Over-commitment and backsliding in international trade

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Abstract. ‘International commitments pay’ could be the mantra of the current literature on international organisations: tying their hands at the international level is a means for governments to push through politically costly, but ultimately welfare-enhancing reforms. It is argued in this article that this logic has a limit, which can be empirically observed. Past a given point, further depth of integration increases odds of backsliding. This belief is tested in the context of accession to an institution whose rules have been heavily scrutinised: the World Trade Organization (WTO). Countries with low rule of law are imposed a risk premium in the form of demands for deeper concessions, making ‘over-committing’ possible. This relationship is used to assess the extent to which deeper commitments lead to backsliding. Industry-level analysis supports these beliefs: deep commitments lead to increased odds of backtracking through a range of legal and extra-legal mechanisms. Ambitious international commitments can backfire.

Keywords: international trade; interstate cooperation; World Trade Organization

Introduction

‘International commitments pay’ could be the mantra of the current literature on international organisations. According to the dominant logic, international institutions help reduce the time-inconsistency problems that jeopardise interstate cooperation. Specifically, they provide governments with a means of tying their hands to politically costly reforms. Governments can cite formal international commitments in an effort to steer clear of distortionary domestic policies sometimes demanded by domestic interest groups. This hand-tying effect is thought to increase in the depth of the agreement. Whether in security, trade or investment, commitment theory suggests that when states make tighter, more ambitious commitments, they enjoy greater payoffs. The policy implications of these beliefs are plain: governments maximise utility by binding themselves to international law.

Less attention has been paid to where this logic breaks down. Yet there are strong reasons to think that the strategy of hand-tying has limits. In the context of trade, Adam Smith warned that considerable ‘disorder’ may result from overly rapid liberalisation, and advocated proceeding in ‘slow gradations and with a great deal of ‘reserve’. Current attempts to measure the extent to which ‘institutions matter’ risk overlooking these insights. To be sure, scholars do recognise that there are pains associated with policy reforms resulting from international commitments. Yet the common assumption remains that in the long run the pains of adjustment are always worth it.

This tradeoff has been examined in the case of the European Union. Scholars and policy observers alike warned that the stringent demands the EU made of new Central European
members would lead to populist backlashes against European integration (Rupnik 2007). The empirical record, however, suggests that fears over the ‘backsliding hypothesis’ were overstated (Sedelmeier 2008). While the pace of reform may have slowed, there has been little backsliding among new Central European EU members. In fact, studies found that, against expectations, ‘virtually all of the new member states outperformed virtually all of the old members during the first four years of membership’ (Levitz & Pop-Eleches 2010) in terms of compliance with EU law. Since these studies were conducted, growing concerns have admittedly been raised about the judicial system and freedom of the press in recent entrants like Bulgaria, Romania and especially Hungary (see Freedom House 2015; Birdwell et al. 2013). Overall, however, the case in the EU has only reinforced beliefs about the benefits of ambitious commitments.

Yet other international institutions suggest less optimism. The field of investment, in particular, has begun to show signs of backtracking by developing nations and rich countries alike. Following costly arbitration proceedings, a handful of states, including Bolivia, Venezuela and Ecuador, have abandoned the International Centre for Settlement of Investment Disputes (ICSID), and others like Nicaragua and Argentina regularly threaten to follow suit, prompting debate within the institution. Even governments in developed countries like Australia are increasingly wary of committing to investment rules at the international level, and have vowed not to include investor arbitration in future economic agreements.3

In this article, we take a second look at the relationship between the depth of international commitments and subsequent country behaviour. When institutions make high demands of their members, the resulting domestic reforms can backfire by increasing demands for relief through other means. Economic integration can lead to push-back from domestic interests who oppose increased exposure to global markets. Past a certain point, the greater the degree of integration asked of members, the greater the odds of such push-back occurring (Rodrik 1998). And, in the face of enforcement within the institution (Downs et al. 1996), backtracking also becomes more likely through substitute means.

We explore this belief in the context of accession to an institution whose rules have been widely scrutinised: the World Trade Organization (WTO). All aspects of WTO accession, from the composition of the accession working party (Neumayer 2013) to the length and rigour of accession negotiations (Yu & Wong 2007; Allee & Scalera 2012) have been carefully examined. The WTO’s accession process has drawn particular attention following controversies over the burden it places on poor countries (Stiglitz & Charlton 2005) as well as findings questioning the institution’s average effects on trade (Rose 2007). In the debate over the WTO’s trade effects, scholars have pointed out how the terms of WTO membership vary significantly across countries (Goldstein et al. 2007; Allee & Scalera 2012; Pelc 2011a). This variation in commitment distinguishes the WTO from an institution like the EU, where the requirements for entry are known ex ante. In this way, the WTO provides a unique means of exploring the behavioural implications of depth of integration. Specifically, we ask the question: How do a state’s WTO accession terms affect its subsequent behaviour?

The literature makes little allowance for the possibility of countries ‘over-promise.’ The usual premise is that governments behave rationally, and that they commit only to rules with which they are able to comply (Von Stein 2005). Our point is that certain aspects of institutional design can make governments systematically more likely to over-promise.
These overly ambitious commitments, in turn, risk backsliding following accession. As we go on to show, the ‘take-it-or-leave-it’ character of the WTO accession process, together with the way in which negotiations are conducted on an ad hoc basis with all interested WTO members, allows for a form of logrolling that can lead to highly demanding terms. These can require dramatic reductions in import barriers, even if they exert a heavy (economic and political) toll domestically. Countries facing overly ambitious terms are more likely to seek to circumvent their commitments. As a result, we expect that new members, when faced with high accession demands, are more likely to seek relief through other means, such as import bans, export subsidies, trade remedies and quotas. Each of these policies is designed to offset the costs of liberalisation by providing targeted relief to domestic producers.

We also point to a paradoxical pattern whereby the very measures meant to cope with a country’s heightened risk of shirking end up making backtracking more likely. As we show, questionable domestic rule of law in countries like Russia and China, but also Ukraine, Kyrgyzstan and others, have inspired fears in existing members over these entrants’ likelihood of living up to their international commitments. One solution was to demand deeper concessions from these countries. Yet the requirement of such a ‘risk premium’ in turn exacerbated the necessary policy adjustments which, according to our central argument, made backtracking more likely. As we argue, the heightened demands imposed on such ‘risky’ countries had the effect of making backtracking by these countries more likely.

To assess our expectations, we look to the Great Recession period of 2008–2011. Recent hard times represent a useful test of an institution’s impact on country behaviour. The membership of the General Agreement on Tariffs and Trade (GATT) and WTO has arguably not faced a more arduous test in its history. Demand for protection is exacerbated during periods of economic downturn as domestic producers suffer from declining demand, and the recent period represents the most severe, widespread recession in the WTO era. According to most accounts, the levees have held, and countries have exhibited high average rates of compliance throughout the crisis. Yet this positive record masks a great degree of variation among members, especially in terms of policy instruments outside of the institution’s immediate purview. How have recent members, in particular, fared in this regard? Our results show that their behaviour depends in large measure on their accession terms. Specifically, the very deals championed by observers as the most ‘rigorous’ and ambitious also led to the most shirking by new members. Using countries’ different pre-accession levels of protection as a baseline, we obtain a measure of depth that is comparable across different countries. Controlling for regime type, wealth, import shocks and a host of other factors, we found that countries and industries that faced more demanding terms were significantly more likely to take action to protect the interests of domestic producers, in spite of their stated commitments to liberalise.

Importantly, our results hold once we account for the endogenous nature of the accession deal. Since accession terms are assigned non-randomly to states, we first estimate the deal that countries obtain upon accession. Existing work shows that terms are shaped by forces largely exogenous to the acceding state, including the export interests of existing members. To this we add an account of how members reacted to acceding states they perceived as ‘risky’. Specifically, we show that countries with relatively lower levels of ex ante rule of law were given significantly tougher terms. This insight provides us both with an account
of how some countries may be led to over-promise, and offers us a means of identifying our model. Once we correct for the endogenous nature of the terms, we nevertheless find a strong association between deep commitments and an increased likelihood of backsliding.

**WTO commitments and backsliding**

The literature’s focus on the role of domestic politics in the study of international cooperation has led to the now widespread view that leaders seek formal agreements to tie their hands. Specifically, commitments codified in international law help governments overcome domestic obstacles to reform. This logic has been applied fruitfully in various policy domains, from security to human rights, the environment, investment, monetary affairs and trade. While evidence varies with respect to the strength of international law in these areas, the literature rests on the common logic that international agreements increase the credibility of members’ reform promises. The resulting view is that membership’s benefits are positively related to the agreement’s depth. As governments commit to deeper terms, they may expect to reap greater rewards from membership. We explore the limits of this logic in the context of the trade regime. There are reasons to think that tightly binding states to liberalisation may turn out to be overly painful, resulting in behaviour that goes against the very regime to which countries have signed up. We proceed with a discussion of the WTO accession process, highlighting how the design of the institution encourages variation in the terms to which countries commit. We then offer an explanation for how varying depth of accession terms affects state behaviour.

**A primer on accession in the WTO**

The WTO illustrates a still under-appreciated aspect of international economic organisations – namely, that membership is not a homogenous category. The depth of commitment across the membership varies. Some countries enter on easy terms that require little adjustment, while others enter on highly demanding terms that require considerable reform. This article argues that such variation is systematic, and substantively important. Specifically, it draws out the implications of this variation for subsequent country behaviour.

For a highly legalised institution such as the WTO, the process by which countries become members is strikingly informal. Article XII of the WTO Agreement, which covers accession, states that a new entrants accedes ‘on terms to be agreed between it and the WTO’. The process differs in this respect from, for example, the EU, with its explicit criteria setting out *ex ante* regime type conditions and economic outcome measures to be attained by prospective members. In contrast, in the WTO, every member is *expected* to make different – that is, discriminatory – demands of every entrant. WTO accession is thus an ad hoc process, with no agreed-upon formula setting out the extent of liberalisation required of entrants. As such, despite the institution having become synonymous with a rules-based approach, its process of accession is better described as ‘power-based’ (Neumayer 2013).

Throughout its accession process, a country deals only with a subset of the membership called the ‘working party’. Participation in the working party is open: any existing member with an interest in the accession process is able to join. The number of countries that
choose to participate typically ranges from 20 to 50. Being on the working party allows a member considerable leverage over the entrant. Indeed, the accession process begins with a stringent fact-finding exercise about the country’s trade policies ‘with a view to clarifying the operation of the applicant’s foreign trade regime’. This process can, by itself, take a number of years to obtain answers to what are, in some cases, thousands of questions posed by working party members.

After an initial fact-finding stage, a country negotiates bilaterally with each working party member over how much it agrees to reduce its import barriers. Although all these concessions are eventually extended to all other members, working party members push for the specific concessions that matter most to them. Crucially, the bargaining power of the entrant during these negotiations is close to nil. All acceding countries can threaten to do is delay accession, which in most cases is not a credible threat – the country enters into negotiations because it recognises that membership is to its benefit. By contrast, every member of the working party has an effective veto over the country’s accession since the process works by consensus. As a result, it becomes possible for a country to receive what in its view are suboptimal terms on some of its industries, and still choose to join the agreement. In other words, the institutional design is such that ‘over-promising’ becomes a real possibility.

Yet this possibility is not always realised. For instance, Ecuador benefited from an easy accession deal. Anecdotal evidence suggests that the United States wanted Ecuador to be able to join the next iteration of the Bananas dispute. As a result, Ecuador’s accession process was short, taking only four years, and its concessions were limited. In fact, on average, its commitments did not cut into its pre-accession tariffs at all. It simply agreed to impose a legal ceiling on its tariff schedule, but this ceiling was, on average, 9 per cent above its applied tariff rates prior to accession. If we calculate depth as the difference between country’s policy before and after accession, Ecuador’s depth of integration can be said to have been negative.

This was not so in the case of Russia, which underwent a stringent accession process lasting 19 years. Russia’s depth of integration is positive, meaning that it committed to legally binding its tariffs below the level of duties it was applying prior to joining. Near the very end of the proceedings, Georgia, which itself had acceded in 2000, threatened to block Russia’s accession over extra-trade issues, such as oil prices imposed by the state-owned oil company Gazprom. The sudden bargaining leverage that a relatively smaller country like Georgia enjoyed against a giant like Russia is indicative of the design of the proceedings. Russia effectively acceded to all of Georgia’s demands, and the latter finally consented to its accession.

Given these very different experiences, should one treat the accession of Ecuador and Russia alike, coding both as ‘members’ and comparing their economic benefits to those of non-members? As it happens, although both Ecuador and Russia were criticised for their trade policy moves subsequent to their accession, Ecuador counts three times fewer such measures in our data than Russia. The question is, does this impact on behaviour hold, on average, across countries, and does it hold at the industry level within countries? Do terms of accession, especially once we account for what drives the variation in these terms, matter for subsequent government behaviour?

We follow Downs et al. (1996) in defining ‘depth’ as the difference between a country’s policies under an institution and what those policies would have been absent the institution.
The value of defining depth in this way, which we operationalise as the change in the level of protection pre and post WTO accession, is that it takes into account some of the variation in countries’ initial preferences over liberalisation. Countries more open to liberalisation presumably already have lower rates of protection going into negotiations over accession – a fact lost by simply comparing countries’ current protection levels. Depth considers the extent to which countries have to adjust as a result of their international commitments, allowing for comparisons across countries.

The potential for over-commitment

The relevant aspect of the WTO accession process from our standpoint is that it makes over-commitment possible. To recap, the terms of accession are constituted of the aggregate demands of exporters in member states, who all bargain with the entrant individually. The result is that while the membership as a whole has a likely incentive to temper its demands so that a country is not over-committed, every individual exporter and every individual country also has an incentive to ask for greater market access and faster implementation. The result is a form of logrolling that makes overly onerous demands especially likely as compared to a setting like the EU, where accession demands are coordinated and where there is limited room for discrimination between entrants.\(^9\) In sum, the ad hoc design of WTO accession, paired with the way in which terms are constituted of the aggregate demands of individual country negotiations, means that countries can ‘over-promise’.

One piece of anecdotal evidence stands out in this regard. Vanuatu, a small Pacific island nation and least developed country (LDC), began accession proceedings in 1995, shortly after the WTO’s inception. Vanuatu conducted negotiations with all the working party members, and just as it was about to accede, it suddenly pulled out of the accession proceedings altogether, to the organisation’s dismay. As the representative of Vanuatu explained: ‘Vanuatu decided to suspend its accession process because we believed that some of the demands being asked from us were greater than we could commit to.’\(^{10}\) The WTO commissioned a report which arrived at a similarly damning conclusion (see Gay 2005: 602): ‘The WTO accession process was too onerous and power-based for a small, capacity-constrained country. Vanuatu officials were forced to make concessions that politicians were not prepared to sustain in the long run.’\(^{11}\)

In the case of Vanuatu, over-commitment was made apparent by its abandoning accession proceedings altogether. Our premise is that in other countries, over-commitment can manifest itself through backtracking on specific products (those on which the most taxing demands have been made) subsequent to accession. It is such backtracking that this article attempts to measure.

How do accession terms affect behaviour?

The literature on the WTO has only begun to explore the implications of variation in the terms of membership. One prominent example is Allee and Scalera (2012), who find that countries that undergo rigorous WTO accession proceedings experience a bigger lift in trade flows from accession than countries that joined automatically. Even among ‘rigorous’ accession entrants, countries that faced more scrutiny see a significantly greater increase
in trade. The resulting policy prescription is emblematic of the literature’s stance. The institution should aim for accession proceedings that produce deep reforms: ‘[Although these accessions can be controversial and potentially costly for applicant states, the potential reward in the form of trade increases is likely to justify the costs of accession’ (Allee & Scalera 2012: 272). In a follow-up article, Allee (2013) goes a step further, arguing that the more rigorous the accession process, the less likely future violations become, as proxied by WTO disputes. The argument is that as part of their accession process countries get rid of distortionary trade practices that could be challenged under the WTO’s dispute settlement system. In Allee’s study, although it leads to painful adjustments, rigour also defuses trade conflicts before they arise formally under the WTO, leading to fewer formal disputes.

We follow a similar line of reasoning, emphasising the variation in the trade terms countries face. However, we are interested in the possible downsides of ‘rigour’. Rather than assessing a country’s attractiveness to trade partners, we are interested in how institutional membership affects governments’ subsequent behaviour. Specifically, are governments that underwent stringent accession proceedings more likely to resort to alternative means of protectionism?

One institution in which the potential downsides of rigour have been studied extensively is the EU. When the group of eight, and then ten, Central and Eastern European countries (CEECs) joined the Union starting in 2004, they faced uniform, but stringent demands, documented in a large literature on EU conditionality. A widespread concern was that the terms of acceding to the EU were such that after accession (and once the threat of rescinding membership was no longer available) these countries would start backsliding on their commitments (Sedelmeier 2008; Steunenberg & Dimitrova 2007). If anything, these fears were more pronounced in the EU than in the WTO. Observers warned that some of these countries were joining ‘prematurely’, and that the demanding nature of the EU conditions for entry would lead to ‘fatigue’ and ‘popular backlash’ (Rupnik 2007). Yet empirical evidence since enlargement has offered little support for these concerns. The consensus is that there has been little to no backsliding among the new members (Levitz & Pop-Eleches, 2010). In fact, compliance is said to have been ‘surprisingly good’ (Sedelmeier 2008). And while some of these studies can be criticised for using blunt categories of performance, such as government stability and democracy scores, the new entrants also showed little sign of backsliding on more nuanced indicators. Judging by the number of European Court of Justice infringement cases, for instance, new EU members facing tough EU conditions actually appear to be doing somewhat better than old members (Sedelmeier 2008).

Why might we have different expectations over backsliding in the WTO versus the EU? The nature of both institutions is sufficiently different as to make such broad comparisons risky. Yet our argument is that the particular institutional design of the WTO makes over-promising more likely than in institutions like the EU. The EU has modified its accession criteria over time, but it does not discriminate between members. Specifically, while certain particulars of new members’ deals differ, all states acceding to the EU agree to the same underlying terms. WTO accession terms, by comparison, are entirely ad hoc: they correspond to the sum of demands made by individual members and their exporters. As a result, the concessions states agree to when entering vary much more widely in the WTO. Figure 1 illustrates this variation, displaying the average depth of each new member’s accession terms.
Importantly, this means countries can obtain unexpectedly stringent terms. These are the cases where we expect to see backsliding.

By making ambitious commitments at the international level, governments give up their domestic means of economic adjustment. A vast political economy literature documents how, in periods of economic upheaval, demands for trade protection rise among import-competing industries (Ray & Marvel 1984; Mansfield & Busch 1995; Takacs 1981; Blonigen & Bown 2003; Knetter & Prusa 2003; McKeown 1991). Joining the WTO entails giving up a government’s principal means of offering relief in such cases, as by the expedient increase of tariff barriers. The result is that at the first sign of hard times we expect those countries and industries that made the most far-reaching international commitments to be the ones keenest to roll these back. In the case of legalised regimes with well-developed enforcement mechanisms, we are likely to see this backsliding within, but also outside, the trade regime. For this reason, looking at formal disputes alone may overlook backsliding when it occurs. In contrast to Allee (2013), we argue that additional depth will increase instances of backsliding in ways that challenge the very regime to which these countries have signed up. These include export subsidies, trade remedies, import bans and quotas, as well as competitive devaluations, local content requirements and public procurement measures.13 The more ambitious a country’s commitments, the fewer means of economic adjustment they will be left with, and the more likely it is they will be to fall back on such alternative measures.

The risk of ambitious trade commitments backfiring is not merely a theoretical possibility. These concerns have arisen prominently in the case of China, whose accession received the greatest scholarly attention. By committing to the institution, the Chinese Communist Party (CCP) lost some of the means it traditionally held to intervene in the economy. At the same time, accession imposed considerable adjustment costs on a number of industries that were
highly protected up to that point. The result has been an increase in political dissent as negatively affected individuals have been more vocal in their discontent. So much so, that one possible corollary of WTO accession is an increase in state repression in China as the CCP tries to quell resulting tensions (Cross 2004; Pei 2001). From our standpoint, these findings matter insofar as they provide evidence for the social cost of adjustment, and the fact that these social costs carry political consequences.

The picture looks similar in other countries. Ukraine infamously asked to renegotiate its tariff schedule in 2012 after finding the burden of its original terms too high. Other members cited concerns that Russia might use the precedent set by Ukraine’s renegotiation demands to loosen the bounds of its own highly demanding accession package, to which it committed previously that same year. Similarly, Vietnam’s Ministry of Industry of Trade noted that, in spite of the opportunities that WTO accession brings, it also ‘put a portion of business at the brink of bankruptcy and result in higher unemployment rate and widened rich-poor gap.’ Of course, these are among the widely recognised costs of globalisation. Our point is that they present a challenge to the relationship between commitment depth and future policy behaviour. A closer investigation of states’ accession terms reveals that, in fact, tougher deals increase the likelihood of new, less transparent barriers to market entry.

The advantage of our analysis over both prior WTO analyses and the study of CEEC behaviour following EU enlargement is that our data are considerably more disaggregated. By pitching our study at the industry level, we can ask whether those specific domestic industries that were imposed relatively more depth grow more likely to successfully demand some measure of extra-legal reprieve. What we do not claim to do here is test the net economic welfare effects of WTO membership. Instead, we care to highlight an overlooked cost of ambitious liberalisation: we argue that rigorous accessions and stringent terms should make backsliding through alternative means of import relief more likely. Liberalisation represents real adjustment costs; these can grow such that they threaten the very regime under which liberalisation is being carried out.

The relationship between rule of law and depth of integration

We noted above that onerous accession packages reflect the demands made by export interests in existing members states (Pelc 2011b). Yet they also reflect mistrust among members. Indeed, the accession proceedings of countries like Russia, China and Ukraine aroused considerable fear among the WTO membership over whether these countries would play by the rules. Specifically, critics pointed to the spotty domestic rule of law of these countries as evidence of their unreliability.

The WTO Accession Division Director himself admitted that WTO members had doubts and ‘muted concerns’ about Russia’s willingness to uphold the basic principles guiding the institution. In the same vein, eight Republicans from the United States Senate Finance Committee highlighted ‘Russia’s “spotty respect” for the rule of law’ in questioning the value of Russia’s accession to the WTO from the United States’ standpoint. Concerns over China’s rule of law were even more acute. Observers noted how ‘China has a culture of noncompliance’, pointing out that the loose governance at the local level, together with the ties between the CCP and industry, meant that laws and regulations were often ignored (Aaronson 2010). Here, too, observers focused on China’s low rule of law as presenting a risk.
to country’s accession: ‘The rule of law was a key element of China’s accession agreement because trade policymakers understood that how China was governed could distort trade in many of the sectors in which China competes’ (Aaronson 2010: 41).

While international institutions are seen as solutions to domestic credibility problems, acceding countries with low domestic rule of law face an additional credibility problem vis-à-vis the existing membership. As we show in the analysis, WTO members subjected countries such as Russia and China, but also Ukraine, to longer, more strenuous processes and demanded greater concessions of them. They extracted, in other words, a risk premium. These countries obliged: in keeping with credibility theory, they agreed to this cost as a means of demonstrating their intent to abide by the institution’s rules. China, especially, went through several rounds of liberalisation ahead of its accession to demonstrate good faith. China also implemented changes to its domestic legal code, by, for example, bolstering judicial review. These countries knew they faced an uphill battle and committed to more ambitious accession deals as a result. China eventually committed to exceptionally high depth of integration and short implementation periods, as well as no flexibility in the tariff rates. This was part of the way the United States Trade Representative sold China’s accession domestically. As Trade Representative Barshefsky boasted in Congressional testimony: ‘All cuts will occur over a maximum of four years and will be bound at applied rates. That means China can’t raise them again.’ Indeed, the implementation period of the tariff cuts that were demanded of China was half as short as those offered a country like Cape Verde. Russia was offered scarcely more.

Even then, industry groups in the United States complained that not enough had been extracted out of Russia, given doubts over Russia’s willingness to uphold the principles underlying the trade regime. Industry representatives complained that the accession package ‘fail[ed] to contain any extraordinary enforcement commitments beyond what is basically required of all WTO members.’ The implication was that Russia should be treated differently. Specifically, as the WTO Accession Division Director made plain, members questioned Russia’s ‘commitment to open trade, competition and rule of law.’ As a result, they insisted on a risk premium in the form of deeper concessions.

The relationship between domestic rule of law and the ‘rigour’ of accession packages appears to hold anecdotally. But why would the membership over-demand from states perceived as risky? Recall that the terms offered new entrants are assembled from the individual demands of exporters in existing member states. What this means is that the process is open to logrolling. The extraction of a risk premium that is individually rational from the standpoint of a single exporter can lead to terms that are overly demanding from a social standpoint. Overall, the strategy of compensating for doubts over countries’ commitments by extracting more concessions holds a paradoxical effect. The greater depth asked of more ‘risky’ countries makes adjustment more difficult. This, in turn, weakens domestic support for liberalisation in the acceding state, increasing demands for import relief and state support, and precipitating the very behaviour that members sought to protect themselves against. In this case, the insurance being taken out to deal with the risk of fire makes such fires more likely: the risk premium being extracted exacerbates risk.

These seemingly counterproductive measures are not unique to the case of WTO accession. In a recent article, Chapman and Reinhardt (2013) demonstrate how the seminal example of risk premia in the government bond market also falls prone to this paradox.
While interest rate premia are known to be increasing in the degree of political risk, raising these premia also makes servicing the debt more difficult and forces governments to cut spending elsewhere. Chapman and Reinhardt (2013) show how this type of forced austerity, in turn, makes governments more vulnerable to overthrow. The resulting political instability, they argue, has an independent effect on the risk of default. The implication is that demanding high risk premia can backfire.

Similarly, in the case of the WTO, extracting high commitments from new entrants has unintended consequences, even when the intent is precisely to account for a perceived risk of nonperformance. More strenuous accession processes leave their mark years later, when acceding countries, and the industries within them, that have been imposed these greater demands stand at a significantly higher risk of backtracking when faced with hard times.

In our analysis, we begin by testing the relationship between rule of law prior to accession and the demands made on the acceding country. The hypothesis is that lower rule of law countries are asked for deeper concessions, on average. This is an empirically counter-intuitive expectation insofar as rule of law is often associated with democracy, and we know that democracies are keener on making deeper commitments through trade agreements (Mansfield et al. 2002; Pelc 2011b). Yet we nonetheless expect that, controlling for regime type, lower rule of law will lead members to demand more from new entrants. We then take these estimates into account when assessing the impact of depth on backtracking.

**The difficulty of assessing the effects of institutions**

Answering what appears to be a simple question – How do institutions matter? – is notoriously vexing. Its inherent difficulty stems from a familiar issue: states do not join institutions randomly, but as a result of strategic action. Added to this, as we have shown, membership is anything but a homogeneous category. Since such variation in countries’ terms is also unlikely to be random, how should one assess the true impact of international institutions on state behaviour? How do we distinguish between the effects of membership and countries’ own *ex ante* preferences?

The analytical problems associated with measuring institutional effects are well-known; their solutions less so. Indeed, little work has even attempted to address this issue head-on. Analyses concentrate either on one side of the equation, explaining who gets in and on what terms, or they take on the other side of the equation, explaining what effect institutions have, assuming that membership is randomly distributed and that terms are uniform. As we outline in the next section, here we aim to combine both processes.

**Data and research design**

We construct a cross-sectional dataset with one row per industry \( j \) in country \( i \). The sample includes 17 countries that joined the WTO since 1995 (Table 1). We compile industry-specific data on trade volumes and tariff levels in four-digit harmonised system codes, which is the level of disaggregation used in the Global Trade Alerts (GTA) database that is the source of our dependent variable. This creates approximately 1,200 industry-specific observations per country. Our analysis is cross-sectional. While trade volumes and tariff rates change over time, the level of each country’s commitment to the WTO remains
constant over the same period. As a result, we analyse the aggregate use entry barriers over the years 2009–2012, which is the height of the financial crisis.

**Dependent variables**

Our theory predicts that members with deeper accession terms are more likely to erect entry barriers. We collect data on protectionist policies during the crisis period from the GTA database – a comprehensive source of protectionist activity since June 2009. GTA provides detailed information on more than 20 distinct policies, ranging from tariffs to import quotas and intellectual property rights protections. Each measure reported includes information on the industries to which the policy applies, allowing us to match each policy to specific four-digit industry codes.

The detailed nature of the GTA data allows us to utilise several different codings of backsliding during the crisis. First, we look at a dichotomous indicator of \( Protection_{i,j} \), measuring whether a country \( i \) applied any GTA-monitored policy measure to industry \( j \) over the period. Second, we look at a count of the total number of measures applied to a given product \( (Protection Count_{i,j}) \). These two indicators entail all the policy behaviours included in the GTA database, which include tariffs and quotas but also less traditional forms of protection such as local content requirement, devaluations and government procurement.

The GTA database is broad and includes a number of policies that are not strictly relevant to our purposes. In additional tests, we sharpen our focus on the five...
Table 2. Policy types and frequency of use in sample

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<tr>
<th>Policy</th>
<th>Incidence</th>
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<td>Tariffs</td>
<td>1,716</td>
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<td>Export subsidies</td>
<td>785</td>
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<tr>
<td>Import quotas</td>
<td>529</td>
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<td>Export taxes</td>
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<td>Import bans</td>
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<td>Import subsidies</td>
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<td>Government procurement</td>
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<td>Local content requirements</td>
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<tr>
<td>Trade defence measures*</td>
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<tr>
<td>Consumption subsidy</td>
<td>68</td>
</tr>
<tr>
<td>Investment-related measures</td>
<td>22</td>
</tr>
<tr>
<td>Sanitary and phyto-sanitary measures</td>
<td>15</td>
</tr>
<tr>
<td>Technical barriers to trade</td>
<td>14</td>
</tr>
<tr>
<td>Non-tariff barriers</td>
<td>10</td>
</tr>
<tr>
<td>Service sector measures</td>
<td>7</td>
</tr>
<tr>
<td>Intellectual property rights</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>4,682</td>
</tr>
</tbody>
</table>

Note: *Includes anti-dumping, countervailing duties and safeguards.

trade-related policies most frequently utilised by countries. This allows us to see how well commitment depth predicts use of the most common measures, including tariffs, quotas, export subsidies, export taxes and import bans (see Table 2). Using this restricted sampling, we construct an alternative count measure that totals use of the top five policies (\textit{ProtectionTop5}_{i,t}). We also report results from estimating models for each of those five policies individually.

\textbf{Independent variables}

Accession terms vary significantly across the WTO membership. We employ a measure used in existing work on WTO entry. As with prior studies, we look at differences in pre- and post-accession tariff rates in specific industries. One alternative would be looking at trade flows. However, we are interested primarily in the effects membership has on behaviour via the terms of accession – that is, the level of liberalisation to which countries commit. We are not interested in the relationship between trade levels and protection \textit{per se}. Instead, we control for (changes in) trade volumes in the analyses below.

We calculate accession \textit{Depth}_{i,j} as the difference between the most-favoured-nation (MFN) rate prior to accession and the WTO binding. Note that bindings are distinct from a country’s post-accession applied rates. Countries joining the WTO do not commit to specific tariff rates. Rather, they negotiate bindings (i.e., ceilings) above which tariffs cannot be
raised in the future. As a result, our measure of $\text{Depth}_{i,j}$ is not an indicator of how much a country has to adjust its tariffs – sometimes new members do not have to adjust at all when entering the WTO. Instead, it captures a constraint on member’s future policies.\textsuperscript{28}

Control variables

We control for several confounding factors. First, our measure of $\text{Depth}_{i,j}$ focuses on the level of states’ commitments. However, it is not a measure of the tariff rates that countries actually apply in practice. We include the post-accession applied tariff rates for each four-digit product, $\text{Applied Rate}_{i,j}$, averaged over the years available since the country joined the WTO. The applied rates control for the precise amount of access trade partners have to a new WTO member’s market. Including this variable helps us identify the independent effect of accession terms (i.e., commitment levels) as distinct from the tariffs applied to each good. Both are likely to affect whether a country uses additional protectionist policies. However, we are interested in the unique effects of over-commitment – what countries promise to do – rather than just the effects of de facto applied liberalisation. Second, we measure the growth in imports ($\text{Imports Growth}_{i,j}$) for each product over the period 2007–2012.\textsuperscript{29} By including growth in imports volumes we can account for surges in competition that may drive domestic demand for protection.

There are also three features of each member state include in the model. First, Democratic\textsubscript{j,t} countries might be more exposed to political pressure to protect the market, particularly during times of crisis. We take the average Polity IV score of each state over the period, again using the years 2007–2012. Second, we average per capita Income\textsubscript{i,j} over the same period since richer countries might be better able to absorb economic crises.\textsuperscript{30} Third, we control for each country’s Exchange Rate\textsubscript{i,j}. We include the exchange rate since a lower domestic currency will decrease pressure on import-competing firms, thereby decreasing the demand for protection.

Instrumental variables

Existing work shows that levels of depth are assigned non-randomly. We run a series of two-stage least squares tests (2SLS) to ensure that non-random assignment does not bias our baseline results. Modeling the assignment of accession terms helps us discriminate between two related, but distinct, mechanisms. Our theory suggests that states over-commit during accession, increasing the likelihood that new members utilise protectionist policy mechanisms after joining the WTO. However, it is important to distinguish this story from one that simply states protection increases in the costs of adjustment. By conducting a two-stage analysis we are able to show that, first, that depth is an artifact of existing members’ concerns over the reliability of acceding states’ commitments; and second, that these non-randomly assigned terms have an independent effect on protection.

This approach requires that we include variables that predict depth, but that are unrelated to protection. There are several measures available. The first is the number of Questions\textsubscript{i} a country was asked during its accession process. More thorough interrogations ought to result in tougher accession terms. However, the number of questions a country was asked should not, by itself, directly affect any domestic decisions to enact a barrier to
market entry during the crisis period. We log the number of questions to account for the skewed nature of the measure. Second, we include the year in which a country joins the agreement (*Join Year*). Generally, states have received tougher terms over the 20 years since the WTO came into force, suggesting that the year a country accedes affects their terms. However, the year of accession should not, by itself, directly influence the decision to protect the marketplace during hard times.

Our theory also makes a new claim about the domestic political factors that shape the depth of WTO accession terms, and this informs the choice of our last instrumental variable. As argued above, the quality of a country’s *Rule of Law* prior to accession is widely perceived as a clue of a country’s willingness to implement its commitments. When faced with low rule of law countries, members try to extract more concessions in the way of charging a risk premium. We rely on rule of law data from the World Bank’s *World Governance Indicators*, which to our knowledge provides the most comprehensive data. The measure averages the rule of law score over the five years prior to WTO accession. We use this average since rule of law might itself be changing in the lead up to accession.

Our instruments perform well in our two-stage tests. All three are significant predictors of depth, but have little direct impact on our outcome of interest. Partial residuals of these instruments are uncorrelated with protectionism. In addition, our specification satisfies the available diagnostics. We reject the null of under-identification (*p* < 0.05), which supports the assumption that the system of equation is identified. In addition, we fail to reject the null hypothesis of the Sargan-Hansen over-identification test (*Hansen J* statistic of 3.327), suggesting that our instruments are valid. We also note that our estimates are not driven by the selection of these instruments. In robustness checks, we use alternative instruments and find comparable results.

**Analysis and results**

We now test the validity of our hypothesis. We utilise a variety of indicators of protection and several estimation techniques designed to cope with various traits of the data. Across these tests, we find a strong, positive relationship between the depth of new members’ commitments and the use of protection during the crisis period. According to our estimates, stricter accession terms roughly double the chances that country erects at least one entry barrier. Stricter terms also increase the overall number of barriers used by roughly 38 per cent.

**Baseline estimations**

According to our argument, deeper accession terms increase the likelihood that new members protect their industries during ‘hard times.’ To estimate this relationship, we first focus on a series of one-stage models revealing the correlation between depth and protection. Model 1 presents the estimates from a logit (Table 3). Note that all of our models cluster the standard errors by country. The controls perform largely as expected, with democracies using less protection and import surges resulting in more.

We see a strong, positive association between depth and protection (*p* < 0.001). Moving across the interquartile range (IQR) of *Depth*, results in an eight-point increase in the
Table 3. Baseline estimates

<table>
<thead>
<tr>
<th>Protection_{i,t}</th>
<th>Protection_{i,t}</th>
<th>Protection count_{i,t}</th>
<th>Protection top 5_{i,t}</th>
<th>Protection count_{i,t}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Depth_{i,t}</td>
<td>0.075*** (0.023)</td>
<td>0.075*** (0.023)</td>
<td>0.031*** (0.010)</td>
<td>0.030*** (0.010)</td>
</tr>
<tr>
<td>Depth_{i,t}</td>
<td>–0.002* (0.001)</td>
<td></td>
<td></td>
<td>–0.002* (0.001)</td>
</tr>
<tr>
<td>Democracy_{i,t}</td>
<td>–0.157* (0.091)</td>
<td>–0.157* (0.091)</td>
<td>–0.150* (0.087)</td>
<td>–0.128 (0.084)</td>
</tr>
<tr>
<td>Imports growth_{i,t}</td>
<td>0.603*** (0.195)</td>
<td>0.602*** (0.195)</td>
<td>0.218 (0.200)</td>
<td>0.182 (0.233)</td>
</tr>
<tr>
<td>Applied rate_{i,t}</td>
<td>–0.013 (0.016)</td>
<td>–0.013 (0.016)</td>
<td>–0.006 (0.006)</td>
<td>–0.001 (0.010)</td>
</tr>
<tr>
<td>Income_{i,t}</td>
<td>–0.489 (0.546)</td>
<td>–0.489 (0.545)</td>
<td>–0.518 (0.491)</td>
<td>–0.452 (0.481)</td>
</tr>
<tr>
<td>Exchange rate_{i,t}</td>
<td>0.000 (0.000)</td>
<td>0.000 (0.000)</td>
<td>–0.000 (0.000)</td>
<td>–0.000 (0.000)</td>
</tr>
<tr>
<td>Constant</td>
<td>1.906 (4.170)</td>
<td>1.906 (4.168)</td>
<td>2.740 (3.606)</td>
<td>1.524 (3.546)</td>
</tr>
<tr>
<td>N</td>
<td>16,942</td>
<td>16,942</td>
<td>16,942</td>
<td>16,942</td>
</tr>
</tbody>
</table>

Notes: Clustered standard errors in parentheses. *p < 0.100; **p < 0.050; ***p < 0.001.

likelihood that a given product is protected. The predicted probability increases from 0.11 [0.039, 0.186] to 0.18 [0.076, 0.302].

While protection is relatively common (there are just over 4,000 unique measures reported in the GTA database across all countries), the chance that a measure targets any given product is small. Rare events logit helps correct for the large number of zeros in our sample when estimating the relationship. The results of a rare events logit are presented in model 2 (Table 3) and are almost precisely the same as those found in model 1.

Models 1 and 2 provide initial support for our hypothesis. However, they rely on a simple dichotomous indicator of whether an industry received protection. We also want to explore the frequency with which products are protected. Roughly 890 product lines are affected by more than one measure, and at least 350 products are targeted by four or more policies. We re-estimate model 1 using a Poisson regression, which is designed specifically for count variables (see model 3 in Table 3). The Poisson estimates are similar to those produced by model 1; greater depth is associated with increased protection. Moving again across the IQR of Depth_{i,t}, the predicted count of policies per product increases just over 38 per cent, from 0.23 [0.039, 0.428] to 0.32 [0.096, 0.551]. Model 4 presents a Poisson estimation using a count of the top five most frequently used policies (Table 3). Here, a move across the IQR results in a comparable increase in the number of product-specific policies of 40 per cent, from 0.103 [0.012, 0.195] to 0.142 [0.030, 0.253].

Together, models 1–4 provide strong support for the hypothesis across a range of estimation techniques and measures of protection. The membership’s attempts to force liberalisation appear to at least partially backfire. Specifically, new entrants to the WTO are significantly more likely to protect their industries when they accept strict accession terms.

It is worth noting that our sample is highly balanced across countries. No country makes up more than 11 per cent of the sample and only Kyrgyzstan accounts for less than 4 per cent. However, China alone accounts for a near-majority (49 per cent) of the total protectionism; it also ranks among the countries with highest depth of integration. Yet to ensure it is not driving the results, we re-ran our baseline model excluding China. Even with this sampling restriction, there is a significant, positive relationship between depth and protection. However, the level of significance changes from 5 to 10 per cent, suggesting...
that China is, unsurprisingly, an important part to the story here as one of the largest, most frequent users of the policies we analyse. We then used similar restrictions re-running our baseline logit models while eliminating one country at a time. The results of this ‘jackknife’ sampling approach show that no individual new member drives our core results; the estimates hold when omitting any one country.

In addition, we re-ran our logit and Poisson regressions with product fixed effects. There could be unobservable traits of particular goods that make them more or less prone to protection. In practice, the five products protected most heavily in our sample are wheat (HS1001), oil (HS2710), steel (HS7304) and automobiles for the transportation of humans and goods (HS8703/8704). We re-ran our tests omitting these frequently targeted products. Finally, we also want to ensure that the results are not driven by outliers. We re-ran our tests omitting the countries with the lowest depth score (Nepal) and highest (Albania), and omitting those countries that never used any protectionist policies in our sample. The core positive relationship between depth of accession and protection holds across these tests.

**Nonlinear effects**

The relationship between depth and protection may vary in magnitude across the range of possible accession terms. Our theory implies that countries can reasonably commit to some amount of depth without backsliding. However, above a certain point, deeper commitments become untenable politically, increasing the likelihood that countries erect entry barriers. This claim implies there is a nonlinear relationship; the frequency with which countries protect domestic industries accelerates above a certain level of accession depth. To test this proposition, model 5 (Table 3) introduces a squared term ($Depth^2$). We plot the point predictions at regular intervals of $Depth_{ij}$ in Figure 2. The curve shows a modest nonlinearity in the relationship. Below the mean, one-integer increases in $Depth_{ij}$ result in an average
Table 4. Top five frequently used policies

<table>
<thead>
<tr>
<th></th>
<th>(6) Tariffs&lt;sub&gt;i,j&lt;/sub&gt;</th>
<th>(7) Quotas&lt;sub&gt;i,j&lt;/sub&gt;</th>
<th>(8) Export subsidy&lt;sub&gt;i,j&lt;/sub&gt;</th>
<th>(9) Export taxes&lt;sub&gt;i,j&lt;/sub&gt;</th>
<th>(10) Import ban&lt;sub&gt;i,j&lt;/sub&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Logit</td>
<td>0.063*** (0.015)</td>
<td>0.040** (0.019)</td>
<td>0.019 (0.012)</td>
<td>0.032*** (0.012)</td>
<td>0.039*** (0.014)</td>
</tr>
<tr>
<td>Depth&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>–0.190** (0.090)</td>
<td>–0.028 (0.054)</td>
<td>–1.316*** (0.253)</td>
<td>–0.071 (0.064)</td>
<td>0.016 (0.043)</td>
</tr>
<tr>
<td>Democracy&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>0.420*** (0.100)</td>
<td>0.508 (0.655)</td>
<td>–0.659*** (0.224)</td>
<td>0.112 (0.347)</td>
<td>0.646*** (0.155)</td>
</tr>
<tr>
<td>Imports growth&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>–0.009 (0.011)</td>
<td>0.039*** (0.009)</td>
<td>0.020** (0.008)</td>
<td>–0.030 (0.040)</td>
<td>0.032*** (0.011)</td>
</tr>
<tr>
<td>Applied rate&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>–0.799 (0.532)</td>
<td>0.023 (0.397)</td>
<td>–5.981*** (1.392)</td>
<td>–0.131 (0.404)</td>
<td>0.375 (0.316)</td>
</tr>
<tr>
<td>Income&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>–0.000 (0.000)</td>
<td>–0.006 (0.005)</td>
<td>–0.001*** (0.000)</td>
<td>0.000 (0.000)</td>
<td>–0.003 (0.004)</td>
</tr>
<tr>
<td>Exchange rate&lt;sub&gt;i,t&lt;/sub&gt;</td>
<td>3.592 (3.914)</td>
<td>–4.713 (3.025)</td>
<td>37193*** (8.981)</td>
<td>–2.626 (2.899)</td>
<td>–8.112*** (2.688)</td>
</tr>
<tr>
<td>Constant</td>
<td>16,942</td>
<td>16,942</td>
<td>16,942</td>
<td>16,942</td>
<td>16,942</td>
</tr>
</tbody>
</table>

Notes: Clustered standard errors in parentheses. *p < 0.100; **p < 0.050; ***p < 0.001.

increase in protection of 0.05 measures per product. Above the sample mean, one-integer changes increase the predicted number by an average of 0.11 measures, or roughly twice as many.

To apply this to country examples, the two countries with average depth scores immediately under the sample mean are Armenia (–5.55) and Saudi Arabia (–5.32). The average measures imposed for each country is under 0.04. However, above the sample mean, protectionism rises significantly. Ukraine (–0.65) imposes an average of 0.27 measures, Russia (1.21) imposes an average of 1.28 and China (6.56) imposes an average of 2. These results illustrate how commitments become particularly difficult to sustain beyond a certain level of depth.

**Individual policies**

Model 4 used a count of the number of times products were protected using the five policies appearing most frequently in our sample. We now run individual logit estimations on each policy: tariffs, quotas, import subsidies, export taxes and import bans. We do not have theoretical priors about whether governments view some of these policies as more effective than others, or why governments would rely on them more heavily than the available alternatives. However, it is useful to look at whether the core results hold across the various components of the measure. Models 6–10 are reported in Table 4. We find that the results are consistent across the policies, with the exception of export subsidies, which narrowly misses conventional levels of statistical significance. In a manner consistent without theory, this may be a reflection of the way in which most demands put on entering members lead to adjustments for import-competing sectors.

**Non-random selection**

In the context of the WTO, states reach accession deals non-randomly. Failing to account for this selection process may lead to bias in our estimates. We now re-estimate our baseline specifications using a two-stage approach (see Table 5). As stated above, modeling selection requires instrumental variables in order to ensure that the two-stage system is identified
<table>
<thead>
<tr>
<th></th>
<th>(11)</th>
<th>(12)</th>
<th>(13)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Depth_{i,t}</td>
<td>Protection_{i,t}</td>
<td>Depth_{i,t}</td>
</tr>
<tr>
<td></td>
<td>Selection</td>
<td>Outcome</td>
<td>Selection</td>
</tr>
<tr>
<td>Depth_{i,t}</td>
<td></td>
<td>0.019** (0.009)</td>
<td></td>
</tr>
<tr>
<td>Income_{i,t}</td>
<td>3.840** (1.554)</td>
<td>-0.019 (0.035)</td>
<td>3.840** (1.554)</td>
</tr>
<tr>
<td>Imports growth_{i,t}</td>
<td>-0.140 (0.646)</td>
<td>0.056* (0.030)</td>
<td>-0.140 (0.646)</td>
</tr>
<tr>
<td>Democracy_{i,t}</td>
<td>0.187 (0.174)</td>
<td>-0.015 (0.009)</td>
<td>0.187 (0.174)</td>
</tr>
<tr>
<td>Exchange rate_{i,t}</td>
<td>0.000 (0.000)</td>
<td>0.000* (0.000)</td>
<td>0.000 (0.000)</td>
</tr>
<tr>
<td>Applied rate_{i,t}</td>
<td>0.128 (0.197)</td>
<td>-0.000 (0.003)</td>
<td>0.128 (0.197)</td>
</tr>
<tr>
<td>Rule of law_{i}</td>
<td>-10.887*** (2.793)</td>
<td>-10.887*** (2.793)</td>
<td>-10.887*** (2.793)</td>
</tr>
<tr>
<td>Questions_{i}</td>
<td>7.413** (2.820)</td>
<td></td>
<td>7.413** (2.820)</td>
</tr>
<tr>
<td>Join year_{i}</td>
<td>-1.146** (0.490)</td>
<td>-1.146** (0.490)</td>
<td>-1.146** (0.490)</td>
</tr>
<tr>
<td>Constant</td>
<td>2210.394** (965.573)</td>
<td>0.353 (0.301)</td>
<td>2210.394** (965.573)</td>
</tr>
<tr>
<td>N</td>
<td>16,942</td>
<td>16,942</td>
<td>16,942</td>
</tr>
</tbody>
</table>

Notes: Clustered standard errors in parentheses. *p < 0.100; **p < 0.050; ***p < 0.001.
properly. While there are no perfect tests for exogeneity, there are some diagnostics available to build confidence in the selection of our instruments. In our estimates, we reject the null hypothesis of an under-identification test, suggesting the system is identified. We also fail to reject the Sargan-Hansen test of over-identification, which lends support to the validity of the instruments.

Looking at the estimates, the first thing to note is that our rule of law indicator is strongly negatively associated with depth in the first stage. This aligns with our prediction that countries with stronger pre-accession rule of law scores obtain less demanding terms, while those with low rule of law pay a risk premium in the form of deeper commitments. The measure is a continuous variable ranging roughly from –1 to +1. According to the estimates, a one-unit increase corresponds to a ten-point decrease in accession depth. This ten-point drop is substantively significant: 98 per cent of the observations fall along a 60-point scale (from –30 to +30).

Turning to our explanatory variable, depth remains a strong, positive predictor of protection when correcting for its non-random assignment. Model 11 relies on our dichotomous indicator ($Protection_{ij}$), model 12 uses the number of measures ($Protection Count_{ij}$) and model 13 uses the count of the top five policies ($Protection Top 5_{i,t}$). Across these measures, the results are consistent with the one-stage baseline estimates. Looking, for example, at the total count variable (model 12), we see that an increase in depth across the statistically significant range more than doubles the predicted number of GTA measures from 0.18 [0.021, 0.352] to 0.46 [0.144, 0.781].

As stated, the available diagnostics support the validity of the instruments. However, we recognise that there are no pure tests of exogeneity. Our 2SLS models are robust to alternative instruments. For example, we averaged the applied and bound tariff rates for each product across the WTO membership in the year each new member joined the agreement. These membership-wide averages ought to be strong predictors of any given country’s rates. However, the WTO average should not directly predict the likelihood that any individual member protects their market. We also generated a measure of average member ‘overhang’ (the bound rate minus the applied rate). The results are robust to the inclusion of these product-level instruments. Before concluding, note that we run models for each of the top five most frequently used policies. (These models rely on instrumental variables probits, rather than 2SLS, because each outcome variable is a dichotomous indicator.) Here again, there is a strong association between depth and protection except for in the case of export subsidies.

We also consider a corollary of the theory: rule of law should not only be a strong predictor of $Depth_{ij}$, which as we demonstrate in Table 5, but it should also affect the amount of flexibility a country enjoys after accession. Recall Representative Barhevsky’s claim that China’s tariffs ‘bound at applied rates’. Indeed, the main source of flexibility built into WTO countries’ tariff schedules is found in ‘binding overhang’ – the gap between a country’s bound and applied rates. High overhang means that states have greater leeway in their trade policy since they can raise the applied rate up to the bound. We expect WTO members to be especially wary of granting such flexibility to low rule of law countries. This corollary is borne out: we find that rule of law is positively associated with binding overhang. Moving across the interquartile range of rule of law increases binding overhang seven points, from 2.05 [–0.03, 4.14] to 9.14 [4.71, 13.57]. This suggests that states with higher rule of law, which
face fewer questions about their willingness to abide by their commitments, are afforded more flexibility.

Taken as a whole, these two-stage models lend further support to our hypothesis: accession depth is associated with significantly more protection. Our baseline findings do not appear driven by the non-random assignment of accession terms. Instead, there is a strong association between the depth of the commitments that states make and the likelihood that they protect their industries during hard times. In sum, demanding deep concessions of new members is not without adverse effects. These deep commitments backfire when states are faced with high adjustment costs.

**Conclusion**

Most of the literature argues that international institutions’ benefits increase in the depth of countries’ commitments. We challenge this prevalent view in the context of trade, where we argue that deep commitments to market liberalisation can lead to considerable backlash against the regime and backsliding on commitments. In so doing, we contribute to growing awareness over how countries are increasingly reversing course on their international commitments in a range of areas. From the investment regime to the international criminal regime, states are beginning to question whether the terms they signed up for by joining these institutions have paid off. This article shows such backsliding in action through an examination of countries’ WTO accession deals.

We first show that states joining the WTO in the last 20 years exhibit significant variation in their terms of accession. We add to the literature’s growing appreciation of the considerable variation in the meaning of membership in international organisations. Membership is not a homogenous category; states’ commitments vary within, not just across, agreements. We then show that this variation has observable consequences for state behaviour.

Part of the variation in the ‘price of accession’ is due to misgivings over these countries’ reliability, as proxied by their domestic rule of law. Supporting anecdotal evidence over the salient cases of China, Russia and Ukraine, we find a strong negative relationship between rule of law and depth of commitments across all entrants. When WTO members have doubts over an acceding country’s willingness to implement its commitments, they appear to extract risk premia in the form of higher concessions, shorter implementation periods and less flexibility as a means of hedging against doubts over these countries’ reliability.

We use this relationship between rule of law and depth to assess our main claim. Deep commitments may not always be justified by their effects on trade, as assumed by the literature (Allee & Scalera 2012): as we show, the deeper a country’s accession terms, the more likely they are to rely on a host of measures following accession, including competitive devaluations, import bans, export subsidies, trade remedies and quotas. The implication is that the risk premia themselves may be contributing to the risk of countries’ backtracking.

Additional work is required to evaluate the net welfare effects of such backtracking. The literature on flexibility, for example, has long debated whether the use of escape clauses increases overall performance or simply allows states a new, alternative means of protecting domestic firms. In this article we have been concerned with highlighting an overlooked tradeoff. Ambitious commitments are not only costly in terms of domestic
adjustments for acceding members; they have consequences for the institution insofar as they affect subsequent country behaviour. This countervailing effect of liberalisation needs to be acknowledged in the empirical study of the effects of institutions: deep commitments can backfire.

Notes

1. ‘Humanity may in this case require that the freedom of trade should be restored only by slow gradations, and with a good deal of reserve and circumspection’ (Adam Smith, ‘An inquiry into the nature and causes of the wealth of nations’).
2. See, among others, Bronk (2002); Levitz and Pop-Eleches (2010); Moravcsik and Vachudova (2003); Plümper et al. (2006); Schimmelfennig et al. (2003); Sedelmeier (2008); Steunenberg and Dimitrova (2007).
3. ‘Come and get me’, The Economist, 18 February 2012. Available online at: www.economist.com/node/21547836
4. Some countries, as in the recent example of Russia, have undergone rigorous vetting during accession; others, like Ecuador, were whisked through the process with comparatively lax requirements.
5. The WTO makes no demands on a country’s domestic economic regime, accommodating market and non-market economies alike. Yet the non-market economy designation has consequences for the meaning of membership. In the case of China, countries insisted on it being designated a non-market economy, lowering the bar for evidence of dumping in AD (anti-dumping) investigations. The point is that the type of economy is not, in itself, a barrier to entry.
6. In the case of the EU, the fact that accession demands are known in advance has been credited with pushing countries to conduct reforms in the years prior to accession (Schimmelfennig 2008).
7. WTO document WT/ACC/1, para 10.
8. Following Allee and Scalera (2012), we use the number of these questions as an instrument for commitment depth.
9. As Schimmelfennig (2008: 920) puts it: ‘[In making its enlargement decisions,…the EU ought not to discriminate against any country either positively or negatively on the basis of other considerations.’
10. WTO document WT/MIN(05)/ST/166.
11. The report is available online at: www.wto.org/english/res_e/booksp_e/casestudies_e/case43_e.htm. Vanuatu restarted accession negotiations many years later, and is now a permanent WTO member.
12. See a list of such views in Levitz and Pop-Eleches (2010).
13. Procurement is covered by a pluri-lateral deal to which countries can sign up voluntarily, but is not covered by the WTO’s multilateral terms.
18. As opposed to other countries, China, especially, was offered no tariff flexibility, or ‘binding overhang’: its tariff schedule was ‘bound at applied rates’. In contrast, most other entrants were allowed to set maximum ‘bound’ rates at higher levels than the ‘applied’ rate, thereby enabling them to legally raise duties in response to domestic demands.
20. Calculating the average transition period of tariffs, Cape Verde, China and Russia were offered 3.06, 1.4 and 1.8 years, respectively.
23. Much as in our article, the authors do not claim that the effects that risk premia have on default odds trump actual political risk concerns; they note that: ‘[These are countervailing forces that should be acknowledged in an empirical study of the relationship between sovereign lending and domestic unrest’ (Chapman & Reinhardt 2013). Similarly, our point is not that demanding greater depth from countries like Russia and China comes at a net cost; rather, we are pointing out that the increased odds of backtracking this produces should be taken into account when designing the accession package.
24. Croatia, Jordan and Taiwan are missing from the sample due to incomplete tariff data.
25. Our models run on 17,000 observations out of a possible 20,400 due to missing trade or tariff data. The principal reason for this is the absence of data for several countries prior to accession.
26. Available online at: www.globaltradealert.org/
27. The results are not sensitive to including all the policies. However, decisions to bail out specific firms or to subsidise/stability state-owned enterprises are not strictly entry barriers in our conceptualisation – that is, they are not policies implicated directly by the depth of a country’s WTO accession terms.
28. To reiterate, this variable is time-invariant since accession occurs only once, hence the cross-sectional structure of the analysis.
29. Although the GTA database covers the years 2009–2012, the crisis was unfolding prior to that period. Moreover, going back to 2007 means that we can control for economic outcomes and traits of each state just before the crisis onset.
30. Alternatively, richer nations may have the legal and bureaucratic capacity required to better protect themselves.
31. The results are robust to clustering by product code. However, it is more likely that the errors are correlated within countries rather than across products. Protection is a government-level decision that is influenced by the unique domestic political processes inside each country.
32. When holding all other variables at their means, a move across the interquartile range of \( \text{Imports Growth}_i \) increases the likelihood of protection from 0.07 [0.017, 0.265] to 0.08 [0.020, 0.257].
33. Brackets report 95 per cent confidence intervals around the predicted probability.
34. For products targeted by at least one policy, the average number of measures is 1.8 and the median is 1.
35. The results also hold when looking individually at technical barriers to trade, government procurements, intellectual property rights protections and several other less frequently used policies. We do not find a significant relationship between depth and government bail-outs.
36. Tellingly, export taxes are still wholly out of the WTO’s purview. Rules on subsidies are the chief way in which countries lose autonomy over their export sectors, and these are vaguer and less established than simple questions like schedules of concessions on import tariffs.

References


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