



Domestic legal traditions and the dispute settlement body

Domestic legal traditions

Are certain states more litigious than others?

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123

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Abstract

Purpose – The purpose of this study is to focus on the influence of domestic legal traditions on dispute behavior, which has been widely examined in the conflict literature, within the World Trade Organization (WTO). States with a civil legal tradition hold treaties and agreements in high esteem. Therefore, they will be more likely to file trade complaints and pursue adjudication when compared to states with common or mixed legal traditions.

Design/methodology/approach – The hypotheses in this study have been tested using a quantitative test with data from the WTO regarding trade disputes.

Findings – While civil law states are more likely to file complaints, they are less likely to pursue adjudication over a negotiated settlement.

Originality/value – This study brings to light how domestic legal systems affect state behavior within an international legal body.

Keywords Legal systems, World Trade Organization, Dispute resolution, Islamic states

Paper type Research paper

Introduction

The post-1945 period was a time for the growth and strengthening of the international law and the forums by which they are enforced and adjudicated. The [World Trade Organization's \(WTO\) \(2013\)](#) and [Dispute Settlement Understanding \(DSU\) \(1994\)](#) is one of them. While dispute resolution has always been a part of the General Agreement on Tariffs & Trade (GATT), members were able to block the creation of a panel, which was to consider a trade complaint (until this was revised in 1989). Additionally, if formed, members also had the opportunity to impede the adoption of a panel decision. Therefore, dispute settlement under the GATT had no real impact on state behavior. The problems with GATT dispute resolution were corrected by the DSU in that not only can disputes go to a panel if negotiations failed to result in a solution but also that panel decisions could not be blocked by a single state.

The greater emphasis on the judicialization in the DSU has led to it being used more often than dispute resolution under the GATT. There have been > 450 disputes filed over the past 18 years. However, numerous scholars have observed that the use of the DSU mechanism is not universal. Instead, only certain states have filed complaints within the dispute settlement body (DSB), specifically advanced industrialized countries located in Europe, North America, Latin America and Asia. [Busch et al. \(2009\)](#) explain that a state's propensity to engage in trade dispute resolution focuses on their wealth, which allows them to better "plug" into the WTO system. [Davis \(2012\)](#) claims that



certain societies are more prone to resolving disputes via lawsuits, and, therefore, state are more likely to engage in a WTO trade complaint.

In this study, I seek to further Busch *et al.*'s and Davis's claims about whether certain states are more litigious than others. I suggest that a state's litigiousness can be traced back to its legal system, very specifically, that states with a civil legal system are more likely to use the DSB than their common or Islamic legal system counterparts. States with civil legal traditions have similar legal bases for their institutions as that of the DSB. They also place a greater emphasis on the norm of *pacta sunt servanda*, that when treaties are signed, they are to be upheld regardless of the situation. This commitment to the importance of contracts and treaties mirrors the legal basis of the DSB. This paper will proceed as follows: first, I provide the foundation for this study by examining previous WTO dispute behavior as well as the literature regarding the effect of domestic legal systems on international law. Then, using a research design similar to that found in the study by Mitchell and Powell (2011), I examine whether certain states are more likely to initiate a complaint within the DSB, and, once initiated, if certain dyads are more likely to resolve their dispute bilaterally rather than turning to the DSB for a decision. Finally, I discuss the results and their implications regarding legal traditions and international law.

Dispute behavior in the WTO

A state's legal capacity is the gateway to understanding its participation in the DSB and the WTO. As mentioned earlier, legal capacity refers to a state's ability "to monitor and enforce rights and obligations" within the WTO context (Busch *et al.*, 2009, p. 560). It encompasses the ability to staff a permanent delegation in Geneva, especially one that has been trained to deal with the highly judicialized dispute system (Zangl, 2008). Legal capacity affects a state's ability to build a strong case as well as participate in what has become the norm in the DSB, i.e. long, drawn-out disputes, filled with outside experts and an excess of supporting materials. Because states with lesser legal capacity are unable to utilize such resources, they are less likely to be involved in a dispute overall.

Not surprisingly, states with higher levels of legal capacity are also more likely to be involved in a dispute, as either the complainant or the defendant. Simmons and Guzman (2005) find that states with a lower legal capacity only file complaints when they are certain that they can win. Additionally, states with a lower legal capacity seem to be more willing to settle a dispute if they are the defendant so they do not become involved in a longer dispute which will be costly (Bown, 2005). Bown (2005, 2009) finds that states lacking the resources that comprise legal capacity self-select out of DSB complaint involvement. While technical assistance is provided by the WTO to these states to promote full participation (Shaffer, 2006), it does not fill the knowledge and resource void that defines the developing world's experience within the DSB (Lacarte-Muro and Gappah, 2000). Lesser-developed countries lack the political and economic capacity to act as a "watchdog" over their trading partners, and, therefore, they are more selective about the complaints they choose to file (Simmons and Guzman, 2005). In fact, many prefer to join already existing complaints as third parties to pursue their trade policy agendas (Busch and Reinhardt, 2006; Busch *et al.*, 2009).

While legal capacity restricts certain states from participating in the DSB, Davis (2012) claims that democracies are more likely to file complaints against their trade

partners. This is due to possible future electoral repercussions; voters and interest groups alike want to see their government protecting their interests. If democratic governments did not protect domestic goods within this global push for freer trade, they would lose support from those affected groups. This is supported by [Fattore \(2012\)](#), who finds that industries and goods that have a large number of interest groups related to them get the most attention from their government regarding WTO complaint filings. Therefore, states are motivated to file complaints when the audience costs are associated with the good/industry in question.

Domestic legal systems and international legal behavior

The three major legal systems that are considered in this paper are civil law, common law and Islamic law. While other legal systems exist (as well as those that are a combination of the major ones), these three are the most common ones found in major countries today. Legal traditions are:

[...] a set of deeply rooted, historically conditioned attitudes about the nature of law; about the role of law in society and the polity; about the proper organization and operation of a legal system; and about the way law is or should be made, applied, studied, perfected and taught ([Merryman, 1985](#), pp. 1-2).

[Badr \(1978\)](#) explains that legal traditions are defined as “[...] its geographic reach [being] substantial [and] its influence [...] must be long lasting.”

The civil law tradition is based on the Roman legal system. Its explicit foundation is in codified law, which is the basis for understanding whether an action is considered to be illegal ([Mitchell and Powell, 2011](#); [Glenn, 2007](#)). The common law tradition can be found mainly in British territories and former colonies worldwide. Common law stresses the importance of *stare decisis* in that previous decisions hold precedence over what should be done in a related case. Finally, the Islamic tradition is based on Islam as a religion and therefore Islam as law.

There are three major distinctions between these legal traditions. First, common law places great emphasis on the doctrine of precedence, where civil and Islamic systems do not. Second, civil and Islamic traditions value *bona fides* that once an agreement is made, promises are not to be broken ([Zimmermann and Whittaker, 2000](#)). Finally, civil and Islamic legal traditions stress the importance of *pacta sunt servanda*, that is “treaties [signed] in good faith are supposed to be binding” ([Powell and Mitchell, 2007](#), p. 400). States that break binding agreements are dealt with harshly.

[Powell](#) and her various co-authors have examined the influence of domestic law traditions on various types of international law and how states function or choose to participate in these bodies. What she has found is that common law states prefer to settle disputes using negotiations, civil law states prefer adjudication and Islamic states prefer non-binding decisions ([Powell and Wiegand, 2010](#)). This finding is expanded by [Mitchell and Powell \(2011\)](#), where a state’s commitment to the jurisdiction of the International Court of Justice (ICJ) is examined through the legal tradition lens and has similar results to that of the study by [Powell and Wiegand \(2010\)](#). They also find that the acceptance of the ICJ’s reach as well as being a participant in the Rome Statute has an effect on state behavior, and that those signatories are less likely to result in actions that go against the core of these treaties.

The dispute settlement system of the WTO most resembles a civil type of law system as WTO agreements can be seen as a codified law ([Palmeeter, 2000](#)). States file

complaints based on whether they feel as if another member has broken a WTO agreement. In fact, they are obligated to file a complaint based on the Articles of the DSU that is signed when a Member first joins the WTO. Specifically, Article 3.3 (1995) explains that prompt settlement of situations in which a Member considers that any benefits accruing to it directly or indirectly under the covered agreements are being impaired by measures taken by another Member is essential to the effective functioning of the WTO and the maintenance of a proper balance between the rights and obligations of Members.

They are first given the opportunity to settle the case bilaterally. If that does not work, a panel is formed to hear the dispute. At this panel, states need to provide evidence that a WTO agreement has, indeed, been ignored. The WTO “dispute settlement system has been described as the most developed and active of all international regimes with its thickening of legality” (Palmeeter, 2000, p. 479).

Because of the judicialization of the WTO’s dispute settlement body, I will treat it like an international court. While there are many aspects regarding a state’s behavior within an international legal system that are important, I will only focus on two in this paper: the effect of a state’s legal system on its propensity to initiate disputes and whether a dyad’s legal traditions have an effect on whether they choose to settle their dispute bilaterally or pursue a panel decision. I expect that states with a civil law tradition will have a higher probability of initiating a dispute, as the DSB is similar to a civil law system and they stress the importance of *bona fides* and *pacta sunt servanda*, where contracts are held in high esteem. States with a common law tradition will be less likely to initiate disputes because they hold the doctrine of precedence to be more important in shaping laws than actual contracts themselves. Islamic law states are expected to be least likely to initiate a dispute as they prefer non-binding decisions (Powell and Wiegand, 2010).

H1. A state with a civil legal tradition will be more likely to initiate a dispute in the DSB.

I also hypothesize that, once a dispute has been initiated, legal traditions can also influence whether a state is willing to negotiate a resolution or, instead, turn to a panel decision. Powell and Wiegand (2010) examined a dyad’s reticence to negotiation in relation to conflict resolution, and, therefore, my hypotheses borrow heavily from that study. I expect that civil law dyads will be less likely to settle bilaterally, as they prefer more legalized methods of dispute resolution, especially adjudication. Common law dyads will be more likely to settle their disputes prior to panel formation because they prefer less legalized methods of resolution. Finally, I expect mixed dyads to pursue a panel decision, as there is not one clear legal tradition influence over the pair:

H2. Civil law dyads will be more likely to pursue a panel decision rather than a bilateral negotiated resolution to their trade dispute.

H3. Common law dyads will be more likely to resolve their trade dispute via bilateral negotiations than a panel decision.

H4. Mixed dyads will be more likely to resolve their trade disputes via panel decision.

Data and methods

The above hypotheses are tested using quantitative data regarding dispute behavior between January 1995 and December 2010. While there are some shortcomings to using a quantitative approach for investigating state behavior, this has been the norm for political scientists studying trade dispute behavior (for example, the work by [Bown, 2005, 2009](#); [Busch and Reinhardt, 2006](#)) or the effects of legal systems on state behavior (such as [Mitchell and Powell, 2011](#)). The unit of analysis in the dataset used to test *H1* is a country-year, where each member of the WTO is considered per each year of its membership. The unit of analysis in the dataset used to test *H2* and *H3* is the dyad in which a complaint has been filed, therefore, a dispute has been initiated.

Disputes that have multiple parties involved are disaggregated and treated as individual disputes (similar to the studies by [Hudec, 1993](#) and [Busch and Reinhardt, 2006](#)). Additionally, disputes involving the members of the European Union (EU) are treated similarly, as separate disputes. For instance, if the EU filed a complaint against India, it would be treated as a dispute between Austria and India, Belgium and India, and so on. Most disputes are solely dyadic, and only about 17 per cent of disputes involve more than one defendant or complainant. Further, there are many times where EU states are targeted singularly (such as DS173, where the USA filed a complaint against France alone) or in conjunction with the EU (DS347 is a complaint by the USA against the EU and “certain member states”). Therefore, deconstructing these multiparty disputes provides an opportunity to test my hypotheses in an environment that most closely resembles the norm in the DSB. I also provide a control variable for any multiparty disputes, as well as any disputes involving the EU.

Finally, these datasets exclude low-income member states of the WTO, as well as those states with an Islamic legal tradition. First, the only state with an Islamic legal tradition that has initiated a WTO dispute is Pakistan. In that case, Pakistan has only initiated three cases over the past 18 years. The only other member with an Islamic legal tradition to be involved in a dispute (as a defendant) is Egypt. In fact, a little over half of the 26 countries that [Mitchell and Powell \(2011\)](#) identify as Islamic legal tradition states are members of the WTO, and most of those joined in the 2000s. It could be possible that, because most of these states are OPEC members, their major export (oil) is not covered by the WTO agreements, and therefore there is no need for them to turn to the DSB for trade dispute resolution. Because of this lack of variation on the dispute initiation variable, I decided to drop all states with an Islamic legal tradition from this analysis. This also raises the concern that legal tradition may preclude certain states from participating in the DSB, which will be addressed in the conclusion.

I also focus the analysis on upper-income WTO members. While income is not the only indicator of a state's legal capacity, a quick review of WTO disputes will show that most of the countries involved are middle and upper income. Many lower-income states choose to be involved in disputes by joining as third parties ([Busch and Reinhardt, 2006](#); [Busch et al., 2009](#)), but this does not have a direct effect on dispute initiation or how it is necessarily resolved. Therefore, again, because of the lack of variation on which states initiate disputes, I excluded countries that are categorized by the World Bank as either low income or low-middle income.

Model 1: dispute initiation

The dependent variable used to test *H1* is whether a state has initiated a dispute in a given year. It is measured dichotomously, as a zero when no complaint is filed by a state in a given year and as one when a state has filed a complaint. This variable is coded using information from the WTO’s Chronological List of Dispute Cases.

A state’s legal tradition is the focus of the first model’s two main independent variables, *Common* and *Civil*. The omitted category includes states with mixed legal systems. This variable is coded using the information contained within the study by [Mitchell and Powell \(2011\)](#), which is derived from the CIA World Factbook. They are both coded dichotomously; 0 if a state does not subscribe to that legal tradition and one if they do. [Table I](#) shows the breakdown of WTO members and their legal traditions. *H1* states that states with a civil legal tradition are more likely to initiate a dispute than states that subscribe to other legal traditions. Therefore, I expect the *Civil* variable to have a positive effect on the dependent variable, as well as a larger substantive effect than the *Common* variable.

There are a number of control variables included in this model. The first is the state’s gross domestic product (GDP) per capita. This signifies a state’s legal capacity, which shows a state’s ability to plug into the WTO dispute system ([Busch et al., 2009](#); [Bown, 2005](#); [Besson and Mehdi, 2004](#)). Additionally, as mentioned earlier, wealthier states are more likely to initiate a dispute ([Simmons and Guzman, 2005](#); [Bown, 2005, 2009](#)). This variable should have a positive effect on the dependent variable. GDP per capita is measured in current US dollars (prior to the logarithmic change) and is taken from the Penn World Table ([Heston et al., 2006](#)).

I also include a variable measuring a state’s trade openness (also a logarithmic change), taken from the Penn World ([Table I](#)), expect that a state that is intricately involved in global trade will be more likely to file a trade dispute. A state’s democracy score from the Polity project is also included in this first model. Democracies are more likely to be involved in disputes, as well as file them ([Davis, 2012](#)). The final control variable is a lag of the dependent variable. I expect that once a state knows how to work the DSB, they will be more likely to file a complaint in the future.

Therefore, I will estimate a logit for the following model:

$$\text{Dispute Initiated}_i = \beta_0 + \beta_1(\text{Civil}) + \beta_2(\text{Common}) + \beta_3(\text{GDP per capita}) + \beta_4(\text{Trade openness}) + \beta_5(\text{Democracy}) + \beta_6(\text{Dispute Lag}) + \varepsilon$$

Model 2: dispute resolution

The second model tests *H2*, *H3* and *H4*, which focus on the dyadic effects of legal traditions on dispute resolution. The dependent variable in this model is whether a

Legal tradition	Number of states	Percentage
Civil	43	69.35
Common	9	14.52
Mixed	10	16.13
Total	62	100

Table I. Distribution of legal traditions among WTO members, 1995-2010

Note: This excludes all Islamic legal tradition states

dispute is settled bilaterally or a panel is formed (which signifies that negotiation has failed and adjudication is preferred). This variable is coded 0 if the dispute is settled bilaterally and 1 if the dispute moves onto the panel/adjudication stage. This variable is also coded using information from the WTO's Chronological List of Dispute Cases.

The main independent variables in Model 2 are dyadic measures of legal traditions. *Civil dyad* and *Common dyad* are coded similarly: 0 if there is at least one member of the dyad that has a different legal tradition and 1 if both states have the same legal tradition. Per *H2*, I expect a dyad with a civil legal tradition to have a higher probability for a panel to be formed (therefore, having a positive effect on the dependent variable). Per *H3*, I expect a dyad with a common legal tradition to have a lower probability for a panel to be formed (therefore, having a negative effect on the dependent variable).

The control variables included in Model 2 are very similar to those in Model 1, but again, are dyadic in nature. I include a control for the initiating state's GDP per capita to account for a state's legal capacity (expected to have a positive effect on the dependent variable). The amount of trade within the dyad accounts for the amount of interdependence and is expected to have a negative effect on the dependent variable, as dyads with high levels of trade will be more willing to negotiate a quick settlement to avoid any negative impact on this relationship. This bilateral trade variable is coded using data from the International Monetary Fund's Direction of Trade database, and is measured as the total imports and exports between countries X and Y.

A variable controlling for if the dyad is democratic (coded 1 if both states have a score > 6 on the Polity IV scale) or not (then coded 0) should have a positive effect on the probability of a panel being formed. Finally, some characteristics of the dispute itself are included similar to that found by [Fattore \(2012\)](#). If a dispute is centered around a "complex" issue (such as agriculture, aviation or environmental issues), it is expected to have a positive effect on the dependent variable, meaning it will be more likely to go to a panel decision. If a dispute has more than one initiator, then it is expected to have a higher probability of moving onto the panel phase, as it will be more difficult to negotiate an agreement between more than two parties. Finally, third-party signatories will have a positive effect on the probability of panel creation, as they will push for a decision that will benefit them favorably as well.

Therefore, I will estimate a logit for the following model:

$$\begin{aligned} \text{Panel Created}_i = & \beta_0 + \beta_1(\text{Civil dyad}) + \beta_2(\text{Common dyad}) \\ & + \beta_3(\text{Initiator GDP per capita}) + \beta_4(\text{Bilateral trade}) \\ & + \beta_5(\text{Dem dyad}) + \beta_6(\text{Complex issue}) + \beta_7(\text{Multiple parties}) \\ & + \beta_8(\text{Third parties}) + \varepsilon \end{aligned}$$

Results

[Table II](#) provides the results for the initiation model, while [Table III](#) provides the results for the dispute resolution model. It is immediately noticeable that the monadic hypothesis is supported, while the dyadic hypotheses are not. This means that a state's legal tradition has a singular effect on a state's trade dispute behavior (namely, its decision to initiate a dispute) while, once involved in a dispute, the influence of an state's legal tradition is not as strong when considered dyadically. A state's legal tradition seems to act as an impediment to utilizing the DSB (as in the case for those members

Table II.
The effects of domestic
legal traditions on dispute
initiation

Variable	Coefficient (standard error)
Civil tradition	1.9049*** (0.3316)
Common tradition	0.6934* (0.3637)
GDP per capita	1.3978*** (0.1776)
Trade openness	-0.1063 (0.1781)
Democracy	0.1267** (0.0434)
Years of membership	-0.1007*** (0.0224)
Dispute lag	2.3883*** (0.1972)
Constant	-15.9491*** (1.7796)
Observations	954
χ^2	577.79
Probability (χ^2)	0.000
Pseudo R^2	0.4389

Notes: *** $p < 0.001$; ** $p < 0.05$; * $p < 0.10$

Table III.
The effects of domestic
legal traditions on panel
adjudication

Variable	Coefficient (standard error)	Coefficient (standard error)
Civil dyad	-0.7288* (0.3488)	-0.7686* (0.4199)
Common dyad	0.8938* (0.4658)	0.9411** (0.4773)
GDP per capita initiator	0.1689 (0.1115)	0.1329 (0.1302)
Bilateral trade	-0.0003** (0.0001)	-0.0003*** (0.0001)
Dem dyad	0.1515 (0.7304)	0.1414 (0.7301)
Complex	0.2769 (0.2875)	0.2535 (0.2909)
Multiparty dispute	1.3907*** (0.4073)	1.3306** (0.4244)
Third party	-0.0292 (0.2846)	-0.0569 (0.2947)
Years since 1995	0.1263** (0.0532)	0.1300** (0.0537)
EU dummy	-	0.1979 (0.3680)
US dummy	-	0.0398 (0.4308)
Constant	-2.1194* (1.2825)	-1.8054 (1.4382)
Observations	258	258
χ^2	28.27	28.56
Probability (χ^2)	0.0009	0.0027
Pseudo R^2	0.0797	0.0805

Notes: *** $p < 0.001$; ** $p < 0.05$; * $p < 0.10$

with an Islamic legal tradition), but those with a civil legal tradition are better able to navigate the institutional structure of the DSB because of their similarities. I will consider each of these models separately.

Model 1: dispute initiation

H1 contends that states with a civil legal tradition are more likely to initiate a trade dispute in the DSB. While both variables representing common and civil legal traditions are positively and statistically significant (meaning they both have a higher probability of initiating a dispute than a state with a mixed legal tradition), the coefficient for the civil legal tradition variable is substantively higher than the one for the common legal

tradition variable. Therefore, it has a higher probability of dispute initiation than a state with a common legal tradition.

Figure 1 illustrates this effect. Overall, states with a civil legal tradition have much higher probability of initiating a dispute within the WTO than common legal tradition states. Holding all other variables at their mean or mode, states with a civil legal tradition have a 48 per cent higher probability of dispute initiation than common law states. Again, I have hypothesized that this would occur to the institutional legal similarities between those with civil legal traditions and the DSB. Another interesting trend that is illustrated in Figure 1 is that all states have a lower probability of dispute initiation, as they are members for longer amounts of time. I expect this to occur because there is an adjustment period for trade behavior to fall in line with WTO rules. Additionally, it seems as though states initiate a large number of disputes right after they joined, especially those that joined in 1995. Therefore, this should lower the probability of disputes for states that have been members for a longer period.

The other control variables are in line with my previous expectations. Richer states as well as democracies have a higher probability of initiating a dispute. However, states that are more open have a lower probability of initiating a dispute, for chance that it would disrupt trade. The dispute lag variable has a very large positive impact on dispute initiation. In fact, it is one of the largest predictors of future dispute initiation. This result illustrates the importance of institutional knowledge: once a state has experienced the mechanism behind the DSU, they will be more willing to use it in the future.

One of the critiques of this model may be the exclusion of control variables for the EU and the USA, as they are the most active disputants in the DSB, either as a dyad or

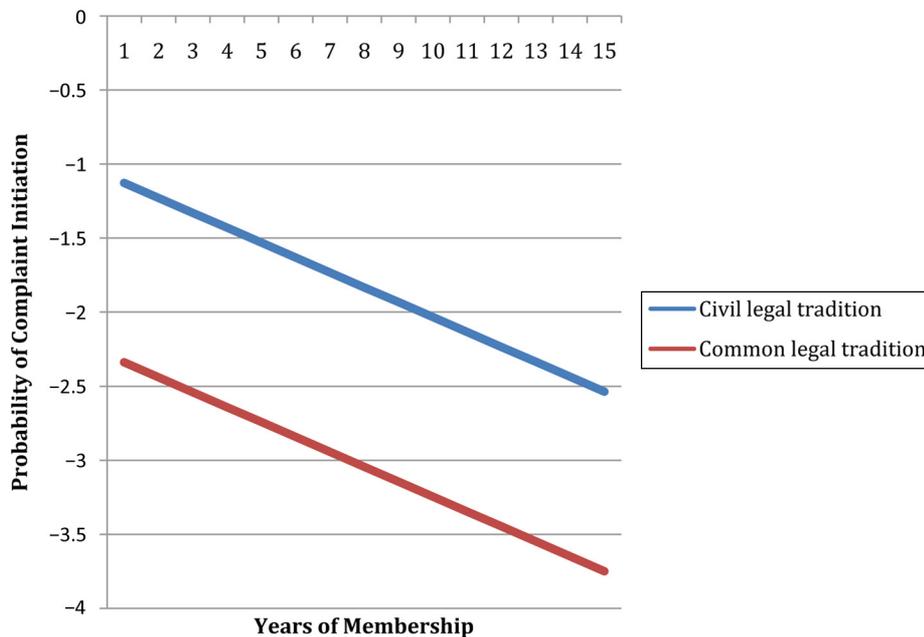


Figure 1. Expected Probabilities for Dispute Initiation, 1995-2010

separately. The reason why they were excluded is that the variables perfectly predict dispute initiation. While there is some concern about this driving the significance of the civil legal tradition (most of the EU members) and common legal tradition (the USA) variables, I disagree. Scholars who study the WTO know which states are most involved in the DSB, but even with the exclusion of these control variables, the model still provides a strong illustration about how a legal tradition that closely mirrors that found in the DSB makes states more comfortable with dispute initiation.

Model 2: dispute resolution

Model 2 does not have the explanatory strength of Model 1, but it does provide a glimpse of how different legal traditions affect a dyad's resolve toward a negotiated resolution. Unlike Model 1, where both legal traditions' variables had a negative effect, Model 2 shows that civil and common law dyads act differently. Civil law dyads are less likely to pursue a panel decision (and, therefore, are more likely to reach a negotiated settlement), while common law dyads are more likely to pursue a panel decision. These results go against the expectations put forth in *H2* and *H3*. However, dyads containing one state with a civil law tradition and another with a common law tradition are more likely to resolve their disputes by panel decision. This result supports *H4*.

There are a few reasons that help to explain why *H2* and *H3* were not supported by the model. The first is that the monadic effects of a state's legal system on its utilization of the DSB may not translate into a dyadic effect. Once a dispute has been initiated, much of a state's behavior is shaped as a reaction to what has happened previously within the dispute. Therefore, the influence of domestic legal traditions has less effect, as states work toward their own individual goal while considering the actions and reactions of the opposition state (similar to a rational approach to dispute behavior).

Further, the hypotheses were built around the idea that civil law states tend to be more litigious than common law states. However, the USA is a common law state, and it is one of the top participants in WTO disputes. To control for the effects of the USA driving these results, I ran a model that included not just a US dummy but also a dummy for EU states. While neither one of these dummy variables were statistically significant, their coefficients were both positive, meaning that dyads involving the EU and the USA were more likely to lead to a panel decision rather than a negotiated settlement. But, in that same model, the civil and common law variables had similar coefficients to the model that excludes the EU and the US dummies, so the addition of these control variables added nothing to the explanatory strength of the model.

Regarding the control variables, the model provides weak results for the dyadic descriptors as well as those relating to the dispute itself. Bilateral trade has no substantive effect on the probability of a panel decision, which is unlikely, as the literature supports that states that trade more with one another are more likely to want to resolve a dispute quickly (Kennedy, 2011). Additionally, a dyad including democracies has no statistically significant effect on the dependent variable, although the coefficient is in the predicted direction. Finally, the dispute variables that had a positive impact on the probability of a panel decision include multiple complainants (which was originally predicted), as well as the number of years that passed since the WTO creation. This contradicts the results from Model 1, where the longer a state belonged to the WTO its probability of initiating a dispute decreases, but Model 2 illustrates that, as time goes on, dyads are less willing to settle disputes through

negotiations. Model 1 shows that states monadically become less dispute prone, but Model 2 supports the idea that dyadically, states have a tendency to become more hostile when involved in a dispute over the existence of the WTO. Considering that the WTO has been successful in facilitating greater global cooperation, these results do not support what can be observed in the system.

Conclusion

A state's legal tradition has been found to have effects on its participation in various international law bodies as well as their willingness to abide by international legal expectations (Mitchell and Powell, 2011). While previous studies have concentrated on states' commitment to the International Criminal Court, the United Nation's ICJ, and other regional bodies, I focused on member state's behavior within the WTO's dispute settlement mechanism. The DSU was created to promote peaceful dispute resolution rather than unregulated bilateral retaliation for illegal trade behavior. Article 3.3 of the DSU states that "prompt settlement of [dispute] situations is essential to the effective functioning of the WTO and the maintenance of a proper balance between the rights and obligations of Members." The findings contained in this paper can help policymakers understand why certain states are more involved in the dispute settlement mechanism of the WTO. It also provides a better estimation of what path certain states with different legal traditions take when they become engaged in a trade dispute within the judicial body of the WTO and how to best deal with them.

One of the issues with the DSU is that only certain states participate regularly. This is not due to these states being the only ones wronged by illegal trade behavior (or, vice versa, these are not the only states breaking trade rules) but, instead, it is clear that certain states are excluded because of their lack of legal resources. By limiting the sample of member states for this study, the effects of legal traditions on DSU participation become more apparent, especially regarding dispute initiation. Because the WTO is based on a series of treaties and understandings, it closely resembles a civil law system, where law is codified. Not surprisingly, states with civil legal traditions are more likely to initiate a WTO complaint. The familiarity with the codified law/treaty system facilitates the use of the DSB, as well as their commitment to upholding treaties and understandings under the *pacta sunt servanda* norm.

However, this monadic effect does not translate into how states interact when negotiating a settlement to a dispute, whether the attempt is successful or not. Borrowing from Powell and Wiegand (2010), I expected to find that civil law dyads would be more prone to adjudication (therefore, leading to more panel decisions), while common law dyads would prefer negotiated settlements. The tests produced the opposite results. While the resolution of trade disputes depends immensely on domestic interests, legal traditions are not a driving factor. While the EU and the USA were not necessarily driving factors in that model (as those control variables were not statistically significant and did not add to the explanatory power of the model), the dynamic properties of why negotiations succeed or fail cannot necessarily be captured by a quantitative model.

The lack of participation of Islamic law states in the DSB also raises a few interesting questions. The obvious question is why:

- Why are Islamic law states unlikely to initiate disputes in the DSB? and
- Why are they not necessarily targets of complaints as well?

While there are a number of Islamic law states that are members of the WTO (and this number continues to grow), their reticence to participate in the DSU might be explained by the fact that their primary product (oil) is not covered by WTO treaties. Therefore, there is a lack of opportunity for dispute participation. However, in similar studies, Islamic law states are less likely to participate in binding dispute resolution (Powell and Wiegand, 2010). This also may apply to why these states barely participate in WTO dispute resolution in any form. Legal tradition could very well be a part of a state's legal capacity in that it acts as a facilitator for using the DSB. In the case of Islamic legal tradition states, it might be a barrier to "plugging into" the dispute resolution system in Geneva. This explains why civil legal tradition states are more likely to use the DSB because they are used to the system and its workings. However, it begs the question as to why these Islamic legal tradition states find WTO membership valuable.

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