

Power in New Liberalism

Trade Negotiations between the United States and Andean Countries

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1 Introduction

In International Relations, the probability of cooperation and the distribution of gains from cooperation have been main issues for decades. Over time, different rationalistic theories have developed to explain negotiators' behavior and the outcomes of negotiations. While Neorealists and neoliberal Institutionalists until the beginning of the 1990s mainly discussed on the one hand the impact of the international system on interstate cooperation, and on the other the assumption of absolute or relative gains, critics of New Liberalism shifted the focus of current debate on international cooperation. New Liberalist approaches such as the two-level game (Putnam 1988) and liberal intergovernmentalism (Moravcsik and Schimmelfennig 2009) criticized the unitary actor assumption of the Neo-Neo debate and again emphasized the value of looking inside the state, although they for the most part kept the assumption of rational actors and the claim to parsimonious theory. New Liberalism can be understood as a comprehensively rationalistic approach that focuses on the processes and outcomes of bargaining at both domestic and international level to explain foreign policy making and international cooperation. For this purpose, New Liberals took up different rationalistic concepts of bargaining power and created new insights by transferring these theoretical concepts separately to international politics. While some more recent studies have tested competing theories on bargaining power (Slapin 2008), or explained the circumstances under which states choose either a concession-extracting or a concession-offering strategy (McKibben 2013), together with hard or soft bargaining tactics (Dür and Mateo 2010), the compatibility and interaction effects of the different bargaining tactics remain unexplored in New Liberalism and bargaining theory.

On the one hand, New Liberals often refer to veto power and the veto player theory to identify relevant actors for decision making in foreign policy and to determine the probability of international cooperation. On the other hand, they (at least in some cases) explain the distribution of gains from international cooperation by using the concept of asymmetric interdependence. These two theoretical approaches, however, are mutually exclusive. While the concept of asymmetric interdependence is based on the argument that a state can threaten more credibly to end international cooperation when this would hurt the other country more than itself, veto power relies on the fact that the status quo cannot be changed without the consent of all veto players in both countries. Hence the veto player theory seems incompatible with the concept of asymmetric interdependence. While this is unproblematic when using the theories separately, it generates problems for a consistent paradigm.

The present article seeks to demonstrate that asymmetric interdependence can be integrated into veto player theory; this creates new insights, helps to solve theoretical inconsistencies and suggests a more consistent framework for New Liberalism. The analysis of the interaction effects between these different types of bargaining power, however, is interesting not only for New Liberals but also for scholars of veto player and bargaining theory. The integration of asymmetric interdependence becomes possible because domestic veto players are only semi-veto players at the international level, which means that they can improve the status quo only by international cooperation, while they can decrease it unilaterally. The connection of the two concepts nevertheless points up a theoretical problem for both New Liberalism and bargaining theory that has been neglected in approaches based on asymmetric interdependence. Even in the event of asymmetric interdependence, threats by the less dependent actor are still non-credible – assuming rational actors, who would never approve a policy that detracts from their own position. A theoretical solution to this problem is possible by considering approaches concerned with the negotiators' reputation. According to these approaches, drawing back from a threat damages a

negotiator's reputation for resolve, thereby lowering the credibility of future threats and with it the prospect of long-term gains.

The proposed concept of semi-veto players allows one to combine different forms of bargaining power – veto power, asymmetric interdependence, and reputation – in New Liberalism and to explain bargaining power more consistently in international negotiations. At the same time, the theoretical concept sheds light on the interaction between the different forms of bargaining power and their common effects on the probability of cooperation and the distribution of gains. The three forms of bargaining power were chosen because each single concept provides an explanation for the credibility of threats.

Taking New Liberalism as a theoretical framework, this article analyzes the interactions between different concepts of bargaining power. Doing so, it seeks to construct a platform for a more consistent framework for New Liberalism. While New Liberalism also wants to explain the formation of governments' preferences by looking at the interests of societal groups and the choice of institutional designs in international treaties to solve problems of enforcement and compliance, this article focuses mainly on aspects of international bargaining between governmental actors. In the second section, the different concepts of bargaining power including veto power, asymmetric interdependence, and reputation will be presented separately in an analysis of their effects on the distribution of gains and the probability of cooperation. The third section discusses the compatibility of the different types of bargaining power and develops the concept of semi-veto players to achieve a more consistent framework for New Liberalism. The theoretical analysis focuses mainly on how the interaction between different forms of bargaining power affects the distribution of gains and the probability of cooperation. In the fourth section, the trade negotiations between the United States and Andean countries serve as empirical example to illustrate the new hypotheses.

2 Rationalistic Concepts of Bargaining Power in New Liberalism

New Liberalism explains foreign policymaking by analyzing the material and ideational interests of societal actors, their transmission by political institutions to form state preferences, and the interdependence between states that imposes constraints on the realization of these preferences (Moravcsik 1997; Moravcsik and Schimmelfennig 2009). A fundamental assumption is that individual, societal, and state actors behave rationally and are (on average) risk-averse. Furthermore, most New Liberals assume bounded rationality and uncertainty. While analyzing the interests of societal actors to explain the formation of state preferences is a central part of New Liberalism, the international bargaining between governmental actors is also a crucial aspect. This article focuses precisely on such bargaining and leaves aside the formation of the states' preferences – without, however, denying the importance of this for New Liberalism. New Liberals refer to different concepts of bargaining power to explain state behavior and the outcomes of international negotiations. Their most prominent concepts are veto power and asymmetric interdependence, but other theoretical approaches such as reputation for resolve also play a role. All three concepts are based on a common rationalist understanding of power according to which an actor will exercise power when such action increases or decreases the value of an outcome for the opponents by changing their actions or circumstances (Zartman and Rubin 2002).¹ The three concepts, yet, were not only chosen because they are central for New Liberalism and compatible with the assumption of rational actors, but also because all three

¹ For a discussion of different definitions of power see Zartman and Rubin (2002) and Barnett and Duvall (2005).

forms of bargaining power are connected to and define the credibility of threats and their impact.²

With regard to the definition of veto power, especially in the two-level game, New Liberals generally refer to veto player theory. While Putnam (1988) did not define veto power explicitly when he developed the theory of the two-level game, after the work of Tsebelis (1995; 2002) many scholars have transferred the concept of veto player to that game (Minnich 2005; Mansfield, Milner, and Pevehouse 2007; Slapin 2008; Henisz and Mansfield 2006; O'Reilly 2005). Veto players are individual or collective rational actors whose consent is necessary to change the (legislative) status quo. Hence, a policy change is only possible when the outcome increases the utility of each veto player compared to the status quo (Tsebelis 2002; Wiberg 2009). It is important to note that in their mutual negotiations all veto players have equal bargaining power independently of their material capabilities or dependencies. Veto power can help to explain the probability of cooperation³ but not the unequal distribution of gains.⁴ Another concept of bargaining power that focuses more on distributive effects than on the probability of cooperation is the notion of asymmetric interdependence, adverted to especially by scholars of liberal Intergovernmentalism (Moravcsik 1998; Moravcsik and Schimmelfennig 2009; Schimmelfennig 2015; Moravcsik and Vachudova 2003). Asymmetric interdependence assumes a situation in which an actor who profits lesser from a cooperation is also less dependent on the cooperation partner for which reason he can threaten more credibly to break up the cooperation. This higher credibility of threat can be transformed into more concessions from the other side, because cancelation of the cooperation would hurt the other more than oneself (Keohane and Nye 2001).

In New Liberalism reputation is often integrated implicitly, even if not often defined explicitly. Reputation depends on an actor's past behavior and is used by others to anticipate future behavior. Translated into bargaining situations, this means that backing down from threats or demands causes a reputational loss and lowers the credibility of future threats. Actors will refuse to back down in order to prevent a reputational loss even when backing down would be the better option in the current situation (Miller 2003; Satori 2002, 122). A prediction of future behavior on the basis of past behavior is only reliable if the past situation is comparable with the future situation (Mattes 2012, 684). Consequently, the more unique the bargaining situation, the more readily will actors back down from threats, because the costs of reputational loss will be lower. Reputation usually relies on information gained not only from prior dyadic interactions but also from observation of how an actor behaves in relation to a plurality of others (Crescenzi, Kathman, and Long 2007, 652–55). Moreover, instead of a sole reputation, actors seem to have multiple reputations that vary through time (e.g. change of governments), issue area (e.g. environment or security), and the counterparty (e.g. allies or enemies) (Guzman 2008). Furthermore, actors have different kinds of reputation with regard to resolve, compliance, reliability, honesty or any number of other aspects that might promote or contradict each other (Kydd 2009; Brewster 2009).

² Veto power, asymmetric interdependence, and reputation are not the only types of bargaining power that are considered in New Liberalism. Another concept is for example asymmetric information (Putnam 1988; Iida 1993; Milner 1997) or agenda-setting (Tsebelis 2009). And there are other rationalistic concepts of bargaining power such as audience costs (Fearon 1997; Tarar and Leventoglu 2013) that could also be integrated in New Liberalism (Janusch 2015). While a consideration of these types of bargaining power might be interesting, it would go beyond the scope of this article. It is a matter for future research.

³ For example, the higher the number of veto players and the further away the ideal preferences of each veto player, the smaller the win-sets and the less likely is cooperation. See Tsebelis (2002).

⁴ Scholars of veto player theory (Ganghof, Hönnige, and Stecker 2009; Tsebelis 2009) refer to agenda-setting power to explain the distribution of gains between veto players.

3 Semi-veto players, asymmetric interdependence and reputation in New Liberalism

3.1 Analyzing the interaction effects between different forms of bargaining power

Veto player theory can serve here as starting point for analyzing the compatibility of the different forms of bargaining power and developing a more consistent framework for New Liberalism. While classical veto player theory assumes purely rational veto players and complete information, the following considerations are based on the assumption of bounded rationality and uncertainty. It should also be noted that behavior is determined not by objective reality but by the actors' perceptions of that reality. Thus actors make their decisions on the perceived preferences of the other side, the perceived status quo, the expected deterioration in the status quo as a result of a threat, and the expected reputational loss as a result of backing down. Because veto player theory considers only domestic politics, the special features of international politics have to be incorporated before it can be deemed useful for New Liberalism. According to Putnam (1988), the politics of international negotiations can be described as a two-level game. At the international level, national governments negotiate among each other to reach a tentative agreement that satisfies domestic pressures. At the national level, the same governments negotiate with their domestic constituencies to ensure the ratification of an international agreement. Because the modification of an agreement at the national level has inevitably to be approved by the foreign government at the international level, the two levels are necessarily interconnected.

While some studies (e.g. Kastner and Rector 2003; West and Lee 2014) emphasize that international politics or regimes impose constraints on domestic politics between veto players, scholars of veto player theory, as well as New Liberals, still frequently overlook the fact that the number of veto players – and especially the function of veto power – change when veto player theory is transferred to international politics. The number of veto players in a political system can differ depending on consideration of domestic or international politics. For example, the executive branches in parliamentary systems are often mistakenly seen as veto player in domestic politics, although the legislature can formally pass a bill without the approval of the executive branch (Wiberg 2009, 44–50). In international negotiations, in contrast, the executive branch constitutes a formal veto player because it has to sign international treaties in most cases before the legislature can ratify them. If the executive can approve an international agreement by decree, the legislature actually loses its veto power. Thus, the probability of policy change at domestic level, in comparison to the probability of international cooperation, can differ depending on the institutional rules. While this fact should be considered in empirical studies, it has no further theoretical implications.

Regarding the function of veto power, the consideration of international politics has further far-reaching theoretical implications for veto player theory. In contrast to domestic politics, where all veto players have to approve a policy change, in international politics veto players of a single country can implement a policy without the consent of foreign players. Thus, it can be assumed that international negotiations will take place in bargaining situations in which an improvement of the status quo can only be reached with the mutual consent of each veto player in all negotiating countries. There would be no need for international negotiations and cooperation if veto players of a single country could improve their utility unilaterally. However, a deterioration of the status quo is still possible unilaterally in international politics, because veto players of a single country can change their national foreign policy without the approval of

foreign countries. The veto power in international negotiations differs, therefore, from bargaining situations in purely domestic politics, and for this reason domestic veto players can be better described as semi-veto players in international negotiations. The term means that individual or collective actors can veto an improvement but not a deterioration in the status quo.

The definition of semi-veto player not only helps with regard to the special features of international politics but also allows the integration of asymmetric interdependence into veto player theory. As already mentioned, asymmetric interdependence means that an actor that is less dependent on cooperation can threaten more credibly to end cooperation. Because semi-veto players – in contrast to veto players – can detract unilaterally from the status quo, they can use asymmetric interdependence as a bargaining counter. Hence, domestic veto players who can change the status quo unilaterally so that they lose less than the veto players of a foreign country can threaten more credibly to abandon a cooperation and thereby press for more concessions in current negotiations.

The combination of veto player theory and asymmetric interdependence indicates not only that asymmetry is necessary in order for threats to be credible, but also that domestic veto players' preferences have to be coherent. If the veto players' preferences of the threatening country are heterogeneous, and one veto player stands to lose more than the others, a threat becomes non-credible, because the veto player with the deviant preferences would rather block the implementation of the threat than break up a cooperation. But even if both conditions – asymmetry between the countries and coherence of domestic veto players' preferences – are fulfilled, threats based on asymmetric interdependence are non-credible on the assumption of rational actors. Because rational actors would never approve a policy that decreases their gains, a threat to end a cooperation that is profitable for all sides is non-credible or would contradict the assumption of rationality.

Theories of reputation (for resolve) can help to solve this problem. According to these approaches, as mentioned above, backing down from threats or demands causes a loss of credibility for future threats, which is why an actor will refuse to back down even if it is the better option in the short-term. Reputational losses are costs that are imposed ex post when an actor should back down. In connection with asymmetric interdependence, the possible reputational costs from backing down must exceed the costs that would follow from the deterioration of the status quo due to the implementation of a threat. Therefore, actors that are less dependent on existing cooperation than their opponents will still have a bargaining advantage, because credible threats on their part will entail lower reputational costs. Yet threats are non-credible even for less dependent actors if they suffer no costs (e.g. reputational loss) ex post in the event of backing down. Reputational costs, or other costs such as audience costs (Fearon 1994), imposed ex post after backing down are therefore a necessary condition for the credibility of threats based on asymmetric interdependence. In international politics, however, integrating threats based on asymmetric interdependence and reputation, will bring about a different bargaining situation for veto players. While for veto players the status quo is always what is called the best alternative to a negotiated agreement (BATNA) (Fisher and Ury 2011), in the case of semi-veto players the BATNA can deviate from the status quo. If semi-veto players make threats that would entail sufficient reputational losses, the expected deteriorated status quo after fulfilling a threat would replace the status quo as the new BATNA.⁵

3.2 Illustrating the interaction effects between different forms of bargaining power

⁵ For simplification, it will be assumed that the status quo or BATNA is not changed by exogenous factors.

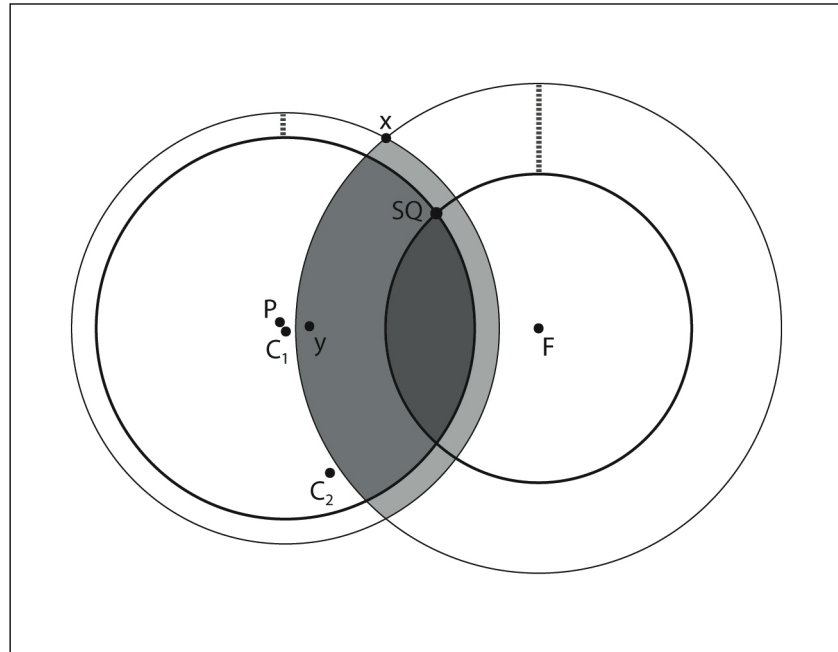
To illustrate the interconnected concepts of bargaining power, a simple bargaining situation between three veto players from two different countries can serve as an analytical example: the president (P), congress (C) and a foreign government (F). For simplification, the foreign country will be seen as a unitary actor and the preferences of P and C₁ as nearly similar. In Figure 1 each veto player is represented by an ideal point at which their utility is maximized in a two-dimensional space. The status quo (SQ) determines the indifference curve for each actor and thereby the domestic win-sets – i.e. the set of all possible agreements that increases the utility to each veto player – which for the sake of better illustration are in this case identical with the complete indifference curves. The overlapping area of both domestic win-sets is the set of all possible international agreements that raise the utility of the domestic veto players and would be approved by them. This intersection is in bargaining theory also called the zone of possible agreement (ZOPA) or bargaining range (see e.g. Sebenius 2002). Assuming rational actors, each veto player will try to approximate the new SQ as closely as possible to its ideal point, but will reject any point that is further away than the current SQ. According to the classical hypothesis of the two-level game, the larger each win-set, the more likely will international cooperation become, because the more likely it will be, *ceteris paribus*, that the win-sets overlap. Conversely, the smaller the win-sets, the greater the probability that negotiations will break down (Putnam 1988; see also Tsebelis 2002). In contrast, Janusch (2015) argues that the larger the perceived intersection of win-sets (when the ideal points lie outside the intersection), the higher will be the intensity of distributive conflicts, for which reason negotiations are more likely to fail.

Let us now consider a threat from semi-veto players based on asymmetric interdependence. For example, if P and C₁ can change the status quo unilaterally to point x, as illustrated in Figure 1, they will worsen themselves, but less so than F, for which reason a threat on their part will be more credible. However, assuming rational actors, this threat is credible only if P and C₁ face sufficient reputational loss *ex post* from backing down. The reputational loss must reach at least the value indicated by the distance between the indifference curve at point SQ and the indifference curve that would be at point x for both actors. This is indicated in Figure 1 by the dashed line. In this case, point x replaces the status quo as BATNA. If the reputational costs, at least for one of the semi-veto players, are less than the distance between the indifference curves, backing down will be the better option and the status quo stays as BATNA. As already mentioned, threats become less credible as the preferences of domestic semi-veto players become more heterogeneous. For example, if the ideal point of C is at C₂ instead of C₁, C will lose a great deal more than in the earlier instance from implementing a threat that results in point x. Therefore, the reputational loss has to be higher for C₂ to be resolute rather than back down, because the relation between C₂ and F is less asymmetrical than between P and F.

While the focus up to now has been only on the reputational loss of the threatening party, a look at the other side is also necessary to explain negotiation outcomes. The threatened party will consider not only the credibility of the threat but also their own reputational loss for giving in. According to Sechser (2010), power asymmetries lead to non-cooperative behavior by weaker actors, because by giving in to a threat they signal to a stronger opponent the point at which they will concede. Losing reputation undermines their position for future negotiations with a stronger party (Sechser 2010). Transferred to the situation outlined above, even if the threatened party regards a threat as credible, it will not give in if it expects serious reputational loss. Again, as in the case of the threatening party's reputation, asymmetric interdependence in connection with reputational loss still gives the less dependent party a bargaining advantage, because the greater the dependence on an existing cooperation, the higher will be the reputational loss for giving in

when the other threatens to abrogate the cooperation. It is important to note again that what really counts for a threat to be credible is not the reputational loss that the threatening or threatened actor would really suffer but the loss that the negotiating parties expect.

Figure 1: Semi-veto players, asymmetric interdependence and reputation



If a threat is perceived as credible and reputational losses for threatened actors are left aside, the size of the intersection between the win-sets will change. At point x, for example, the intersection of win-sets will increase by the medium-gray area in favor of P and C_1 . If, on the other hand, threatening actors expect higher reputational losses than the losses they would incur by implementing the threat, the intersection of the win-sets will comprise only the medium-gray and dark-gray areas. The light gray area will, in those circumstances, form no part of the set of possible international agreements, because P and C_1 would rather implement their threat at point x than accept an agreement in this area. Figure 1 illustrates that a set of agreements originally lying outside the intersection of the win-sets becomes possible in the event of a threat based on asymmetric interdependence. Threats, in other words, can create an intersection of win-sets that did not exist before. Moreover, arrangements in the medium-gray area can be seen in terms of coercive rather than negotiated cooperation (Young 1989, 87–96). Assuming Putnam's classical hypothesis, cooperation becomes more likely in the event of such a credible threat because of the larger intersection of the win-sets. According to Janusch, however, when actors perceive a larger intersection of win-sets, the intensity of distributive conflict, and with it the risk of negotiation breakdown, increases.

While the concept of asymmetric interdependence is usually used to explain threats to revoke existing cooperation, it could be also applied to threats to abandon current negotiations for future cooperation (see also Moravcsik 1993, 499–502). Thus an actor that stands to gain less than the opponent from a putative future agreement can threaten more credibly to cancel current negotiations. This form of asymmetric interdependence adds a time dimension and a dynamic to the theoretical argument. Again the threat is only credible if the reputational loss (or other costs) suffered from backing down ex post are higher than the gains from a possible agreement. If this

is the case, asymmetric interdependence will evidently tend to support any future cooperation that creates more nearly equal gains for all sides; because immediately a threatening actor (A) stands to gain more than an opponent (B) from a future cooperation based on a currently reached agreement, (A) becomes more dependent and (B) gains bargaining power. In contrast to threats to impair the status quo, threats to hinder future gains affect the distribution of gains but have no impact on the size of the win-sets and their intersections.

Combining this argument with the negotiation situation in Figure 1, where P and C_1 can credibly threaten with point x, helps to explain why agreements with a high unequal distribution such as at point y are unlikely. Because, at point y, P and C_1 would gain much more from agreement, which lowers their bargaining power vis-à-vis F. Thus an agreement that lies in the middle of the overlapping area of the veto players' indifference curves (which cross at point x) is more likely. Furthermore, standing to lose from a potential agreement within the medium-gray area in comparison to the status quo, F will also put greater effort into avoiding possible loss than into receiving greater gains in a purely positive sum game. This argument is supported by the prospect theory, according to which actors are more risk-accepting in domains of loss and more risk-averse in domains of gain (Kahneman and Tversky 1979; Tversky and Kahneman 1992). The transfer of asymmetric interdependence to threats to break up current negotiations about future gains also provides a rational explanation of the classical puzzle why weaker actors still receive sizable (and often better than expected) results in negotiations with a stronger party (Zartman and Rubin 2002, 3).

4 The trade negotiations between the United States and the Andean countries

The negotiations between the United States and the Andean countries over a free trade agreement serve here as an empirical example to illustrate the foregoing hypotheses about the interaction between different forms of bargaining power. The empirical example does not claim to verify the hypotheses but only to exemplify how veto power, asymmetric interdependence, and reputation interact and affect the distribution of gains and the probability of cooperation.⁶ While there are several forms of bargaining power such as agenda-setting or asymmetric information that affect the negotiation outcome, the example below focuses just on the above hypotheses related to the effects of threats.

Pre-negotiations: Since 1991, the United States has granted Ecuador, Colombia, and Peru unilateral preferential market access under the Andean Trade Preference Act and later Andean Trade Promotion and Drug Eradication Act (ATPDEA) (Villarreal 2011a). Because the ATPDEA was only temporary, the Andean countries emphasized their interest in a regional free trade agreement (FTA) to secure permanent access to the US market. In November 2003, the Bush Administration agreed to open negotiations over a FTA but wanted to see first that outstanding investment disputes between the Andean countries and US companies had been settled. In addition, Ecuador should also reconcile its labor rights with international standards

⁶ The empirical case is part of a research project covering all bilateral FTA negotiations with the United States. The empirical analysis is based on documents such as articles in newspapers and congressional reports, as well as expert interviews with former US trade representatives, US chief negotiators, and senior staff members of the Senate Finance Committee and House Ways and Means Committee. To ensure anonymity, interviewees are always referred to as 'senior officials'.

(Villarreal 2006, 1–3; Ahearn 2003, 13).⁷ In this situation, the US Administration supported by Congress pressured the Andean countries to make concessions in two ways. First, the Administration warned about the possible abrogation or non-extension of the ATPDEA by Congress. Secondly, it questioned the official launch of FTA negotiations, thus confronting the Andean countries with a deterioration of the status quo if the ATPDEA were to be abrogated and not replaced by a FTA. A cancellation of the ATPDEA would have economically damaged the Andean countries much more than the United States. Nevertheless, the United States would not have been entirely untroubled by an abrogation of the ATPDEA, which would have resulted in political costs in the fight against coca production. These political costs, however, could be viewed as much lower than the economic costs for the Andean countries. The US threat based on the existing asymmetric interdependence between both countries increased the intersection of the win-sets in favor of the United States. Furthermore, the US Administration expected to face relatively high reputational costs for backing down, because comparable future investment disputes were not only likely in relations with the Andean countries but also with other countries. Because of the high asymmetry, the coherence preferences of the US Administration and Congress, and the expected high reputational loss for the US side, the threat did not miss its target. Before the beginning of the FTA negotiations, most investment disputes were settled and the Ecuadorian government obligated itself to fulfill US demands regarding labor standards.⁸

International negotiations: In May 2004, the United States began FTA negotiations with Colombia, Ecuador, and Peru. In addition to the outstanding investment disputes, market access, especially for the agricultural sector, was one of the most controversial issues in the negotiations, because producers of sensitive agricultural products in both countries would suffer a significant loss from liberalization. The possible abrogation or non-extension of the ATPDEA intensified this conflict.⁹ Because cancellation would have damaged the Andean countries far more than the United States,¹⁰ the US Administration, backed by Congress and the US economy, could threaten credibly and increase the intersection of the win-sets in its favor. Especially in the case of Ecuador, the possible abrogation of the ATPDEA can be seen as the main motive of the Ecuadorian government to seek a FTA. It is reasonable to assume that the threatening deterioration of the status quo generated an intersection of win-sets that would otherwise not have existed.¹¹ Interestingly, the ATPDEA also reduced the bargaining leverage of the United States because the Andean countries sensed the tariff cuts as unilateral concessions.¹² While the United States saw the tariffs without the ATPDEA as the status quo and basis for negotiations, the Andean countries took the market access granted under the ATPDEA as status quo. Thus

⁷ Interview, 05.05.2012, senior official of the Office of the United States Trade Representative (USTR), Washington DC; Inside U. S. Trade. 2003. “Zoellick to Visit Colombia, but no FTA Announcement Expected.” July 25; Inside U. S. Trade. 2003. “U.S. Colombia Meet on FTA; no Firm Commitment on Date for Talks.” October 31.

⁸ Inside U. S. Trade. 2004. “U.S. Hints at Delaying Ecuador Sanctions Decision after New Promises.” March 26; Inside U. S. Trade. 2004. “Ecuador, Peru Settle Outstanding Issues, Will Be Included in FTA Talks.” May 7.

⁹ Chauvin, Lucien O. 2004. “Farm Tariffs, Intellectual Property Rights Seen as Main Obstacles to U.S.-Andean FTA.” *International Trade Daily*, July 30; Inside U. S. Trade. 2005. “Agriculture Remains Major Stumbling Block in Andean FTA Negotiations.” August 26.

¹⁰ In 2004, the share of trade (exports and imports) with the United States comprised 35.0 percent of Colombia’s total worldwide trade in goods. In the case of Ecuador and Peru, the share of trade with the United States accounted for 29.7 percent and 25.0 percent respectively of their total trade in goods. On the contrary, the share of trade with all three Andean countries comprised only 1.1 percent of the US total worldwide trade in goods.

¹¹ Interview, 10.05.2012, former senior official of the USTR and senior staff member of Congress, Washington DC; Interview, 24.05.2012, senior official of the USTR, Washington DC.

¹² Interview, 05.05.2012, senior official of the USTR, Washington DC.

the United States perceived the conflict over market access as a positive sum game, while the Andean countries sensed a zero sum game, which is why they fought harder to avoid losses. The perception of the Andean countries was strengthened by the offers made by the US Administration, which initially lay below the market access of the ATPDEA.¹³ Therefore, in subsequent negotiation rounds, the United States and the Andean countries could achieve no major progress for solving the main conflicts of interest (Villarreal 2006, 11–12).¹⁴

After spring 2005, negotiations with the Andean countries proceeded at different speeds and the Andean countries became more and more at odds with each other. Negotiations with Ecuador made slowest progress, especially after the political crisis in April which resulted in the deposition of President Lucio Gutiérrez.¹⁵ In comparison with Ecuador and Colombia, Peru was more willing to make concessions for a FTA and signaled that it would also be ready to sign an agreement without the other Andean countries.¹⁶ In summer 2005, a delegation of the House Ways and Means Committee warned the Andean countries that the United States would sign a FTA with the fewer countries that were willing to make the necessary concessions. The delegation also emphasized that Colombia should not rely on its security relations with the United States, because the negotiating partners would be assessed according to their willingness for reforms. The House Ways and Means Committee, however, (as previously the House International Relations Committee) admonished the Bush Administration to be more flexible if it wanted to take the fight against drugs seriously.¹⁷ As a result of the warnings, the negotiations gained momentum and the negotiating parties made progress, although the main issues had by now intensified. For this reason, the Bush Administration again warned that an extension of the ATPDEA would be uncertain if the Andean countries did not sign a FTA.¹⁸ Hence, the Andean countries were still confronted with a possible deterioration of the status quo. In November 2005, the United States and the Andean countries met for the thirteenth negotiation round. While the United States reached decisive progress with Peru, the negotiations with Ecuador and Colombia were still at a deadlock. Thus, the former threats and warnings showed only an effect in the case of Peru. The upshot was that the Bush Administration carried out their threat and canceled the regional FTA negotiations with the Andean countries (Villarreal 2006, 4).¹⁹

In December 2005, after the first bilateral negotiation round, the Bush Administration and the Peruvian government concluded a FTA, although an investment dispute was still unresolved.²⁰ In contrast, a continuation of the negotiations with Colombia, and especially Ecuador, was initially uncertain, but the United States resumed bilateral negotiations with both countries in spring 2006. In both cases, the cancellation of the regional FTA negotiations had increased the reputation of the Bush Administration for resolve, and hence the credibility of their

¹³ Inside U. S. Trade. 2004. “U.S., Andean Countries Endorse New Approach to Tariff Cuts.” August 6; Inside U. S. Trade. 2004. “U.S., Andean Countries Preparing for Revised Negotiating Offers.” September 24.

¹⁴ Inside U. S. Trade. 2004. “Peru, Ecuador Could Be Dropped from Andean FTA over Investment.” October 8.

¹⁵ Interview, 23.05.2012, senior official of the USTR, Washington DC.

¹⁶ Interview, 05.05.2012, senior official of the USTR, Washington DC; Interview, 06.04.2012, senior official of the USTR, Washington DC.

¹⁷ House Ways and Means Committee. 2005. “Report on Trade Mission to Colombia, Ecuador, and Peru, WMCP: 109-6, September 2005.” September 1. Accessed February 14, 2012. <http://www.gpo.gov/fdsys/pkg/CPRT-109WPRT23417/html/CPRT-109WPRT23417.htm>.

¹⁸ Dow Jones Newswires. 2005. “Colombia: US-Andean FTA Talks Could Be Wrap up by Now.” September 23; Inside U. S. Trade. 2005. “U.S. Warns Ecuador of Possible Andean FTA Exclusion over Labor.” October 7; Miami Herald. 2005. “U.S., Andean Talks Move Forward.” July 23.

¹⁹ Inside U. S. Trade. 2005. “U.S., Andean Talks Adjourn after Achieving Most Progress with Peru.” November 25; Interview, 05.05.2012, senior official of the USTR, Washington DC.

²⁰ Inside U. S. Trade. 2006. “Peru FTA Provides Market Access on Key Farm Products.” January 6; Inside U. S. Trade. 2006. “Peru FTA Textile Provisions Seem to Address U.S. Industry Complaints.” January 6; Interview, 05.05.2012, senior official of the USTR, Washington DC.

threats to break up the FTA negotiations and not extend the ATPDEA. In January 2006, the Bush Administration and the Uribe Administration met for the first round of bilateral negotiations. The Colombian government had already signaled its willingness to make concessions as a result of the possible deterioration of the status quo.²¹ At the second round in February, both countries concluded the negotiations. The Colombian government gave in on many issues that it had been unwilling to accept in November (Gómez and Gamboa 2010, 78–80; Villarreal 2011a, 4).²² It may be concluded that the breakdown of the regional FTA negotiations had increased the reputation of the United States for resolve and thereby the credibility of their threats. This in turn increased the willingness of the Colombian government to make concessions and had effectively pushed the negotiations to their conclusion. The threats, yet, only had an effect because the United States were a semi-veto player and the relations between the United States and Colombia were characterized by a high asymmetric interdependence.

In the case of Ecuador, the US Administration and the Ecuadorian government were able to achieve main progress in the first bilateral negotiation round in March 2006 and were confident of reaching an agreement in the next round, planned for April.²³ As in the case of Colombia, the cancellation of the regional FTA negotiations had increased the credibility of the US threats. Yet, the Ecuadorian government was confronted with massive public protests, which lasted for more than a month, demanding the cancelation of a contract with the Occidental Petroleum Corporation, a US energy company, and a stop to FTA negotiations.²⁴ In April, the Ecuadorian Congress enacted a law increasing the taxes on oil revenues and the Ecuadorian government terminated the contract with the Occidental Petroleum Corporation. The Bush Administration saw the law, and especially the termination of the contract, as violations of the bilateral investment treaty and demanded compensation for the Occidental Petroleum Corporation. This the Ecuadorian government rejected. In reaction, the US Administration suspended the FTA negotiations until compensation was paid,²⁵ confronting the Ecuadorian government with a deterioration of the status quo in the long-term if the US side were at some future point to refuse to extend the ATPDEA. In this situation, both sides did not give in for different reasons, which is why the FTA negotiations broke down. While, in the case of the United States, a drawback would have created high reputational loss in current and future negotiations, especially in regard to investment disputes, the hands of the Ecuadorian government were tied because drawback would most likely have led to its resignation in the face of probable massive public protests. Therefore, the US threat was ineffective even if the Ecuadorian government should have seen it as credible.

Ratification and renegotiations: Although the US Administration signed bilateral FTAs with Peru and Colombia relatively quickly in the end, their passage was delayed because Democrats in Congress demanded new provisions for labor standards and additional labor reforms in both

²¹ Inside U. S. Trade. 2006. “U.S., Colombia Set New Meeting for Mid-February after Weeklong FTA Session.” February 7; Interview, 23.05.2012, senior official of the USTR, Washington DC.

²² Inside U. S. Trade. 2006. “U.S., Colombia FTA Provisions on IPR Almost Identical to Those in Peru.” March 3; Inside U. S. Trade. 2006. “Colombia, U.S. Trade SPS Commitments in Two Side Letters to FTA.” March 10.

²³ Reuters. 2006. “Ecuadorian Team Eyes Trade Deal with US this Week.” March 27.

²⁴ Bass, Carla D. 2006. “Indians Vow to Continue Fighting Free-Trade Pact.” *Miami Herald*, March 19; Reuters. 2006. “Ecuador, US Delay Free Trade Talks in Washington.” April 3; Valdivieso, Jeanneth. 2006. “Ecuador Quells Indian Trade Protest.” *Washington Post*, March 20.

²⁵ Interview, 24.05.2012, senior official of the USTR, Washington DC; Palmer, Doug. 2006. “US Warns Ecuador Free-Trade Pact at Risk.” *Reuters*, April 20; The Associated Press. 2006. “U.S. Ecuador Oil-Tax Law Violates Treaty.” April 21; Crutsinger, Martin. 2006. “Bush Administration Breaks off Free Trade Talks with Ecuador.” *The Associated Press*, May 16.

countries. After the Democratic Party took over the majority in Congress in November 2007, renegotiations became inevitable for the passage of the FTAs (Bolle and Villarreal 2007, 4–5). After the new Congress took office, the Bush Administration, Republicans, and Democrats started negotiations over a new trade agenda which also included new provisions for labor standards. In May 2007 they finally reached the so-called *May 10 Agreement*. The Peruvian and Colombian governments accepted the new labor provisions in the trade agreement without demanding concessions in return (Villarreal 2008, 16–17; Villarreal 2011b, 9).²⁶ Despite the *May 10 Agreement* and independently of the labor provisions in the FTAs, Democrats demanded further reforms regarding Peruvian and Colombian labor rights. In August 2007, Democrats and the governments of both countries met for bilateral negotiations. In the case of Peru, both sides reached agreement quickly, which freed the way for the passage through Congress. The Senate and House approved the FTA at the end of 2007 (Villarreal 2008, 2).²⁷ In contrast, the Colombian renegotiations stalled, not because of any unwillingness of the Colombian government but because the Democrats wanted to see real improvements in labor rights, especially a decline in the homicide rate against trade unionists, before approving the FTA.

In April 2008, as an agreement between Democrats and the Colombian government was still not in sight, the Bush Administration introduced the already signed FTA under fast track rules that permitted an up-or-down vote within 90 days. The Bush Administration was pressed for time to make sure that the FTA would be passed during its expiring term, because it was uncertain to what extent a new Democratic President might push for passage of the FTA. In reaction, the House, dominated by Democrats, approved a change of rules that abrogated the temporary fast track procedure. From now on, the Democratic leadership could determine when the House would vote on the Colombian FTA (Villarreal 2011b, 1–2; Beittel 2011, 38).²⁸ This course of action increased the reputation of the Democrats as FTA vote-blockers as long as labor reforms were not implemented. The Bush Administration, therefore, made a wrong assessment by assuming that the FTA would lie inside the win-set and finally be supported by the necessary number of Democrats in Congress. After initial displeasure, the Bush Administration and the Colombian government signaled their willingness for further negotiations, although agreement could not be reached before the presidential elections.²⁹ The negotiations between the two national veto players – the Bush Administration and Democrats in Congress – at the domestic level illustrate that the impact of veto power on the distribution of gains is connected with the reputation of an actor for resolve.

Following inauguration in January 2009, the Obama Administration showed its interest in continuing the negotiations and proposed a list of necessary labor reforms. But the FTA with Colombia had a lower priority for the Obama Administration, and there was no major progress during the next three years. The negotiations did not gain momentum until the mid-term elections in November 2010, when Republicans took over the majority in the House. In February 2011, the pressure to find a deal increased after the Democrats and Republicans failed to agree on a further extension of the ATPDEA, which then finally expired. The motivation behind the expiration was not that Congress wanted to use it as bargaining leverage vis-à-vis the Colombian government, which had consistently signaled its willingness to negotiate. What the Republicans wanted was to put pressure on the Democrats to finally pass the FTA. Before the expiration,

²⁶ Inside U. S. Trade. 2007. “Schwab, Congress Announce Labor, Environment FTA Deal.” May 11.

²⁷ Inside U. S. Trade. 2007. “U.S., Peru reach Labor Deal, Administration Vows to Fight for all FTAs.” August 10; Inside U. S. Trade. 2007. “Senate Approves Peru FTA with Majority of Democratic Vote.” December 7.

²⁸ Inside U. S. Trade. 2008. “House Approves Fast-Track Rules of Change for U.S.-Colombia FTA.” April 11.

²⁹ Inside U. S. Trade. 2008. “Administration Engages on TAA, but Links Passage to FTA Progress.” May 6; Inside U. S. Trade. 2008. “Colombian Trade Minister Expresses Frustration on Labor Demands.” September 19.

Congress had extended the ATPDEA several times during the FTA negotiations.³⁰ On those occasions, Republicans demanded short extensions of the ATPDEA to pressure the Democrats to approve the FTAs quickly. Yet, this kind of pressure had shown no effect. On the contrary, the expiration of the ATPDEA decreased the status quo for both countries and caused political costs for the United States with regard to the fight against coca production. The negotiations over the extension of the ATPDEA illustrate that veto players can also be semi-veto players at the domestic level in situations where the status quo would deteriorate if the veto players cannot agree.

By letting the ATPDEA expire, the Republicans proved that they were willing to detract from the status quo to get the FTA approved, which would in the long run enhance their own perceived status quo. As a result, the Obama Administration and Democrats in Congress could prevent future losses due to the expired ATPDEA by passing the FTA. Nor did the course of Republican action fail in its intended effect, for in March 2011 the Obama Administration proposed for the first time a concrete list of demands that Colombia had to fulfill in order for the FTA to be passed. In April, both countries agreed on an action plan related to labor rights which included an improvement in the laws and measures to reduce homicides against trade unionists. While some Democrats still opposed the FTA, the Obama Administration and some other Democrats supported the FTA from now on (Villarreal 2011b, 27).³¹ After Colombia had fulfilled its commitments under the action plan, and after settling a controversy between Democrats and Republicans over the sequence of votes on pending FTAs, the FTA with Colombia was passed by Congress in October 2011.³² In November, Congress reactivated the ATPDEA through June 2013 in order to give Colombia preferential market access until the FTA entered into force in May 2013.

The trade negotiations between the United States and the Andean countries exemplify that domestic veto players are only semi-veto players at the international level, because the consent of all veto players in each country is necessary for an improvement of the status quo but a deterioration can be enacted unilaterally by the veto players of a single country. Semi veto-players of a country that is less dependent on cooperation than its foreign counterparts can threaten more credibly to break up a cooperation. Despite high asymmetry, coherent preferences of the domestic veto players along with sufficient reputational costs seem to be necessary in order for threats to become credible. The threat by the United States to abrogate the ATPDEA and cancel the FTA negotiations fulfilled these criteria, because the Administration and Congress supported the threat and expected a significant reputational loss from backing down, given the many comparable ongoing and future FTA negotiations and investment disputes. While the threats by the United States facilitated the negotiations with all Andean countries at different stages, the negotiations with Ecuador illustrate that credible threats also increase the conflict intensity and the risk of negotiation breakdown, especially when the hands of the threatened party are tied.

The empirical example also highlights aspects that were not considered in the theoretical approach. While these aspects cannot be generalized based on the one empirical case, they are interesting from a theoretical perspective. First, the negotiations between Democrats and

³⁰ Inside U. S. Trade. 2010. "Congress Passes Short Term ATPDEA, TAA Extensions, but not GSP." December 23; Inside U. S. Trade. 2011. "Levin Sees Possible New Opportunity for Setting Colombia FTA Issues." January 25; Inside U. S. Trade. 2011. "Colombian VP Signals Willingness to Work with U.S. Labor Rights." January 28.

³¹ Inside U. S. Trade. 2011. "U.S., Colombia Agree to Labor Action Plan Aimed at Advancing FTA." April 6; The Associated Press. 2011. "US, Colombia Reach Deal on Key Free Trade Pact." April 6.

³² Inside U. S. Trade. 2011. "House Passes Three FTAs, Extension of Lapsed TAA/GSP Programs." October 12; Inside U. S. Trade. 2011. "Senate Approves Three FTAs, with Korea Getting the Strongest Vote." October 14.

Republicans over the length of ATPDEA extension during the ratification process illustrate that veto players can also become semi-veto players in domestic politics. This is the case when a law expires that impairs the status quo for each veto player and can only be prevented by each veto player approving an extension. Secondly, threats become more credible when the threatening party takes action that demonstrates its willingness to fulfill the threat. The breakup of the regional FTA negotiations by the US Administration and the change by the Democrats of the rules regarding the fast track authority show that such actions increase the actors' reputation and credibility: it was, as has been observed above, for this reason that the counterpart was willing to grant more concessions. In the case of the expiration of the ATPDEA forced by the Republicans, the deterioration of the status quo increased the pressure on the Obama Administration and Democrats to pass the FTA with Colombia. Thirdly, threats based on asymmetric interdependence can lead to a different perception of the negotiated issue, which can lower the bargaining leverage of the threatening party. While the United States saw the trade negotiations as a distributive conflict or positive sum game by taking market access without the ATPDEA as status quo, the Andean countries perceived a conflict of goals or zero sum game, because they took the ATPDEA as the basis for negotiations. And for this reason the Andean countries put greater effort into avoiding possible losses than the United States did into getting higher returns from a possible agreement.

5 Conclusion

In New Liberalism, scholars emphasize different types of bargaining power to explain the distribution of gains and the probability of cooperation. While the consideration of these rationalistic concepts created new insights, especially with regard to the interplay between domestic and international levels, the compatibility and interaction effects of the different forms of bargaining power were neglected. The power to veto a change in the status quo contradicts the argument of asymmetric interdependence whereby less dependent negotiators can threaten credibly to impair the status quo when their demands are not met. This inconsistency between the different concepts of bargaining power, however, can be resolved by considering the special features of international politics. In international negotiations, domestic veto players constitute only semi-veto players. Semi-veto players can still veto any improvement of the status quo for which an international cooperation is necessary but not a deterioration due to the unilateral policy of a foreign country. Assuming semi-veto players, asymmetric interdependence becomes compatible with veto power at the international level. But it still creates a theoretical problem in New Liberalism because rational actors would never implement a threat that decreased their own utility. A theoretical solution of this problem is possible after taking into account the negotiators' reputation. Because a negotiator suffers reputational loss by drawing back from an agreement, which lowers the credibility of future threats as well as long-term gains, reputation can explain why negotiators do not draw back even if this would be the better option in the current situation. Yet actors less dependent on a cooperation will still have a bargaining advantage, because their reputational loss consequent on making credible threats will be lower. Thus, threats become more credible when asymmetric interdependence is high, the preferences of the domestic veto players in the threatening state are relatively coherent, and the threatening semi-veto player would suffer a critically high level of reputational loss.

The trade negotiations between the United States and Andean countries illustrate that domestic veto players are only semi-veto players at the international level. The US Administration

threatened to end the ATPDEA if the Andean countries refused to agree to their demands regarding the FTA. This threat was credible because it was based on an asymmetric interdependence, was backed by Congress, and was considered to threaten severe reputational loss. Therefore, the threat increased the intersection of the win-sets in favor of the United States, and the Andean countries were more willing to make concessions. On the one hand, the US threats facilitated the negotiations with the Andean countries and helped to overcome a stalled negotiation situation. On the other hand, they also increased the intensity of conflict and the risk of negotiation breakdown, as the negotiations with Ecuador decisively show.

As well as illustrating threats by semi-veto players, the empirical case also emphasizes three aspects that were not initially considered but are interesting from a theoretical point of view. First, veto players can also be semi-veto players at the domestic level. This is the case when they have to approve an expiring law that diminishes the status quo for all veto players. Secondly, actions that demonstrate the resolve of an actor to fulfill a threat increase the credibility of that threat. Thirdly, a threat based on asymmetric interdependence that changes the size of the win-sets can cause different perceptions of the negotiated issues. If the threatened party sees the negotiations as a zero sum game while the threatening veto player perceives it as a positive sum game, the former will put more effort into the negotiations than the latter, for which reason the threatening semi-veto player will lose bargaining leverage.

The combination of veto power, asymmetric interdependence, and reputation not only helps to explain more adequately the distribution of gains and the probability of cooperation in international politics, it also solves theoretical inconsistencies and creates a more consistent framework for New Liberalism. Furthermore, it shows interconnections between different types of bargaining power that require a wider theoretical consideration of their compatibility and interaction effects. These new insights are helpful not only for the light they shed on New Liberalism but also for their contribution to veto player and bargaining theory.

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