yet, the walls often prove porous. In recent years, especially, salient leaks have come to dominate the headlines. Helped by increasingly sophisticated means of anonymously transferring large amounts of information, individuals have leaked restricted negotiating documents, sometimes containing thousands of pages, to the media. What is the purpose of these leaks? And might a better understanding of the incentives underlying leaks allow us to predict their occurrence?

Offensive versus Defensive Leaks

We begin by distinguishing between leaks according to their purpose. Leaks aim either to spur or to spoil. They either seek to pressure a recalcitrant party to concede more, or they seek to claw back commitments made by a party seen as overzealous. Both types of leaks are denouncements aimed at domestic audiences and both seek to mobilize.

In the first case, offensive leaks aim to bring to light how a recalcitrant party’s position clashes with that of domestic groups. They can show how an opposing party is thwarting the negotiations and can thereby mobilize global audiences. Yet, in most cases, governments are likely to be most swayed by their own audiences, and leaks are most likely to take this into account by targeting those domestic audiences. Offensive leaks thus seek to expose a party’s intransigence, to build pressure on it to concede more.

As an example, in December 2009, world leaders met in Copenhagen to make commitments on reducing emissions to combat climate change. A leak of the countries’ positions was sent to the German magazine Der Spiegel. The leak revealed that China was the main party holding up the negotiation: on the last day of the talks, it had refused to commit to the 50 percent reduction of emissions by 2050 (with 1990 as the benchmark year), which had been the stated ambition of the summit. The leak also singled out India for its intransigence. European leaders were shown exhorting both developing countries to agree to a binding commitment of any sort, without success. A representative headline read, “How China and India Sabotaged the UN Climate Summit.” The author of the leak succeeded in denouncing China and India’s unwillingness to commit, compared to European countries. The episode was seen as an embarrassment to both China and India. It is plausible that this single leak had an effect on global climate negotiations when the same leaders met again over the following years, culminating in the successful COP21 meeting in Paris in 2015.

What makes this an offensive leak for the purpose of our theory is that its aim was to spur other parties to make further concessions. In this case, the denouncement of the refusal by China and India to make any binding commitment increased pressure on these countries to make a commitment during subsequent talks. Although one can imagine a disgruntled Chinese negotiator leaking the parties’ positions owing to her dissatisfaction with her own government’s position, it appears more plausible that the source of the leak came from the side pushing for further commitments. The leak’s publication in a German news outlet seems consistent with this view.

Contrast this with defensive leaks. Here, the objective is the opposite. Defensive leaks bring to light provisions that are perceived as excessive, in order to rein these in. These also seek to denounce, but they do so in order to spoil negotiations. The assumption underlying defensive leaks is that the specific provision being leaked will so be sufficiently objectionable to audiences that it will lead to mobilization against that provision, or the treaty as a whole.

Keeping to the very same negotiations for consistency, consider the 2009 leak of the “Danish text.” This draft agreement prepared by developed countries months earlier was leaked at the very start of the Copenhagen climate summit. To the dismay of developing countries, it unveiled an attempt to force developing countries to agree to specific emission cuts and measures that were not part of the original UN agreement; called for international verification of emissions (something developing countries like China had objected to under sovereignty concerns); and made adjustment funds for developing countries dependent on a number of climate actions. Looking back on the summit several months later, some participants, especially developing country negotiators, faulted the leaked information for having “destroyed Copenhagen from day one.” If this is to be believed, then the defensive leak should be seen as successful, having spoiled negotiations of an agreement that developing countries judged overly lopsided.

Whomever they target, both offensive and defensive leaks are based on the perception by leakers of a gap between the position expressed in a leaked document and the ideal point of a particular domestic audience. The defensive leak aimed to mobilize interest groups sympathetic to developing country interests and spoil the alternative deal proposed by developed countries. Later, the offensive leak aimed to mobilize proclimate regulation constituencies, in an attempt to spur further concessions by developing countries. These two leaks of the same negotiations neatly demonstrate how leaks can be used strategically by opposing interests in a negotiation, to both spoil and spur the aspects of the negotiations they care about.

It is also a testament to the power of agenda-setting that domestic actors seek to exert influence over the agreement prior to the stage of ratification. Governments use private negotiations to craft a set of concessions that

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15The need for secrecy and demands for transparency are in tension in many issue areas in international relations. See, for instance, Hafner-Burton, Steiner-Threlkeld, and Victor (2016); Hafner-Burton and Victor (2016); Stasavage (2004); Kurizaki (2007); Kurizaki and Whang (2011).
16Reich and Barnoy (2016).
17Rapp, Schwägerl, and Traufetter (2010).
18Vidal (2009).
19Rapp, Schwägerl, and Traufetter (2010).
20Steinberg (2002).
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To better understand the causes and effects of leaks in international negotiations, we consider leaks in one specific domain, that of international trade negotiations. In recent years, the realm of trade and investment treaties has become the most leak-prone area in global governance. Furthermore, trade negotiations, as compared with, for example, security agreements, deal with a consistent set of issues, making them especially tractable across space and time.

Our central contention is that most, if not all, leaks in the realm of trade negotiations should be of the defensive type. This is for two reasons. First, a tenet of trade theory holds that the main winners from liberalization, consumers, do not mobilize for lower prices, whereas the concentrated import-competing interests that stand to lose from liberalization do. Since the aim of leaks is to mobilize, leaks are more likely to be directed at groups opposed to the agreement than those that favor it: simply put, the opponents of liberalization are better able to mobilize. The distributional effects of trade liberalization might thus explain why trade negotiations are prone to leaks and why they might be more likely to be defensive in character. But these distributional effects are constant and so poorly explain an increase in leaks over time. What accounts for this shift, we argue, is a more recent change in the nature of trade negotiations.

Traditionally, liberalization has consisted of cutting tariffs, but as these have reached historic lows, liberalization has turned to reducing regulatory discrimination, or regulation that correlates with domestic advantage. This leads to far more contentious treaties, running up as it does against regulatory regimes, an area traditionally falling outside sovereign control. Trade agreements that promise deep integration have become a complicated exercise in telling apart legitimate regulation that responds to domestic social demands from arbitrary or protectionist regulation, which primarily aims to favor domestic industry. The shift toward these “behind-the-border” provisions has created incentives to leak during trade negotiations, as a number of groups created around environmental, health, and safety concerns have risen to push back against further liberalization. Though behind-the-border provisions are increasingly laden with various exceptions seeking to preserve governments’ right to regulate—itself a consequence of the push-back—there is little doubt that provisions covering health and safety measures and technical barriers to trade, in aggregate, limit a country’s ability to govern over traditionally sovereign areas. This argument fits with well-known accounts of normative contestation. The emergence of new norms in politics invariably runs up against other, established norms. It is in this stage of a norm’s “life cycle,” prior to what Sunstein (1997) calls the “norm cascade,” that we expect norms to be most actively contested.

To illustrate, consider the leak of documents pertaining to TTIP negotiations between the EU and the United States in March 2014. While most leaks during negotiations...
remain anonymous, here is a rare case where the origin is known: a German Green Party Member of the European Parliament (MEP), Sven Giegold, openly admitted to leaking an eighteen-page document containing guidelines for the EU Council of Ministers in negotiations with the United States. In justifying his breach, the MEP declared the following: “[f]or me, protection of democracy carries a greater weight than the Commission’s interest in undisturbed and secret back-room negotiations.”32 Further, he explained, “a transatlantic trade agreement could wall in our democratic sphere of influence at its heart. For that reason, I decided to publish the confidential mandate.”33

The incentive behind the leak is plain. An official with access to confidential documents, member of a party that prioritized “democracy’s means for social and environmental management of the internal market”34 more than the average European party, sought to bring to light TTIP’s content, especially as it concerned the rights the agreement granted firms to challenge governments through investor-state arbitration. His aim was to mobilize domestic pushback among European and especially German audiences. In this respect, the move was largely successful: the leak coincided with widespread European backlash against TTIP. This single leak marked the beginning of the EU’s backtracking on large trade agreements and on investment provisions in particular.

The Giegold leak constitutes a quintessential defensive leak: its intent to spoil is known. And trade theory suggests that most leaks in trade should have this defensive character. But it is worth asking, what does an offensive leak in trade look like? Recent US political developments have their constituents, who have been historically favorable to US trade politics appears reversed: the current US president

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imagined that, in this context, the US renegotiates an existing trade agreement “downward,” say by introducing a five-year sunset clause at the president’s behest, as was put forth in the renegotiations of the North American Free Trade Agreement (NAFTA). Had this sunset clause proposal not been made public from the start, Republican legislators might have had a strong incentive to leak it, in an attempt to activate their own relatively more protrade constituency and denounce such an agreement as toothless and not worth signing. This would constitute an offensive trade leak: it would seek a more ambitious agreement, binding signatories beyond five years.36 Next, we take a closer look at the data.

The Data

To examine the causes and effects of leaks in trade, we build a dataset of all leaks that occurred between 2006 and 2015, inclusively. To do so, we rely on two news sources dedicated to the dissemination of information about trade negotiations: InsideUSTrade and bilaterals.org. To enter the dataset, a leak must have yielded a document. Some research suggests that oral leaks remain prevalent despite the rise of “megaleaks,”37 but we purposefully leave aside leaked “comments” by insiders, as these raise a number of coding issues.38 Similarly, the event had to be explicitly identified as a “leak” or “leaked” document. It had to be, in other words, formally unauthorized by the negotiating governments. We identify a total of 120 distinct leaks of trade agreements from 2006 to 2015. For each of these, we collect data on the relevant negotiations, the date of the leak, its volume in terms of pages of text, the chapter of the trade agreement it covers, and the amount of media coverage it generated. We also code leaks as either “offensive” or “defensive.”

First, we used this comprehensive record of leaks to check whether the frequency of leaks is actually rising. The answer appears to be yes. Figure 1 illustrates this trend, showing the number of leaks in every quarter as well as a trend line for the relative frequency of leaks. Whatever its proximate cause, we can thus assert that leaks of negotiations are an increasingly salient phenomenon, even within the last decade.

Secondly, we seek to classify all leaks as either offensive or defensive. Recall that offensive leaks are designed to spur and defensive leaks to spoil. In most cases, we cannot observe leakers’ intent. But we assume that leakers have a good sense of the potential fallout from a leak: they can predict which groups are likely to mobilize. Accordingly, we rely on the original site’s treatment of a leak (be it WikiLeaks, or POLITICO) and information about how a leaked country-position was described in articles on InsideUSTrade and bilaterals.org. If the original site of a leak proclaimed support for (opposition to) the trade deal in question, we code the leak as offensive (defensive). If the original site used leaked information to make a case for a country’s position being sufficiently (overly) liberalizing, we code the leak as offensive (defensive). We do the same for the coverage in InsideUSTrade and bilaterals.org. If there was no identifiable original source or commentary, we refrain from attributing an offensive or defensive character to the leak. It quickly became apparent, however, that we have little variation to speak of: as opposed to an issue area like climate change, virtually all leaks in our sample appear either defensive in character or unattributable. In fact, we find only a single instance where the objective seemed to spur further concessions—or rather, to limit backtracking on past concessions. It concerned a 2015 EU draft proposal in TTIP negotiations that would have allowed individual EU states to restrict imports on the basis of genetically modified organism (GMO) content. The leak disproportionately mobilized groups opposed to the measure, who pushed to maintain the EU’s status-quo stance.39 As per our argument above, the structure of trade interests leads us to expect that leaks in trade will be disproportionately defensive: given how constituencies skeptical of deep agreements face a lower collective-action problem, and are thus more likely to mobilize, we argue that elites considering whether to leak are more likely to do this if their aim is to spoil, rather than spur, the agreement. The record of leaks bears out this belief, albeit to an unexpected degree.

32EurActiv (2014).
33ibid.
34ibid.
35This runs against the conventional wisdom according to which the House is more protectionist than the Senate, which is more protectionist than the executive (see, e.g., Busch and Reinhardt 2005).
36One interesting implication of the way the traditional left-right divide on trade issues appears to have weakened in recent years is that offensive leaks could become more likely. If right-of-center parties adopt a populist attitude that spurs binding international commitments (Johns, Pele, and Wellhausen 2019) and trade agreements get diluted as a result, disgruntled mainstream pro-trade legislators could seek to mobilize pro-trade constituencies in favor of deeper agreements by leaking negotiating texts. We thank an anonymous referee for suggesting this possibility.
37Reich and Barnoy (2016).
38It becomes unclear, for instance, if a leaked comment is attached to the individual uttering it or to the content of the comment, which makes the separation of discrete leaks ambiguous. Moreover, leaked comments vary a great deal in importance, and it is more difficult to distinguish an authorized comment from an unauthorized one. To avoid such issues, we limit ourselves to identifiable leaked documents.
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Third, we examine whether the leak’s content related to a particular country. If the leaked document contains a given country’s negotiating strategy, its position, or was otherwise explicitly identified as pertaining to a given country, we attribute the leak to that country. While it remains a remote possibility that an opposing negotiating party would have gained access to documents by its negotiating party and chosen to leak them, this seems highly improbable. It is far more plausible that leaked documents about the negotiating position of a given country are disclosed by someone from that country who has ready access to them.

Examining the country attribution, a split is immediately apparent. Of the 120 leaks, fifty-four can be readily identified with a given country. Of these, thirty-seven, or about 69 percent, are attributable to the EU. The other countries to whom documents can be directly attributed are the United States, with eight documents, and New Zealand, with two documents. All other countries (such as Canada, Chile, India, Japan, and Turkey) have at most a single directly attributable document. While this leaves sixty-five leaks that cannot be directly attributed, the distribution remains suggestive, a supermajority of attributable leaks appears to implicate the EU.

This apparent overrepresentation of the EU is also consistent with anecdotal evidence, which suggests that the EU is particularly prone to leaks because of an institutional design that gives access to confidential documents to a large number of political officials and because of the EU’s emphasis on internal transparency.40 Actors within the EU Commission, for instance, are pulled between the need for confidentiality and secrecy in negotiations and the demand for transparency.41 As noted in its Trade for All strategy, the Commission has promised increased transparency in trade negotiations, a move that was itself a likely reaction to the public mobilization that followed the March 2014 TTIP leak. While this commitment to greater transparency has been greeted by some (such as Giegold himself) with skepticism,42 it is far from empty rhetoric. The Commission has increased engagement with the European Parliament, is encouraging interaction with member-state and civil society groups, and has committed to impact assessments in "every significant initiative in the field of trade policy."43

Other states have noted this change and reacted accordingly. In response to a number of leaks surrounding the TTIP negotiations that the United States attributed to the EU, the United States refused to grant access to TTIP documents beyond Brussels and US embassies in European capitals: "The [United States] has thus far been unwilling to increase the access to those texts, citing the leaks of restricted EU documents as an indication that the texts would not be secure if available outside of its embassies."44 The distribution of directly attributable leaks in our data appears to confirm these suspicions.

Finally, we evaluated the variation in leaks by trade agreement. As Figure 2 illustrates, more than half of all leaks relate to just three trade agreements: the EU-Canada Comprehensive Economic and Trade Agreement (CETA), the EU-US Transatlantic Trade and Investment Partnership (TTIP), and the twelve-nation Trans-Pacific Partnership (TPP) agreement. All three of these agreements have attracted attention in large part because of their expanded coverage of new issue areas in international commerce.

Leaks and Political Party Positions

We argue above that leaks grow more likely as the distance between a country’s position in negotiations and the median position of its domestic audience increases, a view that echoes the earlier observation that leaks may be more likely during times of divided government.45 Leaks are denouncements that play on the discrepancy between popular views and partial negotiated outcomes. In the case of defensive leaks, the more likely a domestic audience is to mobilize following a leak, all else equal, the more likely that leak becomes.

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40Hillebrandt, Carin, and Meijer (2014).
41Herrmann (2015, 44).
45Abel (1987, 18).
Given how both anecdotal evidence and descriptive statistics suggest that the EU is especially prone to unauthorized leaks, we take a closer look at how EU institutions might be affecting the occurrence of leaks. Within the EU, there are a number of political actors with access to negotiation documents. First are members of DG (Directorate General) Trade—the European Commission’s trade ministry—who are charged with negotiating agreements. The Commission reports regularly to the Trade Policy Committee, a working group comprised of senior member-state officials that is responsible for formulating much of the EU’s negotiating positions.\footnote{Woolcock (2016, 16).} The Trade Policy Committee (TPC), in turn, communicates with member-state permanent representatives to Brussels, who report to the capitals. In addition to this, the Commission reports to Members of the European Parliament (MEPs), through the EP’s Internal Trade Committee (INTA), but such consultations are less frequent. Finally, the Commission has established “reading rooms” that enable representatives from member states (and other parties) to consult certain trade documents, albeit without any recording devices.

In other words, a large number of EU officials from different institutions have access to trade documents. But not all of these institutional affiliations are likely to explain leaks. Because MEPs are elected only every five years, it is unlikely that variation in the identity of MEPs explains variation in the frequency of leaks over time.\footnote{While there are two European Parliament elections during our period of interest (in 2009 and 2014), data on party manifestos is only available for the 2009 election.} Moreover, the MEPs that constitute the INTA, unlike members of the TPC, have relatively little trade expertise and would be relatively less likely to engage with trade documents numbering in the hundreds and often thousands of pages. As the aforementioned Green MEP Sven Giegold put it in the context of the reading-room consultations, “nonnative English-speaking MEPs are . . . deterred by highly technical trade-law jargon.”\footnote{The Guardian (2015).}

However, the cues that MEPs receive from national parties do vary over time. Members of European Parliament are also members of national-level political parties, such as the Italian Forza Italia, the French Parti socialiste (PS), or the German Green Party. European political parties in the European Parliament, like the center-right European People’s Party (EPP) and the center-left Party of European Socialists (PES), are comprised not of individuals but of these national-level political parties from European member states. The EPP has consisted historically of Christian democratic parties, although it now comprises other center-right economically liberal and conservative parties (like Forza Italia). The PES comprises social-democrat and socialist parties (like the French PS). And the European Green Party brings together parties supporting green politics (like the German Green Party). European political parties belong in turn to political groups within the European Parliament: the EPP is part of the EPP Group, the PES is part of the Progressive Alliance of Socialists and Democrats (S&D), and the European Green Party is part of the Greens-European Free Alliance.\footnote{See EuroParl (2018).} As such, representation within the EP is...
organized based on political ideology rather than on the basis of nationality; MEPs work closely with colleagues from similar political parties from across the EU.

Because of this, MEPs are sensitive not only to the electoral politics of their home state, but to the electoral politics within all European member states. A Green Party MEP such as Sven Giegold would be attuned to the domestic concerns facing Green Party members throughout Europe, including his own German Green Party. Giegold would also be attuned to the demands of voters for parties belonging to the European Free Alliance, such as the Scottish National Party, since the two are coalition partners in the Greens/European Free Alliance (EFA) group.

In sum, MEPs are all members of domestic political parties that respond to the demands of domestic politics. Because the EP groups are transnational and tend to vote together, concerns that register strongly in domestic constituencies will ultimately affect policy positions taken by EP groups. Changes of beliefs among the general population register in national elections, and national parties send cues to corresponding members of the European Parliament. If a domestic constituency suddenly grows wary of liberalization, then we might expect sympathetic MEPs, or officials within parliamentary groups, to become more prone to leak documents that suggest overly ambitious liberalization.

Moreover, even if MEPs are not responsible for leaks, the same dynamics of shifting political positions in member states would influence other actors involved in trade policy. Although career officials are likely to be less motivated by the demands of domestic audiences than parliamentarians, it is also possible that leaks come from the ranks of member-state representatives in Brussels. Through the TPC and the Member State Permanent Representatives, member-state representatives with high technical expertise in trade negotiations have routine access to negotiation documents.

As such, domestic political preferences comprise our key explanatory variable for the occurrence of leaks. To test our argument, we turn to Party Manifesto data, which we use to calculate the average EU member-country position on trade negotiations. While the party manifesto data comprise a number of measures, we rely on the simplest left-right divide, which aptly captures the different cleavages in trade negotiations. Overall, leftist observers are more wary of shifting political positions in member states that would influence other actors involved in trade policy. Although career officials are likely to be less motivated by the demands of domestic audiences than parliamentarians, it is also possible that leaks come from the ranks of member-state representatives in Brussels. Through the TPC and the Member State Permanent Representatives, member-state representatives with high technical expertise in trade negotiations have routine access to negotiation documents.

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Larger values on this variable indicate more right-leaning positions within domestic audiences and among elected legislators. We thus expect the relationship with leaks to be negative. We use these national means to calculate a EU-wide monthly ideological position. We then regress the number of leaks in every month from 2006 to 2015 on this EU-wide ideological position. This allows us to test whether leaks appear to be a response to variation in domestic beliefs.

We also test beliefs about the relationship between political polarization and leaks. Recall that leaks occur when a policy-maker stands to benefit from a discrepancy between popular views and the partly negotiated agreement. Polarization affects both. That is, the more polarized a government is, the more likely it becomes that at least one legislator will be sufficiently disheartened by an aspect of a negotiated agreement. And insofar as polarization among policy-makers reflects polarization in the audience, it also means that there is more potential for outrage among the audience following a leak and thus more likelihood of mobilization. As a result, we expect that leaks increase alongside political polarization. This belief is present in an earlier literature that focused on the relationship between the US press and US government officials (Abel 1987). Many of the incentives faced by officials over leaks in the domestic context are similar to what we observe in the context of international negotiations. As Abel suggests, “[l]eaks proliferate in times of controversy and crisis. Although they spring from a variety of motives ... [T]hey have one common purpose: to serve the vested interests of the source.” Given that leaks are designed primarily to secure a political advantage for the leader’s position, Abel also suggests that they will be more likely at times of divided government, when divisions over legislative agendas are likely to be that much more politically salient. To test this belief, we measure polarization using the Party Manifesto dataset as the average distance between the farthest Left and farthest Right party, across all EU states, in a given month.

Table 1 shows the results of our estimations. We also exploit the information obtained from the documents’ attributions to different countries, by varying the dependent variable in each estimation. In the first set of results, the dependent variable is thus a monthly count of only those leaks that we can confidently attribute to the EU. The dependent variable in the second set of results is a monthly count of those leaks that could plausibly be attributed to the EU, but which may also have been leaked by another negotiating party. The expectation is that if all unattributed leaks did in fact originate in the EU, then we should see an equal or stronger effect in the second model as in the first. The third set of results then serves as a placebo test: it tests the relationship between EU positions and those leaks we can confidently attribute to countries other than the EU, either because they explicitly implicated other countries or because they concerned negotiations, like the TPP, that the EU was not party to.

As we would expect, if changing domestic positions were indeed fuelling leaks, the effect of EU positions is significant in the first set of results and then dissipates. In the second set of results, where the dependent variable includes unattributed leaks, the effect of our independent variables is still negative, but no longer statistically significant. In the third set, showing our placebo results, left-right party ideology and left-right polarization remain entirely insignificant. The upshot is that EU-attributed leaks do appear significantly related to domestic political preferences, as proxied by elected parties’ platforms. The model shows good fit. By converting the count dependent variable to a dummy variable, coded as 1 if any leaks occurred in that month, and 0 otherwise, we can reestimate the relationship with a logit model, to offer a more intuitive sense of how well the model fares. In the case of the second model where we include right-left party ideology and right-left polarization, the logit model (not shown) correctly classifies more than 76 percent of cases. Substantively speaking, these are large effects: looking at EU-attributed leaks, a standard deviation increase in left-leaning parties is associated with an increase

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50 See Milner and Juddins (2004). For instance, stringent rules on intellectual property protection amount to additional “market regulation,” but they are aggressively pushed by the United States, and considered a “liberalizing” measure. The same can be said of geographical indications, traditionally pushed by the EU. To avoid the resulting confusion, we rely on the left-right divide.

51 Abel (1987, 2).

52 Abel (1987, 18).
of 66.3 percent in the number of leaks, all else equal. Polarization shows a similarly important effect: a standard deviation increase in polarization is associated with a 60.3 percent increase in the number of leaks. Because leaks are increasing over time, there may be a concern that the correlation between party ideology and leaks is spurious, if party ideology varies in a linear fashion rather than salient events during trade negotiations. Judging by the drop in significance of the coefficients from the first set of results to the second set of results, we can conclude that the unattributed leaks do not originate entirely in the EU. As for our placebo test in the third set of results, it suggests that our first estimation is indeed spurious, if party ideology varies in a linear fashion rather than salient events during trade negotiations.

There may be a concern about the proportion of zeros in the sample: 41 percent of months in our dataset feature no leak. As a robustness check, we use a zero-inflated negative binomial model, which estimates the likelihood of nonevents using the number of negotiating rounds for CETA and TTIP (the most leaked EU agreements) in a given month and the mean level of protectionist sentiment in Europe. The results, in Table 2, remain consistent. Our two variables accounting for nonevents point in the expected direction, though they fall short of significance. Most importantly, however, EU-attributed leaks are associated with greater representation of the political Left in Europe, which we account for time using cubic splines. While the effect on this placebo estimation is the opposite from the expectation in our EU-attributed sample, our theory offers no explanation for this anomaly, which we treat as such. This result does not hold in the two alternative models in which we control for time by detrending our variables.

Overall, stronger representation of the political Left in Europe appears to be associated with a greater incidence of trade negotiation leaks. And as divisions between the Left and Right grow, so does the occurrence of leaks.

Table 1. Predicting EU leaks

<table>
<thead>
<tr>
<th>Model</th>
<th>DV: EU-attributed leaks</th>
<th>Cubic spline</th>
<th>Detrended I</th>
<th>Detrended II</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td>Mean right-left</td>
<td>−0.23**</td>
<td>−0.24***</td>
<td>−0.47***</td>
<td>−0.06**</td>
</tr>
<tr>
<td></td>
<td>(0.11)</td>
<td>(0.09)</td>
<td>(0.14)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Mean R-L political polarization</td>
<td>0.13***</td>
<td>−0.14</td>
<td>0.08***</td>
<td>0.15**</td>
</tr>
<tr>
<td></td>
<td>(0.05)</td>
<td>(0.13)</td>
<td>(0.01)</td>
<td>(0.05)</td>
</tr>
<tr>
<td>Constant</td>
<td>−2.04***</td>
<td>−7.73***</td>
<td>−43.57***</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>(0.41)</td>
<td>(1.99)</td>
<td>(11.58)</td>
<td>(0.04)</td>
</tr>
<tr>
<td>Cubic spline</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

|       | (1)                     | (2)          | (3)         | (4)          | (5)          |
| Mean right-left | −0.05                  | −0.05       | −0.08       | −0.02        | −0.06        |
|       | (0.09)                  | (0.10)       | (0.15)      | (0.04)       | (0.18)       |
| Mean R-L political polarization | −0.01               | 0.04        | −0.01       | −0.02        |
|       | (0.05)                  | (0.23)       | (0.02)      | (0.10)       |
| Constant | −1.01***                 | −0.46       | −10.57      | 0.01         | 0.03         |
|       | (0.32)                  | (2.43)       | (17.96)     | (0.10)       | (0.41)       |
| Cubic spline | No                      | No           | Yes         | No           | No           |

|       | (1)                     | (2)          | (3)         | (4)          | (5)          |
| Mean right-left | 0.03                   | 0.01        | 0.41***     | 0.02         | 0.26         |
|       | (0.16)                  | (0.16)       | (0.15)      | (0.03)       | (0.16)       |
| Mean R-L political polarization | 0.11           | −0.17       | 0.02        | 0.11         |
|       | (0.11)                  | (0.20)       | (0.02)      | (0.11)       |
| Constant | −1.24***                 | −0.21       | 30.52*      | −0.02        | −0.15        |
|       | (0.41)                  | (4.90)       | (18.35)     | (0.05)       | (0.24)       |
| Cubic spline | No                      | No           | Yes         | No           | No           |
| N     | 117                     | 117          | 117         | 117          | 117          |

Note: (1) Table presents results from Poisson regressions. (2) DV is a count of leaks each month. DV in column 4 is the residuals of leaks on time. (3) Statistical significance levels: *p < 0.10, **p < 0.05, ***p < 0.01.
The distribution of leaks across different areas is striking. Figure 3 shows that of those leaks in our database that were about a specific issue, the overwhelming majority relate to issue areas that have only recently been covered by negotiations in the international trade regime.56 Consistently with the theory, it is those issues that remain in flux that are subject to the greatest number of leaks.

Figure 4 shows the full breakdown issue areas that have been the subject of the most leaks. Again, the results are striking in their asymmetry. Were leaks random, or simply a function of the supply of available documents, we would expect a relatively even distribution of leaks over issue areas. The skewed distribution suggests instead that leaks are strategic, targeting a select number of issue areas with greater frequency. Of all the leaks in our database, more than one-third (36 percent) pertain to intellectual property. Services and investment also each have a relatively high proportion of leaks—around twice the number relating to market access for goods.

Political Effects of Leaks

Our discussion has focused on why leaks occur. We argue that, in the case of trade negotiations, leaks are defensive: political actors leak in order to mobilize constituents who are opposed to changes, with an aim to reducing the concessions made. For this reason, leaks target parts of trade agreements that are most in flux and become most likely during political shifts to the left and at times of greater political polarization. If all this is true, however, we should expect that leaks have observable political effects—that the strategic action, in other words, sometimes pays off. This is what we examine below.

We have already considered the March 2014 leak of the EU’s German-language negotiating mandate for TTIP. Here the leak, a member of the European Parliament, happened to be known. The same event also aptly demonstrates the effects of leaks. This single leak reverberated through subsequent negotiations. The leak, which occurred on March 7 through a website dedicated to the dissemination of leaked EU documents, coincided with an EU-based negotiating round for TTIP (March 10–14) as well as the May 2014 European Parliament elections.57 The leak was highly publicized and was followed with large public demonstrations against TTIP, including a large anti-TTIP rally on March 13 at which a member of a civil society organization co-founded by Giegeld spoke against the agreement.

The leak also fed intense public debate over the investor-state dispute settlement process, prompting the German federal government to withdraw its support for investor-state dispute settlement (ISDS)’ inclusion in TTIP.58 This opposition to ISDS did not abate until the EU proposed a new investment court system for use in TTIP and other trade agreements, designed to safeguard states’ autonomy to regulate in the public interest from an ad hoc judicial system prone to frivolous claims.59 What is more, debate on this issue spilled

53Manger (2009); Elliott (2016).
54Busch and Pelc (2019).
55Allee and Elsig (2019).
56Because some leaks relate to multiple issue areas, it is possible for a single leak to appear in both columns. These data do not include the thirty-one leaks that were “general” leaks relating to, for instance, an entire trade agreement or to a country’s negotiating mandate.
57The website www.ttip-leak.eu was launched in collaboration with the civil society organization PowerShift and advertises the Greens-European Free Alliance EP political group in its banner. Green MEPs Sven Giegeld, Rebecca Harms and Ska Keller put their names to the leak and provided commentary on the leaked negotiating mandate.
58Financial Times (2014).
back onto CETA negotiations with Canada. Following the leak of the draft CETA text on August 1, 2014 (discussed below), the German Green party governing in coalition in North Rhine Westphalia threatened to block the CETA deal. In an unprecedented move, the EU then approached Canada to request renegotiation of the investment provisions in the completed CETA agreement. In this way, a leaked document appeared to have visible long-term effects, spoiling negotiations in a way that limited commitments made.

What is more, Giegold's TTIP leak also marked the beginning of overt involvement of Greens/EFA MEPs in leaking of EU documents. Giegold and other MEP colleagues launched an “EU leaks” portal in September 2016, the aim of which is explicitly to influence policy in the EU. As an explanatory document produced by the Greens/EFA group notes in explaining the rationale for developing a leaks platform, “whilst several media outlets and not-for-profit organisations have already established their own secure platforms, we have insider knowledge of the functioning of the EU, which gives us a strategic advantage to know how to handle the information we receive and how best to get a concrete impact in policy terms.”

How does a leak of negotiated documents shift power toward those actors opposed to the negotiations? To examine the process by which this takes place, we took a closer look at another salient leak, the August 2014 leak of CETA negotiating documents to German media. There is every reason to believe that the CETA case is one more example of a defensive leak on the European side. Yet, it provides us with an ideal setting to study the effects of the leak in Canada, where we were able to obtain all email correspondence.
of international negotiations. Negotiators agree to a given bargain, and then each side lets the other present its terms under a positive light to its own domestic audience in a way that facilitates ratification. But in the wake of leaks, the political opposition and opponents of the agreement exert far more control over the discourse. This is because governments commonly refuse to comment on leaks, to avoid legitimizing them or elevating the status of leakers, both of which might increase the practice of leaking. Following the CETA leak, the Canadian Trade Ministry responded to specific requests for information from the industry, but they were unable to make these responses public, since they kept to the stance, repeated in dozens of internal emails over a forty-eight-hour period, that “Canada does not comment on leaks of purported negotiating texts.” When asked about the implications of the leaked CETA text for Canadian industries, Canadian Justice Minister Peter MacKay likewise responded, “I’m not going to comment on a leak. Leaks by their very nature may or may not be accurate.” This stance by governments is commonplace, but it has overlooked consequences on how the social impact of treaties is presented. While governments avoid commenting, opponents to the agreements mobilize and capitalize on the leak to denounce the underlying agreement. As a result, leaks generate particular framing effects.

### News Coverage: Evidence of Asymmetry?

The possibility of asymmetric coverage leads us to test the claim in its broader form. Is the portrayal of a negotiated agreement less favorable when it results from a leak than when it is released in the normal course of negotiations, even as it concerns the same text?

We address this question in the case of the aforementioned CETA leak, which provides us with a natural case: since the full consolidated text was leaked in August 2014, and then officially released once the agreement was concluded in September 2014, it offers us as a clean comparison as we might hope for between two types of “releases”: the text remained the same, the two events were very close in time—only the manner in which the text was unveiled differed.

To perform this comparison, we collect all Canadian news articles mentioning CETA, as indexed by the website Factiva, for a period of three days following the release of the leaked CETA text and the release of the official text. This results in thirty-three articles, eleven of which were published between August 13 and August 15, 2014 following the leak of the negotiating text and twenty-two of which were published between September 26 and September 28, 2014 following the official release of the CETA text. We begin by manually coding all positive and negative statements made about the CETA agreement by the government, opposition groups, and NGOs, in each article following both types of releases. As Table 3 shows, only three of eleven articles following the leak mention the text. The causes and effects of leaks in international negotiations can be assessed.

### Table 3. Government-framing of leaked and officially released text

<table>
<thead>
<tr>
<th>News coverage</th>
<th>No positive statement</th>
<th>Positive statement</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leak coverage</td>
<td></td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>Official release coverage</td>
<td></td>
<td></td>
<td>33</td>
</tr>
<tr>
<td>Total</td>
<td>16</td>
<td>17</td>
<td>33</td>
</tr>
</tbody>
</table>

Note: Pearson’s Chi-square = 3.8824; Pr = 0.049; Cramér’s V = 0.3430.
leak include a positive comment about the CETA agreement made by the government, while fourteen of twenty-two articles following the official release include a positive comment. Similarly, more than 36 percent of the coverage of the leaked version cited negative NGO views, compared to less than 14 percent for the coverage of the official releases. In sum, even when the negotiated legal text is the same, its coverage offers voice to different political actors in the wake of a leak versus an official release. Government incentives are such that leaks offer disproportionately more voice to opponents of the agreement.

Does the overall valence of the news coverage follow these differences in the sources cited? To find out, we use a dictionary-based approach to identify words associated with positive and negative sentiment in news articles. We create two samples of thirty sentences (the average length of the news articles we collected), drawn randomly from the eleven leak-related and twenty-two official release-related articles, respectively. We then identify positive and negative words in the two samples—subtracting negative from positive words gives a net sentiment score. We repeat this operation two hundred times and store the resulting sentiment score each time, so as to be able to report sensible margins of error.

The resulting average sentiment for coverage of the leaked CETA text ranged from $-13.0$ (2.5% confidence interval) to $12.0$ (97.5% confidence interval), with a mean score of $-0.38$. The sentiment in the coverage of the official government release ranged from $-8.1$ (2.5% confidence interval) to $22.1$ (97.5% confidence interval), with a mean score of $7.3$. Figure 5 displays the distribution of sentiment over the different sampled texts. A t-test confirms that the difference is highly significant: mean sentiment for coverage of leaked CETA texts ($-0.38$) is significantly more negative than for the coverage of the officially released CETA text ($7.3$).

Insofar as leaks in trade negotiations are defensive in nature, as we argue, they appear to achieve their aim: they draw attention to the most malleable aspects of trade agreements, and they achieve the desired framing. When considering both the type of sources cited and the sentiment analysis, the coverage of leaked texts is significantly more negative on the underlying agreement than the coverage of the same text’s official release.

The comparison remains necessarily imperfect: the official release naturally occurred after the leak and so may have been affected by it. The direction of this effect is theoretically ambiguous: in part, our reasoning suggests that reactions to the official release would have been more negative because of the prior framing of the debate following the leak, which would render our assessment of the difference in coverage more conservative. The main point to note in this regard is that the text did not change between the leak and the official release, because the two occurred a month apart, which would not have been sufficient time to amend negotiated text. The leak had disclosed the final version. While not perfect, the case of the 2014 CETA leak thus offers us as clean a comparison as we might hope for.

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70 Using random sampling is important to address issues of selection. There may be news articles relating to CETA that were not indexed by Factiva, and we cannot know the distribution of positive and negative words in these articles, or indeed in potential, but unwritten articles.

71 We use the Bing dictionary in the Tidy Text package in R.
Conclusion

In the past decade, leaks have become a prominent fixture of international negotiations. We begin by demonstrating that this is no bias of perception: the increasing attention to leaks reflects a real increase in their occurrence. We then present a theory of leaks that explains this rise. Far from being random events or deeds of opportunity, we argue that leaks are used strategically in order to influence negotiations. The theory distinguishes between two types of leaks. Where offensive leaks are designed to spur a recalcitrant party to commit to more, defensive leaks are designed to claw back commitments made. In both cases, leaks are driven by the distance between a negotiating text and the preferences of domestic audiences. As this distance increases, so does the probability of a leak. We also argue that leaks are likely to target parts of agreements that remain in flux in international law. It is in these unsettled areas that leaks may have the greatest effect.

To assess our claims, we turn to the empirical case of the international trade regime—an area of international politics where leaks have grown especially salient. We assemble the first comprehensive dataset on leaked documents from international trade agreement negotiations, covering leaks from a ten-year period, spanning from 2006 to 2015. We examine the distribution of leaks by agreement, by country, and by issue area. The results are compelling. As our theory predicts, leaks are overwhelmingly concentrated in those areas of the international trade regime that were not covered by the GATT and that only appeared as issues for negotiation after 1995. As we show, the vast majority of leaks pertain to intellectual property, services, and investment, and leave out other salient, but more textually established areas, such as dispute settlement between member states, trade remedies, or security exceptions.

The second set of results focuses on the European Union, which our data show is responsible for a supermajority of all attributable leaks. The EU’s growing emphasis on transparency in its trade negotiations, combined with an institutional structure involving many veto players, seem to account for the prominence of leaks of EU documents. This large number of leaks from the EU affords us an opportunity to test the belief that leaks are driven by the distance between negotiation documents and the preferences of domestic audiences. Using data on European political party manifestos to measure changing ideological positions on issues that pertain to trade negotiations, we find that the incidence of leaks is significantly correlated with opposition to economic liberalization within the average European political party.

We also take a closer look at the reaction to a specific leak, during the 2014 CETA negotiations. We show how Canadian industries quickly mobilized in the face of an alleged concession and how the Canadian government was kept from publicly responding to the leak, from fear of legitimizing it. We then show that these incentives produce asymmetric news coverage of negotiated outcomes: comparing the CETA leak to the subsequent official release of the same treaty, we show that the coverage of agreements following a leak relies on a greater number of opposing sources and a lower number of supporting ones. When we perform a sentiment analysis on the entire CETA media coverage, we find that the news articles covering the leak are systematically more negative in tone than those covering the official release of the "very same" text.

We have purposefully left open the normative question over the social welfare effects of leaks and focused on their causes and effects. But our discussion affords us one normative consideration. Insofar as leaks are targeted, in the sense that they expose some parts of negotiations but not others, they recall Goldstein and Martin (2000)’s “Cautionary Note.” There, the authors argued that legalization of international agreements, by making it clearer who gains and who loses from liberalization, will ultimately lead to more mobilization against the agreement, at a cost to the median voter. In our case, if leaks only expose specific concessions, without revealing the overall bargain they pertain to, they may have similar effects, leading to mobilization against what could prove beneficial agreements in the aggregate. For instance, a reduction of rules-of-origin requirements on autos from 60 percent to 45 percent may hurt auto exporters, but the reciprocal commitments made in exchange may benefit all agricultural exports. If the 45 percent concession is the target of a leak, it may lead to mobilization that blocks negotiations, despite the fact that these would have proven overall beneficial. Our examination of the asymmetric media coverage in the wake of the CETA leak provides additional support for this view. By not revealing the quid pro quo that characterizes all international negotiations that deal with more than one issue, leaks may ultimately block welfare-enhancing reforms. In sum, the targeted nature of leaks may work against the median voter’s interests.

Taken together, our results allow us a fuller picture of leaks in international negotiations. When it comes to the trade regime, the average leak is of a defensive, rather than offensive, character. The greater the discrepancy between popular views and partial negotiated outcomes, the greater the odds of a leak. And because leaks seek to affect the content of agreements, they target those provisions that are the least settled in law and thus the most open to influence. Insofar as trade agreements continue to regulate measures that traditionally fall under sovereign control, leaks in international negotiations are likely to remain frequent. In part, this is because they work. As we show, leaks are successful in shifting the framing of the debate, generating significantly more negative coverage of the underlying treaty, as compared to official releases of the agreement, even when dealing with the same text. In sum, leaks during negotiations are strategic political moves that seek to reshape the content of international agreements.

REFERENCES


72More recently, see Carnegie and Carson (2018) for an analogous argument linking increased transparency with a decrease in cooperation.
The Causes and Effects of Leaks in International Negotiations


