

# **Codebook for:**

## **“What Do I Get? How States’ Negotiation Alternatives Influence the Concessions They Receive in Multilateral Negotiations”**

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This supplementary material includes the exact coding rules for the issue-specific BATNAs and concessions received for each state on every issue at stake in the sixteen negotiations in the GATT’s Uruguay Round. While there are overarching patterns for the coding process, each issue has its own unique coding rule based on unique data. I therefore discuss the coding for the issue-specific BATNA and concessions received for each issue, individually. The key issues in each negotiation that I code follow Author’s (2015) identification of the important issues involved in each negotiating group. The remainder of the appendix lays out models designed to check the robustness of the results reported in the paper.

## Section 1:

# Coding Costliness of States' Issue-Specific BATNAs

This section lays out the exact rules used to code each state's issue-specific BATNA on each of the 136 issues in the Uruguay Round negotiations. Each section indicates a different negotiation, and the paragraph level indicates the issue. The data source for each coding process is presented. Note that reference to the "BATNA" in this section refers to the issue-specific BATNA.

As a general overview: For market access issues, this variable was coded based on data on imports and exports on the particular product of interest. For example, for issues dealing with the liberalization of trade in a particular product, a state was coded as likely considering reaching an agreement liberalizing trade in this product to be "very important" (coded 3) if its net exports for the product of interest were greater than one standard deviation above the mean of net exports for that product across all states. It was coded as likely considering that reaching an agreement to liberalize trade in this product was "important" (coded 2) if its net exports were above the world average, as likely considering the issue "unimportant" (coded 0) if its net exports for that product were less than one standard deviation below the world average, and "somewhat important" (coded 1) if its net exports for that product were greater than one standard deviation below average but less than the world average.<sup>1</sup>

This same coding process was employed for issues such as protection for patents and trademarks (key features of intellectual property rights protections), drawing on data on the number of patents and trademarks granted by a state at the time of the negotiations.<sup>2</sup> If that number was greater than one standard deviation above average, instituting protections for these intellectual property rights were coded as likely being "very important" to a state, and so on. The same coding process was similarly used for issues related to the dismantling of protectionist measures related to international investment drawing on data on states' outflow of foreign direct investments.<sup>3</sup>

For issues dealing with the dismantling of protectionist measures such as domestic subsidies and export subsidies in a given sector, the costliness of a state's BATNA was coded based on the level of protectionist measures other states had at the time of the negotiations. For issues dealing with reforming the GATT's dispute settlement process, the data used were based on the status of states as complainants and defendants in cases filed by the date of the negotiations.<sup>4</sup> For issues dealing with development, states' BATNAs are coded based on their OECD status and level of GDP per capita.<sup>5</sup> More specific issues were coded in individual ways. The following provides more in-depth explanations for each coding.

## Negotiating Group on Goods 1: Tariffs

The sector at stake in the standard tariff group negotiations was mostly that of industrial products (as tariff reductions on other products were largely dealt with in their own negotiating groups). The important sector of interest is therefore states' exports/imports of industrial products. The data for these industrial exports/imports

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<sup>1</sup> This coding rule is consistent with Author's (2015) coding of states' BATNAs across each of the Uruguay Round negotiations, as a whole, but is applied to the issue-specific level. The product-specific data for states' imports and exports come from the UN ComTrade dataset. Where needed this data is supplemented with the WTO's data on trade (e.g., data on trade in services).

<sup>2</sup> The data on patents and trademarks granted comes from the World Intellectual Property Organization's database.

<sup>3</sup> The data on foreign direct investment comes from UN Conference on Trade and Investment (UNCTAD) Statistics database.

<sup>4</sup> This dispute settlement information comes from WTO document MTN.GNG/NG13/W/4/Rev.1.

<sup>5</sup> The data on states' GDP per capita comes from UN data.

come from UN ComTrade data (SITC Rev1)<sup>6</sup> data on “manufactured goods classified chiefly by material” (category 6), “machinery and transport equipment” (category 7), and “miscellaneous manufactured goods” (category 8).

**Reduction Approach:** This issue dealt with whether to use a formula-based approach or a request/offer approach. A formula approach would create overarching ceilings for tariffs on all industrial products. In contrast, the request/offer procedure would create individual ceilings for each state on each product of manufactured goods, which could vary across state and product. I therefore draw on import/export data on manufactured goods to code states’ BATNAs regarding the reduction approach. States with a greater reliance on income from industrial goods exports were more in need of a formula-based approach which would cut industrial goods tariffs across the board and not allow states that did not want to offer lower reductions the ability to do so. A state is coded with a costly BATNA of 3 if its net exports of manufactured goods as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in manufactured goods. Such a state would be in the worst position if barriers to trade in these products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of manufactured goods as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in manufactured goods. Such a state would be least affected if the status quo level of barriers to trade in these products remained. The costliness of its BATNA is coded as 2 if its net exports of manufactured goods as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise. Data on states’ GDP come from UN data.

**Base Rates: Bound Versus Applied:** This issue dealt with whether to use bound or applied tariffs as the base rate for negotiations. Applied tariffs refer to the *de facto* tariffs that states employ. These tariff rates were still constrained by the ceiling set by the GATT, so can only be lower. However, the bound tariff rates were those that would typically be used as the base rate for negotiations. States that had a greater level of industrial product exports were therefore more in need of using the applied (lower) tariff rates as a base for further reductions. The coding rule is therefore the same as that for the “reduction approach” issue.

**Developed versus Developing State Bindings:** This issue dealt with whether or not to allow developing states to continue to have significantly lower bound tariffs than developed states. I measure a state’s level of development using two indicators. The first is OECD status. States that were members of the OECD at the time of the negotiations of interest are considered to be the most developed states. The second indicator is a state’s GDP per capita, as this is a general measure of a state’s wealth. Lower levels of GDP per capita indicate a lower level of wealth, and thus a less developed state. States that are less developed are more in need of keeping their special treatment (i.e., a lower level of bound tariffs), while developed countries want them to bind these tariffs. Given that they currently had few bound tariffs, developing countries thus have a better BATNA than more developed states. The coding for this variable is therefore as follows. A state is coded with a costly BATNA of 3 if it was an OECD state at the time of the negotiations. It is coded as having a costly BATNA of 2 if it had was not an OECD country and had a GDP per capita that was greater than one standard deviation above the average world GDP per capita. It is coded with a costly BATNA of 0 if it had a GDP per capita that was below the world average. It is coded with a costly BATNA of 1 otherwise. Data on states’ GDP per capita was collected from UN data.

**“Very Low” Tariffs:** This issue dealt with the degree to which tariffs that were already “very low” should be further reduced. Given that the “very low” tariffs were often on manufactured products, data on states’ net exports of manufactured products were again used to code states’ BATNA on this issue. A state is coded with a costly

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<sup>6</sup> I use the SITC Rev1 version of the product codes because it is the only one that goes back far enough to cover all rounds of GATT negotiations.

BATNA of 3 if its net exports of manufactured products as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in manufactured products. Such a state would be in the worst position if barriers to trade in these products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of manufactured products as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in manufactured products. Such a state would be least affected if the status quo level of barriers to trade in these products remained. The costliness of its BATNA is coded as 2 if its net exports of manufactured products as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

## Negotiating Group on Goods 2: Non-Tariff Barriers

The sector at stake in the standard non-tariff barrier group negotiations was, again, that of industrial products, as NTBs in other issue areas were largely dealt with in those individual negotiating groups. The data for these industrial exports/imports employed in the coding of the issues in this negotiating group therefore come from UN ComTrade data (SITC Rev1)<sup>7</sup> data on “manufactured goods classified chiefly by material” (category 6), “machinery and transport equipment” (category 7), and “miscellaneous manufactured goods” (category 8).

**Pre-shipment Inspection:** The issue dealt with here was whether or not to subject pre-shipment inspection to international discipline. The Customs Valuation Code dealt with issues of pre-shipment inspection. Signatories to the Customs Valuation Code were not able to use pre-shipment inspection, some states were not signatories to the CVC but were observers of it, and some other states were actually using this customs barrier. Signatories therefore would have a harder time exporting to those countries using pre-shipment inspection while the reverse is not true. Signatories are therefore worst off absent an agreement to discipline the use of pre-shipment inspection and users were best off absent such an agreement. A state is therefore coded with a costly BATNA of 3 if it was a signatory to the Customs Valuation Code at the time of the negotiations and coded with a costly BATNA of 2 if it was not a signatory but was an observer to the Code. It is coded with a costly BATNA of 0 if it was a user of pre-shipment inspection, and coded with a costly BATNA of 1 otherwise.

**PTAs and Rules of Origin:** This issue dealt with here was whether or not to include PTAs in “rules of origin” rules. The main PTAs of interest were the EC, itself, and the PTA between the EC and ACP countries which was codified in the Cotonou and Lomé Conventions. The EC was coded with a costly BATNA of 0, given that it was a PTA so strong that it was even represented as a single actor in the GATT negotiations. The EC therefore had very strong preference to remain at the status quo and not include PTAs in the “rules of origin” rules. In contrast, a state was coded as having the most costly of BATNA (i.e., a costly BATNA of 3) if it was not a member of any of these PTAs. These states faced the most costs to remain at the status quo without including PTAs in the “rules of origin” rules. A state was coded with a costly BATNA of 1 if it was a member of a “major” PTA (i.e., a PTA with either the EC or the US – although it should be noted that no actual PTAs with the US were documented at this time). All other states were coded with a costly BATNA of 2. This group included states that were members of a more “minor” PTA. The data on PTA membership utilized is that put forth by the GATT in its discussion of PTA membership in document MTN.GNG/NG7/W/13.

**Requests:** This issue dealt with the requests made by states for other states to reduce their NTBs. The relevant information therefore has to do with states’ requests put forth for other states to reduce their BATNAs. A state is

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<sup>7</sup> I use the SITC Rev1 version of the product codes because it is the only one that goes back far enough to cover all rounds of GATT negotiations.

coded with a costly BATNA of 3 if it was a net requester – i.e., it made more requests of other states to reduce their NTBs than were made of it – showing that it would be worst off if NTBs were not reduced. A state is coded with a costly BATNA of 0 if at least 100 more requests were made of it than it made. A state is coded with a costly BATNA of 2 if neither of the other two conditions hold but it did make requests of other states. It is coded with a costly BATNA of 1 otherwise. The data on the requests made by states come from GATT documents MTN.GNG/NG2/RS/1 through MTN.GNG/NG2/RS/34.

**Elimination versus Cautious Reduction:** This issue dealt with whether NTBs on industrial products should be eliminated or just “cautiously” reduced. Those states that were more dependent on industrial exports were more in need of a reduction in NTBs on those products than other states. A state is therefore coded with a costly BATNA of 3 if its net exports of manufactured goods as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in manufactured goods. Such a state would be in the worst position if barriers to trade in these products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of manufactured goods as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in manufactured goods. Such a state would be least affected if the status quo level of barriers to trade in these products remained. The costliness of its BATNA is coded as 2 if its net exports of manufactured goods as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

### **Negotiating Group on Goods 3: Natural Resource-Based Products**

The sector at stake in these negotiations was trade in natural resource-based products – fisheries, non-ferrous minerals, and forestry products. The data for these exports/imports of these products come from UN ComTrade data (SITC Rev1) data. Fisheries trade data was collected from category 03 (fish and fish preparations). Non-ferrous minerals trade data was collected from categories 283 (ore and concentrates of non-ferrous base metals) and 284 (non-ferrous metal scrap). Forestry trade data was collected from categories 24 (wood, lumber, and cork), 2512 (mechanical wood pulp), 2516 (chemical wood pulp), 2517 (sulphate wood pulp), 2518 (sulphite wood pulp), and 2519 (semichemical wood pulp).

**Liberalization of Trade in Fisheries Products:** This issue dealt with the question of the degree to which barriers to trade in fisheries should be reduced. Following the standard BATNA rule that I employ throughout the coding process for market access issues, a state is coded with a costly BATNA of 3 if its net exports of fisheries products as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in fisheries products. Such a state would be in the worst position if barriers to trade in fisheries products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of fisheries as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in fisheries products. Such a state would be least affected if the status quo level of barriers to trade in fisheries products remained. The costliness of its BATNA is coded as 2 if its net exports of fisheries products as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

**Liberalization of Trade in Non-Ferrous Minerals:** This issue dealt with the question of the degree to which barriers to trade in non-ferrous should be reduced. States that had a greater level of non-ferrous mineral exports had a greater need to lower tariff rates on these products from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the fisheries discussion, only drawing on data on trade in non-ferrous minerals.

**Liberalization of Trade in Forestry Products:** This issue dealt with the question of the degree to which barriers to trade in forestry products should be reduced. States that had a greater level of forestry exports had a greater need to lower tariff rates on these products from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the fisheries discussion, only drawing on data on trade in forestry products.

**Dual Pricing:** This issue dealt with the issue of dual pricing – any policy that makes products cost less in the domestic market than the price would be if left to international market forces (also referred to as “reverse dumping”). The question was whether or not to eliminate (or at least discipline) these practices. As described in MTN.GNG/NG3/W/23 paragraph 8, dual pricing is directly related to export restrictions. In principle, it is impossible to have a dual-pricing situation without export restrictions, since other countries will seek to buy the same resource at the lower domestic price and this would lead to supply problems and upward pressure on prices. Backing up this claim, MTN.GNG/NG3/18 paragraph 4 and MTN.GNG/NG3/W/37 page 3 says dual pricing arises from the use of export taxes or export restrictions/prohibitions. The coding of the costliness of states’ BATNAs is therefore coded based on complaints about states’ use of dual pricing and/or export restrictions. A state is coded as having a costly BATNA of 0 if a complaint was made about its use of these trade measures. A state is coded with a costly BATNA of 3 if it explicitly made a complaint about the use of these measures, showing that it is negatively affected by them, and thus in a worse position if the status quo with these measures in place remained. A state is coded with a costly BATNA of 2 if it did not complain about the use of these measures, but was a net exporter of natural resource-based products, and thus would be most by artificially low prices. A state is coded with a BATNA of 1 otherwise.

**Method of Reduction:** This issue dealt with whether to use a formula-based approach or a request/offer approach to reduce barriers to trade in natural resource-based products. A formula approach would create overarching ceilings for tariffs on these products. In contrast, the request/offer procedure would create individual ceilings for each state on each product, which could vary across state and product. I therefore draw on import/export data on all three natural resource-based products to code states’ BATNAs regarding the reduction approach. States with a greater reliance on income from natural resource-based exports had a greater need to use a formula-based approach which would cut tariffs and NTBs across the board and not allow states that did not want to offer lower reductions the ability to do so. A state is coded with a costly BATNA of 3 if its net exports of fisheries, non-ferrous minerals, and forestry products as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in these three products. Such a state would be in the worst position if barriers to trade in these products were not lowered. The costliness of a state’s BATNA is coded as 0 if its net exports of natural resource-based products as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in these goods. Such a state would be least affected if the status quo level of barriers to trade in these products remained. The costliness of its BATNA is coded as 2 if its net exports of natural resource-based products as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

**Energy Sector:** This issue dealt with whether or not to bring a discussion of trade in energy commodities into the negotiations on natural resource-based products. The coalitions on this issue were divided based on the energy commodity that was being exported. Exporters of coal were pushing for inclusion of the energy sector, while exporters of oil were against including trade in the energy sector in the negotiations. The status quo would be that the energy sector remained separate and current levels of trade barriers remained. A state is therefore coded with a costly BATNA of 3 if it was a net exporter of coal only. It was coded with a costly BATNA of 0 if it was a net exporter of oil only. It was coded with a costly BATNA of 2 if it was a net exporter of both, and a BATNA of 1 otherwise. The data for trade in these products comes from the following SITC Rev1 categories: 32 (coal, coke and briquettes) and 33 (petroleum and petroleum products).

**Domestic Subsidies:** This issue dealt with whether or not to reduce/eliminate domestic subsidies dealing with natural resource-based products. Those that use domestic subsidies are in the best position if the status quo remained and an agreement to reduce these subsidies was not reached. Those that are major exporters of natural resource-based products that are competitive in the international market are in the worst position if these subsidies remain in place. The costliness of a state's BATNA was therefore coded 0 if it was listed as a user of "government aid" in GATT document NTM/INV/1. The costliness of a state's BATNA is coded 3 if the previous criteria did not hold and its net exports of natural resource-based products as a percent of its GDP or its net exports as a percent of its total exports were greater than the average net exports of all states in these goods. A state is coded with a costly BATNA of 2 if neither of the previous two criteria hold, but it is a net exporter of natural resource-based products, and coded 1 otherwise.

## Negotiating Group on Goods 4: Textiles and Clothing

The sector at stake in these negotiations was trade in textiles and (textile-based) clothing. The data for the exports/imports of these products that is used in the coding of the issues in this negotiating group come from UN ComTrade data (SITC Rev1) data. Textiles data was collected from category 65 (textiles, yarn, fabrics, made up articles, etc.) and clothing data was collected from category 841 (clothing except fur clothing).

**Overall Liberalization:** This issue dealt with the degree to which trade in textiles and clothing would be brought under GATT disciplines and liberalized. Data on states' trade in textiles was therefore used to code the costliness of not reaching an agreement to liberalize trade in textiles and clothing. Following the standard BATNA rule that I employ throughout the coding process, a state is coded with a costly BATNA of 3 if its net exports of textiles and clothing as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in textiles and clothing. Such a state would be in the worst position if barriers to trade in textiles and clothing products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of textiles and clothing as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in textiles and clothing. Such a state would be least affected if the status quo level of barriers to trade in textiles and clothing products remained. The costliness of its BATNA is coded as 2 if its net exports of textiles and clothing as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

**Scope: Liberalize All Measures or Only Those Under MFA:** This issue dealt with whether or not to liberalize trade in all textile and clothing products or only those that were governed by the Multi-Fibre Arrangement (MFA). States that had quotas instituted under the MFA preferred to count products outside of the scope of the MFA so that they could reduce trade barriers for these products to count toward their liberalization process instead of having to do all the reduction on MFA products. States' BATNAs on this issue are therefore coded based on their MFA status and level of textile and clothing exports. A state is coded with a costly BATNA of 0 if it has quotas (or has reserved the right to use such quotas) under the MFA. A state is coded with a costly BATNA of 3 if it had no quotas and its net textile and clothing exports were more than one standard deviation above the average net exports (as a percent of GDP or total trade) of all states in textiles and clothing. A state is coded with a costly BATNA of 2 if its net export as a percent of its GDP or total trade were above the average but were not more than one standard deviation above average. A state is coded with a costly BATNA of 1 otherwise. Data on states' status under the MFA come from Tan (2005).<sup>8</sup>

**Transition Period Length:** This issue dealt with the length of the period of the transition from the MFA to GATT disciplines in the textiles and clothing sector. States that benefit under the MFA (i.e., that have quotas under the MFA arrangements) are best off with a long transition away from MFA. Since absent agreement there would be no movement from the MFA to GATT disciplines, these states are therefore best off if an agreement is not reached and the status quo remains. States that had significant exports of textiles and clothing were worst off if the transition period was longer rather than shorter. A state is therefore coded with a costly BATNA of 0 if it has quotas (or has reserved the right to use such quotas) under the MFA. A state is coded with a costly BATNA of 3 if it had no quotas and its net textile and clothing exports as a percent of its GDP or total trade were more than one standard deviation above the average of all states in textiles and clothing. A state is coded with a costly BATNA of 2 if its net export as a percent of its GDP or total trade were above the average but were not more than one standard

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<sup>8</sup> Tan, Junyuan Christopher. 2005. "The Liberalization of Trade in Textiles and Clothing: China's Impact on the ASEAN Economies." *Thesis*. [economics.stanford.edu/files/Theses/Theses\_2005/Tan.pdf].



deviation above average. A state is coded with a costly BATNA of 1 otherwise. Data on states' status under the MFA again come from Tan (2005).

**Anti-dumping Actions:** This issue dealt with the elimination (or increased discipline) of anti-dumping actions explicitly targeted at textiles and clothing which were allowed under the MFA, but were considered by most textile and clothing exporters to be incompatible with the General Agreement on Tariffs and Trade. Those benefiting from the MFA would also benefit from anti-dumping actions remaining in place. States with quotas under the MFA are therefore coded as having a costly BATNA of 0. States that are most affected by anti-dumping actions are developing state exporters of textiles and clothing, as they are the states that often had the lowest prices. Developing state that are net exporters of textiles are therefore coded with a costly BATNA of 3, indicating that they are the worst off if these anti-dumping actions remain in place. Developed state that are net exporters of textiles and clothing are coded with a costly BATNA of 2, and importers without quotas under the MFA are coded with a costly BATNA of 1. Data on states' status under the MFA come from Tan (2005). Data on states' exports and imports come from UN ComTrade.

**Safeguards:** The issue dealt with the elimination (or increased discipline) of safeguard actions explicitly targeted at textiles and clothing which were allowed under the MFA. Because such safeguards have similar trade-distorting effects to anti-dumping actions, the costliness of states' BATNAs on this issue are coded in the same way as they are for the issue of "Anti-dumping Actions."

**Implementation Process:** This issue dealt with whether or not to employ MFA or global, overarching quotas. If global quotas were used, counting goods not currently subject to restriction under the MFA toward the quota could actually lead to the potential for a further increase (rather than reduction) in the quotas under the MFA. The effect of this issue was therefore similar to that of the question of liberalization on all textile and clothing products versus only concentrating on liberalization of MFA-governed goods. The costliness of states' BATNAs on this issue are therefore coded in the same way as they are for the issue of "Scope."

## **Negotiating Group on Goods 5: Agriculture**

The sector at stake in these negotiations was trade in agriculture. The data for the exports/imports of these products that is used in the coding of the issues in this negotiating group come from the WTO database, which has a general category for agricultural imports and exports. Because specific products are not specified by "agriculture" as they are for natural resource-based products, textiles and clothing, and tropical products, drawing on this more general WTO data avoids selecting categories from the UN ComTrade database that might not actually be what was at stake in the negotiations. The product-specific data on cereals, sugar, and dairy exports come from the UN ComTrade database. Cereals data come from category 04 (cereals and cereal preparations). Data on sugar come from categories 0611 (raw sugar, beet and cane) and 0612 (refined sugar & other products of refining, no syrup). Data on dairy come from categories 022 (milk and cream), 023 (butter), and 024 (cheese and curd).

**Sanitary and Phytosanitary Measures:** This issue dealt with whether or not to reduce/discipline states' use of sanitary and phytosanitary measures or whether to protect individual states' ability to use these measures as they feel necessary. Absent agreement, states would continue to use these measures in the way they had done so in the past. Documented complaints made by states against other states for their use of sanitary and phytosanitary measures are kept by the GATT/WTO. I draw on this information to code the costliness of states' BATNAs on this issue. A state is coded as having a costly BATNA of 3 if more complaints were made by it regarding the use of sanitary and phytosanitary measures than were made by other states against it. A state is coded as having a costly BATNA of 2 if it made a complaint, but the requirements of category 3 are not met. A state is coded as having a

costly BATNA of 0 if more than ten complaints were made against it than it made against other states, and is coded with a costly BATNA of 1 otherwise. Data on states' complaints were taken at various intervals of time. The available information was collected in 1970 and 1995-2001. I therefore draw on both of these lists of complaints, assuming that they are largely indicative of the general use of sanitary and phytosanitary measures during the 1986-1993 negotiating period. The complaints from 1970 are documented in GATT document COM.AG/W/68/Add.4. The complaints from 1995-2001 are documented in G/SPS/GEN/204/Rev.1.

**Developed State Export Subsidies:** This issue dealt with the potential elimination of export subsidies used by developed states in the agricultural sector. These types of subsidies were already not allowed in the area of industrial products, and states were seeking to extend that ban to agricultural products as well. The costliness of states' BATNAs on this issue are based on the notifications made by developed states regarding their use of these measures. The costliness of a state's BATNA for this issue is coded 3 if it made no notification regarding its use of export subsidies and its net agricultural exports as a percent of its GDP or total trade are greater than average, as this indicates they do not use such measures and are hurt by others' use of them. The costliness of a state's BATNA for this issue is coded 2 if it made no notification that it uses export subsidies but it is a net exporter and its net exports as a percent of its GDP and of its total trade are less than average. The costliness of a state's BATNA is coded 0 for this issue if it made a notification and its net exports as a percent of its GDP or total trade are greater than average (as this indicates a major agricultural exporter using export subsidies), and is coded 1 otherwise. The data on notifications comes from the WTO's agricultural management system, "notified information" section. The data comes from 1995, which should be at least indicative of what states had in place at least at the end of the negotiations in 1993.

**Developing State Export Subsidies:** This issue dealt with the potential elimination of export subsidies used by developing states in the agricultural sector. The costliness of states' BATNAs on this issue therefore follow the same coding rule as the one used for "Developed State Export Subsidies," but draws on developing states' notifications rather than developed.

**Developed State Domestic Subsidies:** This issue dealt with the potential elimination (or at least disciplining) of domestic subsidies used by developed states in the agricultural sector. The costliness of states' BATNAs on this issue therefore follow the same coding rule as the one used for "Developed State Export Subsidies," but draws on notifications of domestic subsidies rather than export subsidies.

**Developing State Domestic Subsidies:** This issue dealt with the potential elimination (or at least disciplining) of domestic subsidies used by developing states in the agricultural sector. The costliness of states' BATNAs on this issue therefore follow the same coding rule as the one used for "Developed State Export Subsidies," but draws on notifications made by developing states regarding domestic subsidies.

**Developed State Tariffs:** This issue dealt with requiring developed states to lower their tariffs on agricultural products. The costliness of states' BATNAs on this issue therefore follow the same coding rule as the one used for "Developed State Export Subsidies," but draws on notifications made by developed states regarding agricultural import restrictions.

**Developed State NTBs:** This issue dealt with requiring developed states to lower their NTBs on agricultural products. The costliness of states' BATNAs on this issue therefore follow the same coding rule as the one used for "Developed State Export Subsidies," but draws on notifications made by developed states regarding agricultural import restrictions.

**Developing State Import Restrictions:** This issue dealt with requiring developed states to lower their import barriers on agricultural products. The costliness of states' BATNAs on this issue therefore follow the same coding rule as the one used for "Developed State Export Subsidies," but draws on notifications made by developing states regarding of agricultural import restrictions.

**Method of Reduction:** This issue dealt with whether to use a formula or request/offer approach to reduce barriers to agricultural trade, in general. Those states that were more dependent on agricultural exports were more in need of a reduction in trade barriers on those products than other states. A state is therefore coded with a costly BATNA of 3 if its net exports of agricultural goods as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in agricultural goods. Such a state would be in the worst position if barriers to trade in these products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of agricultural goods as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in agricultural goods. Such a state would be least affected if the status quo level of barriers to trade in these products remained. The costliness of its BATNA is coded as 2 if its net exports of agricultural goods as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

**Liberalization of Trade in Cereals:** This issue dealt with the question of the degree to which barriers to trade in cereals should be reduced. Following the standard BATNA rule that I employ throughout the coding process for market access issues, a state is coded with a costly BATNA of 3 if its net exports of cereals products as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in cereals products. Such a state would be in the worst position if barriers to trade in cereals products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of cereals as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in cereals products. Such a state would be least affected if the status quo level of barriers to trade in cereals products remained. The costliness of its BATNA is coded as 2 if its net exports of cereals products as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

**Liberalization of Trade in Sugar:** This issue dealt with the question of the degree to which barriers to trade in sugar should be reduced. States that had a greater level of sugar exports had a greater need to lower tariff rates on these products from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the cereals discussion, only drawing on data on trade in sugar.

**Liberalization of Trade in Dairy Products:** This issue dealt with the question of the degree to which barriers to trade in dairy products should be reduced. States that had a greater level of dairy products exports had a greater need to lower tariff rates on these products from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the cereals discussion, only drawing on data on trade in dairy products.

## **Negotiating Group on Goods 6: Tropical Products**

The sector at stake in these negotiations was trade in tropical products. The data for the exports/imports of these products come from the UN ComTrade database. Overall, seven groups of tropical products were identified for negotiation, with the addition of bananas that was considered separately. The first group covers "coffee, tea, and

cocoa.” The UN ComTrade categories used to code trade for this group of products are therefore 071 (coffee), 072 (cocoa), and 074 (tea and mate). The second group covers “spices, flowers, and plaiting products.” The UN ComTrade categories used to code trade for this group of products are therefore 075 (spices), 2927 (cut flowers and foliage), and 2923 (vegetable minerals used for plaiting). The third group covers “jute.” The UN ComTrade category used to code trade for this group is therefore 264 (jute). The fourth group covers “tropical fruits and nuts.” The UN ComTrade categories used to code trade for this group of products is therefore 05195 (Tropical fruit other than bananas, fresh), 05201 (tropical fruit, dried), 05171 (coconuts, Brazil, and cashew nuts, fresh/dried), and 05173 (coconuts). The fifth group covers “rubber and wood.” The UN ComTrade categories used to code trade for this group of products is therefore 23 (crude rubber including synthetic and reclaimed) and 242 (wood in the rough or roughly squared). The sixth group covers “roots, rice, and tobacco.” The UN ComTrade categories used to code trade for this group of products is therefore 2926 (bulbs, tubers, rhizomes and flowering plants), 042 (rice), and 121 (tobacco, unmanufactured). The seventh group covers “certain oilseeds, vegetable oil, and oilcakes.” The UN ComTrade categories used to code trade for this group of products is therefore 4222 (palm oil), 4223 (coconut copra oil), and 4224 (palm kernel oil), which are indicated to be tropical oils. The bananas information comes from UN ComTrade category 0513 (bananas including plantains, fresh).

**Liberalization of Trade in Coffee, Tea, and Cocoa:** This issue dealt with the degree to which trade in coffee, tea, and cocoa should be liberalized. Following the standard BATNA rule that I employ throughout the coding process for market access issues, a state is coded with a costly BATNA of 3 if its net exports of coffee, tea, and cocoa products as a percent of its GDP or its net exports as a percent of its total exports were more than one standard deviation above the average net exports of all states in these products. Such a state would be in the worst position if barriers to trade in coffee, tea, and cocoa products were not lowered. The costliness of its BATNA is coded as 0 if its net exports of these products as a percent of its GDP or its net exports as a percent of its total exports were less than one standard deviation below the average net exports of all states in coffee, tea, and cocoa products. Such a state would be least affected if the status quo level of barriers to trade in these products remained. The costliness of its BATNA is coded as 2 if its net exports of coffee, tea, and cocoa products as a percent of its GDP and its net exports as a percent of its total exports were above the world average. The costliness of its BATNA was coded as 1 otherwise.

**Liberalization of Trade in Spices, Flowers, and Plaiting Products:** This issue dealt with the question of the degree to which barriers to trade in spices, flowers, and plaiting products should be reduced. States that had a greater level of exports of spices, flowers, and plaiting products had a greater need to lower the tariff rates on these products from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in spices, flowers, and plaiting products.

**Liberalization of Trade in Jute:** This issue dealt with the question of the degree to which barriers to trade in jute should be reduced. States that had a greater level of exports of jute had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in jute.

**Liberalization of Trade in Tropical Fruits and Nuts:** This issue dealt with the question of the degree to which barriers to trade in tropical fruits and nuts should be reduced. States that had a greater level of exports of tropical fruits and nuts had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in tropical fruits and nuts.

**Liberalization of Trade in Rubber and Wood:** This issue dealt with the question of the degree to which barriers to trade in rubber and wood should be reduced. States that had a greater level of exports of rubber and wood had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in rubber and wood.

**Liberalization of Trade in Roots, Rice, and Tobacco:** This issue dealt with the question of the degree to which barriers to trade in roots, rice, and tobacco should be reduced. States that had a greater level of exports of roots, rice, and tobacco had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in roots, rice, and tobacco.

**Liberalization of Trade in Certain Oilseeds, Vegetable Oil, and Oilcakes:** This issue dealt with the question of the degree to which barriers to trade in certain oilseeds, vegetable oil, and oilcakes should be reduced. States that had a greater level of exports of oilseeds, vegetable oil, and oilcakes had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in oilseeds, vegetable oil, and oilcakes.

**Liberalization of Trade in Bananas:** This issue dealt with the question of the degree to which barriers to trade in bananas should be reduced. States that had a greater level of exports of bananas had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in bananas.

**Overall Liberalization of All Tropical Products:** This issue dealt with the question of the degree to which barriers to trade in all tropical products should be reduced. States that had a greater level of exports of tropical products had a greater need to lower the tariff rates on this product from their status quo level. The coding rule is therefore the same as the standard BATNA rule employed for market access issues. It follows the same rule that is presented in the coffee, tea, and cocoa discussion, only drawing on data on trade in all tropical products.

**Special and Differential Treatment for Developing States:** This issue dealt with whether to allow developing states special access to developed states' markets in the area of tropical products and/or to be able to maintain higher barriers to trade in tropical products than would be required by developed states. Absent an agreement, status quo policies that did not yield much special treatment for developing countries in the area of trade in tropical products would remain. States' BATNAs were therefore coded based on the developing state status. I measure a state's level of development using two indicators. The first is OECD status. States that were members of the OECD at the time of the negotiations of interest are considered to be the most developed states. The second indicator is a state's GDP per capita, as this is a general measure of a state's wealth. Lower levels of GDP per capita indicate a lower level of wealth, and thus a less developed state. States that are less developed are more in need of special treatment (i.e., a higher level of allowed tariff rates), and thus have a worse BATNA than more developed states. The coding for this variable is therefore as follows. A state is coded with a costly BATNA of 0 if it was an OECD state at the time of the negotiations. It is coded as having a costly BATNA of 1 if it was not an OECD member, but had a GDP per capita that was greater than one standard deviation above the average world GDP per capita. It is coded with a costly BATNA of 3 if it had a GDP per capita that was below the world average. It is coded with a costly BATNA of 2 otherwise. Data on states' GDP per capita was collected from UN data.

**ACP Special Treatment:** This issue dealt with whether to continue special treatment for the ACP countries, which had special PTA agreements with the European Community. Developed states, for which the status quo reflected barriers to trade in tropical products that they preferred to have and who were not directly affected by ACP special treatment, were best off absent an agreement. A state was therefore coded with a costly BATNA of 0 if it was a developed state (i.e., with OECD status). It is coded with a costly BATNA of 3 if it was a developing state that was not an ACP state, as special treatment for the ACP states hurt their ability to export tropical products. ACP states were coded with a costly BATNA of 1, as the status quo was characterized by the existence of special treatment. A state is coded with a costly BATNA of 2 otherwise.

## **Negotiating Group on Goods 7: GATT Articles**

This was the first negotiating group covered by this coding book that did not deal with trade in a specific sector. Data is therefore drawn from multiple sources. They are described in the coding for each issue.

**Article XII and XVIII, Balance of Payments:** This issue dealt with the level of special treatment that states should receive to allow for them to deal with balance of payments issues. The states worst off if an agreement was not reached to extend special treatment to states dealing with balance of payments issues were those consulting with the GATT under Article XVIII:B to deal with precisely this issue. These states are therefore coded with a costly BATNA of 3. Because balance of payments issues was largely a problem faced by the developing countries, developed countries were in the best position if an agreement extending special treatment to deal with these issue was not reached. OECD members are therefore coded with having a costly BATNA of 0. The states that were second worst off absent an agreement were states that were consulting with the GATT, but were not in a dire enough position to do so under Article XVIII:B. These states are coded with a costly BATNA of 2. States are coded with a costly BATNA of 1 otherwise. The data on states' status regarding consultations on balance of payments issues can be found in GATT document MTN.GNG/NG7/W/14.

**Article XVII, State Trading:** This issue dealt with whether or not to subject state trading to greater discipline. The states worst off if an agreement was not reached to discipline states' use of state trading were those states that had filed complaints against states because of their use of state-trading. Those best off if an agreement disciplining state trade was not reached were those states that were users of state trading. Three pieces of data were collected to code states' BATNAs. First, a list of notifications that states sent to the GATT regarding their use of state trading after 1981 was collected using GATT document MTN.GNG/NG7/W/15 (p.23). Second, a list of states that filed complaints against another state for its use of state-trading measures was collected using GATT document NTM/INV/1. This document also contained information on states that were complained against because of their use of state trading. Drawing on these three pieces of data, states' BATNAs were coded in the following way. The costliness of a state's BATNA is coded 3 if it had filed a complaint against another state for its use of state trading and had no complaint filed against it. The costliness of a state's BATNA is coded 0 if it made a notification to the GATT regarding its use of state trading and did not file any complaints regarding states' use of state trading measures. The costliness of a state's BATNA is coded 1 if a complaint was made against it and it did not make any complaints. Finally, the costliness of a state's BATNA was coded 2 otherwise. This last category includes, for example, states that did notify that they engaged in state trading and also made a complaint against another state.

**Article XXI, Security Interests:** This issue dealt with whether or not to continue to allow states to invoke "security interest protection" under Article XXI to justify the violation of GATT requirements. Document

MTN.GNG/NG7/W/16 provides information regarding which states used the security interest protection clause as well as which states were affected by the use of the measure. Absent an agreement on this issue, states could continue to invoke the “security interest” protection clause to justify violation of GATT requirements. Those worst off without an agreement were therefore those states that had such a clause invoked against it in the past. These states are coded with a costly BATNA of 3. Best off without an agreement were the states that had invoked the clause in the past. These states are coded with a costly BATNA of 0. The costliness of a state’s BATNA was coded 1 if it was a developed country that had not invoked Article XXI. Developed states are better off than developing states because they had greater negotiating power in order to negotiate with the invoking state to end an Article XXI action. Developing states that had not invoked and had not had Article XXI invoked against them are coded with a costly BATNA of 2.

**Article XXIV, PTAs:** This issue dealt with the question of whether to expand/revise Article XXIV to deal with the discriminatory practices of PTAs. States in PTAs therefore had the best outcome if no agreement disciplining their preferential trade practices were reached and they could thus continue trading as they had been. The EC is therefore coded with a costly BATNA of 0, given that it was a PTA so strong that it was even represented as a single actor in the GATT negotiations. The EC therefore had very strong preference to remain at the status quo and not reduce the preferential treatment captured by PTAs’ trade policies. In contrast, a state was coded as having the most costly BATNA (i.e., a costly BATNA of 3) if it was not a member of any PTA. These states faced the most costs to remain at the status quo without disciplining the preferential access granted to PTA members but not to states outside of the PTA. A state was coded with a costly BATNA of 1 if it was a member of a “major” PTA (i.e., a PTA with either the EC or the US – although it should be noted that no actual PTAs with the US were documented at this time). All other states were coded with a costly BATNA of 2. This group included states that were members of a more “minor” PTA. The data on PTA membership utilized is that put forth by the GATT in its discussion of PTA membership in document MTN.GNG/NG7/W/13.

**Article XXVIII, Renegotiating Rights:** This issue dealt with whether to revise to take into account the importance of the good to the exporter in re-negotiation cases. Doing so would help give some power to weaker states involved in these re-negotiation cases under Article XXVIII vis-à-vis larger, more powerful states they might be negotiating against. Absent an agreement to do so, weaker states would remain in a weak position when negotiating against stronger states in re-negotiation cases under Article XXVIII. The weaker the state, the worse position it was in regarding this issue if an agreement was not reached. To capture the “weakness/power” of states in these trade negotiations, I draw on a measure of states’ GDP. A state with a GDP that is more than one standard deviation above the average world GDP would be in the most powerful position in negotiations under the current Article XVIII. These states are therefore coded with a costly BATNA of 0. Conversely, state with a GDP that is less than the world average is coded with a costly BATNA of 3. A state is coded with a costly BATNA of 1 if its GDP was not more than one standard deviation above average, but it was a member of the BASIC states (the most powerful of developing countries) – Brazil, South Africa, India, and China. A state is coded with a costly BATNA of 2 otherwise.

**Article XXV, Waivers:** This issue dealt with whether or not to terminate existing waivers and make all states re-apply under the new GATT rules. States with existing waivers had the best no-agreement outcome to fall back on because remaining at the status quo would allow them to keep their waivers in place without having to renegotiate them. States with existing individual waivers were therefore coded with a costly BATNA of 0. States that had waivers as part of a group waiver that was granted are coded with a costly BATNA of 1. It should also be noted that waivers were often focused on trade in industrial goods. States that had no waiver granted to them and whose net exports of industrial products were more than one standard deviation above average are coded with a costly BATNA of 3. States were coded with a costly BATNA of 2 otherwise. The data on waivers granted is located in GATT document MTN.GNG/NG7/W/18. Data on industrial exports come from the UN ComTrade database, as captured by “manufactured goods classified chiefly by material” (category 6), “machinery and transport equipment” (category 7), and “miscellaneous manufactured goods” (category 8).

**Article XXXV:** This issue dealt with whether to discipline the use of Article XXXV. States that currently had Article XXXV invoked against it are in the worst position absent an agreement to discipline states' use of Article XXXV. Users of Article XXXV are best off if the status quo remains and the use of Article XXXV is not disciplined by an agreement that would limit its use. A state is therefore coded with a costly BATNA of 3 if it currently had Article XXXV invoked against it and have not needed to invoke it. A state is coded with a costly BATNA of 0 if it currently has Article XXXV currently invoked and does not have any Article XXXV cases invoked against it. A state is coded with a costly BATNA of 1 if it currently has Article XXXV invoked as well as having Article XXXV invoked against it, or if it does not have Article XXXV currently invoked, but has used it in the past. The costliness of a state's BATNA is coded 2 otherwise.

**Protocol of Provisional Application:** This issue dealt with whether to keep or to revise the Protocol of Provisional Application, which was signed by some GATT states in 1947 and that's language was included in several states' accession protocols when they acceded to the GATT. Document NTM/W/6/Rev.3 lists quantitative restrictions employed by states and defended under the Protocol of Provisional Application. States that had invoked the Protocol or the language of the procol in their own accession treaty were best off if that language remained, allowing certain trade barriers defended under the Protocol. The costliness of the BATNA of states that had invoked the Protocol or their Protocol for Accession (which has the same language) is therefore coded 0 on this issue. The costliness of a state's BATNA of is coded as 1 if it had not invoked the Protocol, but was a signatory to the agreement. It is coded with a costly BATNA of 3 if was neither a signatory nor had invoked the Protocol, and if its exports of industrial products were more than one standard deviation above average (as it was these products that were typically affected by the trade measures defended under the Protocol). It is coded with a costly BATNA of 2 otherwise.

## **Negotiating Group on Goods 8: MTN Agreements and Arrangements (the "Codes")**

Data for the coding of states' BATNAs on the issues in Negotiating Group 8 are drawn from multiple sources. They are described in the coding for each issue.

**Technical Barriers to Trade:** This issue dealt with whether to expand the agreement to include additional areas such as product approval, testing, inspection, and certification. Signatories to the code wanted to expand to these other areas in order to strengthen the measures that were created by the code. The status quo would be non-expansion, which would benefit non-signatories to the agreement that had an interesting in joining and for which expansion would add an additional burden to be able to join. The costliness of a state's BATNA is therefore coded 0 if it was a non-signatory to the code, and thus preferred to remain at the status quo. The costliness of a state's BATNA is coded 3 if it was a signatory to the code and had not made any qualifications to its acceptance of the code. A state is coded with a costly BATNA of 2 if it was a signatory to the code, but had joined while making certain declarations qualifying its signing of the agreement. A state is coded with a costly BATNA of 1 if it was not a signatory, but was an observer to the agreement. Data on signatories to the code come from GATT document L/5808.

**Code of Good Practice:** This issue dealt with whether or not to extend the code's requirements to the local and non-governmental level. This was aimed, in particular, at federal states because other states wanted the lower level



governmental bodies of federal states to be required to follow of the code. Absent an agreement, this requirement would not be imposed. A state is coded with a costly BATNA of 3 if it was a signatory to the code and was not a federal state. Being signatories to the code, these states would most benefit if the lower-level governments of federal states were required to follow the code's requirements, thus making those federal states more compliant than if their lower level governmental bodies were not required to follow the code. A state is coded with a costly BATNA of 0 if it was a federal signatory to the code, as these states least wanted an agreement that imposed these requirements (and thus most preferred to remain at the status quo). Among non-signatories, it would be harder on for federal states to align their policies with the agreement in order to accede to the code in the future if this agreement was made. They are therefore coded with a costly BATNA of 1, and all other non-signatories are coded with a costly BATNA of 2. Data on signatories to the code come from GATT document L/5808.

**PPM Specifications:** This issue dealt with whether to extend current disciplines of the Technical Barriers to Trade Agreement to specifications drafted in terms of process and production method (PPM). This is something of use to high-technology exporters – particularly those that were signatories to the code and thus would directly benefit from this change. The costliness of a state's BATNA is therefore coded 3 if its high-technology exports were greater than average and it was and a signatory to the Technical Barriers to Trade Code, as these states most want/need this change. The costliness of a state's BATNA is coded 2 if its high-technology exports were greater than average and it was a non-signatory, because these states, if/when they joined the code, would want these measures in place. The costliness of a state's BATNA on this issue is coded 0 if its high-technology exports were less than average and it is a signatory to the code because an agreement would immediately place additional burdens on this type of state while it would benefit little from the change. These states are therefore least interested in reaching agreement on this issue and most prefer to remain at the status quo. The costliness of a states' BATNA is coded 1 otherwise. Data on states' high-technology exports come from the World Bank indicators.<sup>9</sup> Information on signatories to the code come from GATT document L/5808.

**Anti-Dumping:** This issue dealt with whether to create stricter rules to limit scope of anti-dumping measures or whether to leave flexibility in states' ability to use these measures. States that use anti-dumping measures most prefer to remain at the status quo because this allows them flexibility to continue to use anti-dumping measures. States that have anti-dumping measures invoked against them most prefer to move from the status quo and create an agreement to limit the ability of states to turn to anti-dumping measures. The costliness of a state's BATNA is therefore coded 0 if it imposed more antidumping duties on other states than were imposed against it. The costliness of a state's BATNA is coded 3 if it had more antidumping duties imposed against it than it imposed on other states. The costliness of a state's BATNA is coded 2 if neither of the other two conditions hold and it has more investigations made against it than it instigated, and 1 otherwise. Data on antiudmping imposition and investigation can be found in GATT document MTN.GNG/NG8/W/38.

**Import Licensing:** This issue dealt with whether to limit the use of licensing (automatic and non-automatic, in particular) versus not limiting and thus allowing non-signatories some flexibility to join the code. States that use these licenses are better off if the status quo remains, while those that do not use these types of measures most prefer to reach an agreement to limit their use. A state is coded with a costly BATNA of 0 if the total number of licenses it used were greater than one standard deviation above the average number of licenses used, indicating it was a significant user of this type of trade measure. A state is coded with a costly BATNA of 1 if if the total number of licenses it used were not greater than one standard deviation above average, but were above average. A state is therefore coded with a costly BATNA of 3 if the total number of licenses it was shown to use are less than 10, and a costly BATNA of 2 otherwise. GATT document NTM/W/6/Rev.4 lists states' use of non-tariff barriers

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<sup>9</sup> Note that data on high technology imports were not available for this time period. I therefore draw on measures based on a state's exports of these products, rather than on measures based on its net exports, as is done for most other issues.

including licensing. Three of the NTB categories indicate the use of licenses of interest in the negotiation over this issue. “AL” indicates a state used an automatic license on the product of interest. “NAL” indicates a state used a non-automatic license on the product of interest. “L” indicates the use of a license, in general, with its method unspecified. I also only count licenses at the 4-digit category of goods, as some states indicated licenses used at lower levels while others did not.

**Government Procurement:** This issue dealt with whether or not to create overall threshold requirements. As Korea’s statement in GATT document MTN.GNG/NG8/W/21 explains, “The examination of the statistical data on government procurement submitted by the signatories and a study of government procurement practices of some non-signatories seem to indicate that the average percentage of the total contract value in excess of the threshold value of the signatories is lower than that for certain non-signatories which employ the centralized procurement system. Thus, if they were to accede to the Code, certain non-signatories which employ the centralized procurement system would be at a relative disadvantage in contrast to some signatories which employ the decentralized procurement system.” In other words, centralized systems are somewhat disadvantaged by the current system – particularly those that are not signatories to the code and are hoping to become so. The costliness of a state’s BATNA on this issue is therefore coded 0 if it is a federal (i.e., decentralized) signatory, and coded 1 if it is a non-federal (i.e., centralized) signatory, as all signatories are benefiting under the current code as it is. The costliness of a state’s BATNA is coded 3 if it is a non-federal (i.e., centralized) non-signatory, and 2 otherwise (i.e., if it is a federal non-signatory).

**Government Procurement: Special and Differential Treatment:** This issue dealt with whether or not developing states could join with only partial implementation of the code. The states that were best off if the status quo remained were signatories because even without an agreement, these states had access to the lower barriers put forth by other signatories to the code. The states that least benefited from remaining at the status quo were developing country non-signatories because they could not easily change their policies to fit with the code requirements and, without joining the code, could not get the benefits of others’ application of the code toward themselves. Moreover, states that were less developed had more need for this special and differential treatment than states that were more developed. The costliness of a state’s BATNA is therefore coded 0 if it was a signatory to the government procurement code. It is coded with a costly BATNA of 1 if it was a non-signatory to the code with a GDP per capita greater than one standard deviation above the average GDP per capita. It is coded with a costly BATNA of 3 if it is a non-signatory to the code with a GDP per capita that is less than average, and with a costly BATNA of 2 otherwise. GATT document L/5808 has the information on signatories to the code. Data on states’ GDP per capita was collected from UN data.

**Customs Valuation: Special and Differential Treatment:** This issue dealt with whether or not to take into account limited resources of customs administrations to ease accession to code. The states that were best off if the status quo remained were signatories because even without an agreement, these states had access to the lower barriers put forth by other signatories to the code. The states that least benefited from remaining at the status quo were developing country non-signatories because they could not easily change their policies to fit with the code requirements and, without joining the code, could not get the benefits of others’ application of the code toward themselves. Moreover, states that were less developed had more need for this special and differential treatment than states that were more developed. The costliness of a state’s BATNA is therefore coded 0 if it was a signatory to the customs valuation code. It is coded with a costly BATNA of 1 if it was a non-signatory to the code with a GDP per capita greater than one standard deviation above the average GDP per capita. It is coded with a costly BATNA of 3 if it is a non-signatory to the code with a GDP per capita that is less than average, and with a costly BATNA of 2 otherwise. GATT document L/5808 has the information on signatories to the code. Data on states’ GDP per capita was collected from UN data.

## Negotiating Group on Goods 9: Safeguards

Data for the coding of states' BATNAs on the issues in Negotiating Group 9 are drawn from multiple sources. They are described in the coding for each issue.

**Grey Area Measures:** This issue dealt with whether to allow the states to continue to use grey area measures in some cases. States that were best off if the status quo remained were therefore states that implemented these grey area measures, and those that were worst off if the status quo remained were states that had grey area measures imposed against them. A state is therefore coded with a costly BATNA of 0 if it imposed more grey area restraints than were imposed against it. It is coded with a costly BATNA of 3 if more grey area restraints were imposed against it than it imposed. Because more powerful states have a greater ability to impose grey area measures, a state is coded with a costly BATNA of 1 if it is a developed (OECD) state and 2 otherwise. Annex B(i) of GATT document MTN.GNG/NG9/W/2/Rev.1 documents states' use of all export restraints. These data are used to code this measure.

**Structural Adjustment:** This issue dealt with whether or not to allow states to use safeguard measures to address some structural adjustment problems rather than just imminent threat. States that were best off if the status quo remained were therefore states that implemented such measures, and those that were worst off if the status quo remained were states that had these types of safeguards used against it. Annex B(i) of GATT document MTN.GNG/NG9/W/2/Rev.1 documents states' use of all export restraints. This data is used to code this measure. The coding of the costliness of states' BATNAs then follows the logic of the coding for the "grey area measures" issue.

**Countermeasures:** This issue dealt with whether or not users of "legitimate" safeguards should or should not be subject to countermeasures. A legitimate safeguard is one notified under Article XIX. The costliness of state's BATNA is therefore coded 3 if more Article XIX measures were used against it than it used. The costliness of a state's BATNA is coded 0 if it used more Article XIX measures than were used against it. The costliness of a state's BATNA is coded 2 if it had not used safeguard measures but was an OECD state, and 1 otherwise. Data for the use of safeguard measures under Article XIX come from Annex A of GATT document MTN.GNG/NG9/W/2/Rev.1.

**Timeframe of Safeguards:** This issue dealt with the length of time a state should be allowed to keep a safeguard in place. States that had these measures used against them wanted to shorten the timeframe from where it currently stood while states that used these measures wanted to keep the longer timeframe in place. Those with measures in place were therefore better off under the status quo than those with measures used against them. The costliness of states' BATNAs on this issue are therefore coded using the same rule as the one used for the "countermeasures" issue.

**Special and Differential Treatment:** This issue dealt with whether or not special exceptions to these other issues should be made for developing countries. Developing states – and those, in particular, that had safeguard measures used against them – were therefore worst off if the status quo remained. A state is therefore coded with a costly BATNA of 3 if it was a developing country that had safeguards used against it. A state is coded with a costly BATNA of 0 if it was a developed (i.e., OECD) country that was a user of safeguards (using either under Article XIX or grey area measures). It is coded with a costly BATNA of 1 if it was a developed non-user, and 2 otherwise.

## Negotiating Group on Goods 10: Subsidies

Data for the coding of states' BATNAs on the issues in Negotiating Group 10 are drawn from multiple sources. They are described in the coding for each issue.

**Domestic Subsidies and Issues of Development:** This issue dealt with the question of whether or not to include domestic subsidies with certain economic and policy objectives (such as structural adjustment, research and development, and regional development) on the list of non-actionable subsidies. Inclusion on the list of non-actionable subsidies would mean that a state using such domestic subsidies could not have countervailing measures (CVMs) imposed against it. States that were worst off are developing country signatories because they are in need of exceptions for these development objectives and because they are signatories to the code, are at risk of having CVMs used against them. States that were best off if the status quo remained were developed non-signatories because they are less in need of special exemptions for development objectives and are not at risk of CVMs being used against them because they were not signatories to the code. A state is therefore coded with a costly BATNA of 0 if it was a developed non-signatory to the code, and with a costly BATNA of 3 if it was developing state signatory. A state is coded with a costly BATNA of 2 if it was a developing state non-signatory because if they tried to join the code, they would be at risk of having CVMs used against them if they tried to use domestic subsidies to achieve development objectives. A state is coded with a costly BATNA of 1 otherwise.

**Scope of Actionable Subsidies:** This issue dealt with the question of whether to expand the definition of subsidies that were actionable. Absent an agreement, the list of subsidies that could have countervailing measures imposed against states that used them would therefore include a smaller number of subsidy types than it would be if an agreement was reached. States that used CVMs, and wanted the ability to use such CVMs against a wider range of domestic subsidies, were therefore worst off at if the status quo remained. States that had CVMs used against them were states that were employing these types of actionable domestic subsidies. They therefore preferred to remain with the status quo definition that was more restrictive regarding what subsidies were actionable. Other signatories without CVMs used against them were second best off if an agreement expanding the list of actionable subsidies was not reached because they were at risk of having CVMs used against them if they did choose to employ these types of subsidies. A state is therefore coded with a costly BATNA of 3 if it was a user of CVMs from 1986-1989, when the negotiations in this group were ongoing. A state is coded with a costly BATNA of 0 if it was not a user of CVMs during this time period and had CVMs used against it. A state is coded with a costly BATNA of 1 if it was a signatory to the Subsidies and Countervailing Measures Code, but did not have CVMs used against it, and with a costly BATNA of 2 otherwise. For information on states' use of CVMs, see GATT documents L/6089, L/6254, L/6422, L/6590, and L/6762.

**Prohibition of Domestic Subsidies:** This issue dealt with the question of whether to include some types of domestic subsidies on the list of prohibited subsidies. Absent an agreement, these domestic subsidies would remain as subsidies whose use would not be prohibited. States that used CVMs, showing that they were taking actions against other states' use of domestic subsidies, were worst off if the status quo without domestic subsidies on the list of prohibited subsidies. States that had CVMs used against them were states that were using various types of domestic subsidies. They therefore preferred to remain with the status quo definition that allowed these domestic subsidies to be used. Other signatories without CVMs used against them were second best off if an agreement expanding the list of prohibited subsidies was not reached because they were in a position where they might want to be able to use such subsidies in the future. A state is therefore coded with a costly BATNA of 3 if it was a user of CVMs from 1986-1989, when the negotiations in this group were ongoing. A state is coded with a costly BATNA

of 0 if it was not a user of CVMs during this time period, but did have CVMs used against it. A state is coded with a costly BATNA of 1 if it was a signatory to the Subsidies and Countervailing Measures Code, but did not have CVMs used against it, and with a costly BATNA of 2 otherwise. For information on states' use of CVMs, see GATT documents L/6089, L/6254, L/6422, L/6590, and L/6762.

**Primary Products:** This issue dealt with the question of whether or not to expand the ban on export subsidies on industrial products to include primary (agricultural) products as well. Absent an agreement, states would remain able to use export subsidies on primary (agricultural) products. States that were worst off if export subsidies on primary products remained in place were major exporters of agricultural products. A state is therefore coded with a costly BATNA of 3 if it had made no notifications regarding its use of agricultural export subsidies and its net exports of agricultural products as a percent of its GDP or total trade was greater than average. It is coded with a costly BATNA of 2 if it made no notifications regarding the use of agricultural export subsidies, and it was a net exporter of agricultural products, but its net exports as a percent of its GDP and total trade was less than average. The costliness of a state's BATNA is coded 0 if it notified its use of export subsidies. The costliness of a state's BATNA is coded 1 otherwise. Data for this measure come from WTO data on agricultural exports/imports and the WTO's agricultural information management system, "notified information."

**Definition of Domestic Industry:** This issue dealt with the question of whether to include processed primary products in the definition of "domestic industry." Major exporters of agricultural products wanted to expand the definition of "domestic industry" in this way in order to prevent subsidies from being used to distort international trade in agricultural products. Major agricultural exporters were therefore worst off if the status quo (which was characterized by a lack of inclusion of processed primary products in the definition) remained in place. The costliness of a state's BATNA is therefore coded 3 if its net agricultural exports as a percent of its GDP or as a percent of its total trade were greater than one standard deviation above average. The costliness of a state's BATNA is coded 0 if its net agricultural exports as a percent of its GDP or as a percent of its total trade were less than one standard deviation below average. The costliness of a state's BATNA is coded 2 if neither of the two previous conditions hold and its net exports of agricultural products as a percent of its GDP and as a percent of its total trade were greater than average, and is coded 1 otherwise.

**Special and Differential Treatment:** This issue dealt with the question of whether to provide developing states with special and differential treatment regarding their ability to use domestic subsidies to support their domestic industries. Following the standard coding rule for special and differential treatment issues, a state is coded with a costly BATNA of 0 if it was a developed state (i.e., OECD member). It is coded with a costly BATNA of 1 if it was not an OECD member but its GDP per capita was greater than one standard deviation above average. A state is coded with a costly BATNA of 3 on this issue if its GDP per capita was less than average, and with a costly BATNA of 2 otherwise. Data on states' GDP per capita was collected from UN data.

**Definition of Material Injury:** This issue dealt with the question of whether or to count cumulative effects of domestic subsidies in the definition of material injury or whether to make non-cumulative calculations. States that wanted to expand the number of actionable subsidies were in support of a cumulative calculation that would increase the number of subsidies that would be considered actionable. The coding of states' BATNAs for this issue therefore follows the same rule as that used for the coding of the "Scope of Actionable Subsidies" issue.

## Negotiating Group on Goods 11: TRIPs (Trade-Related Aspects of Intellectual Property Rights)

Data for the coding of states' BATNAs on the issues in Negotiating Group 11 are drawn from multiple sources. They are described in the coding for each issue.

**Counterfeit Goods:** This issue dealt with the improvement of the enforcement of the prevention of trade in counterfeit goods. Data for the coding of this issue come from GATT document MTN.GNG/NG11/W/8. The costliness of a state's BATNA is coded 3 if it complained about this issue and was not complained against. The costliness of a state's BATNA is coded 0 if filed no complaint and was complained against. The costliness of a state's BATNA is coded 2 if it complained and was complained against, and coded 1 otherwise.

**Dispute Settlement:** This issue dealt with whether or not to include IPR protections in the GATT dispute settlement mechanism. Data for this coding are based on states' membership in the IPR protection conventions – the Paris and Berne Conventions – and whether or not states opted in to the dispute settlement mechanism under those conventions. Membership in these conventions indicates a state that is likely more concerned with IPR protections, and not opting out of the dispute settlement process indicates a state that likely supports dispute settlement procedures regarding IPR issues. A state is coded with a costly BATNA of 0 if it was not even a member of at least one of these two conventions. A state is coded with a costly BATNA of 1 if it was a member of both conventions, but opted out of the dispute settlement process in both. A state is coded with a costly BATNA of 2 if it was a member of both conventions, but opted out of the dispute settlement process in one of them. A state is coded with a costly BATNA of 3 otherwise (i.e., if it was a member of both and did not opt out of the dispute settlement mechanism under either convention). GATT document MTN.GNG/NG11/W/13 provides information on membership in these conventions. GATT document MGN.GNG/NG11/W/18 provides information dispute settlement opt-outs.

**Technology Transfer:** This issue dealt with whether or not states can limit IPR protections in order to facilitate technology transfer to developing countries, facilitating economic development. States with more advanced technology are therefore more likely to prefer not to violate IPR protections in order to facilitate the transfer of their technology to other states. States with less advanced technology are worse off if no such transfers are facilitated. States' BATNAs are therefore coded based on the number of scientific and research articles that were published in their state. This indicator covers a wide range of technologies that could be covered by IPR protections, and is data that is available during the time of interest – during this group's negotiations. A state is therefore coded with a costly BATNA of 0 if more than 10,000 research articles were published in that state, and a costly BATNA of 1 if the number of scholarly articles published in that state is less than 10,00 but greater than average. The costliness of a state's BATNA is coded 2 if the number of research articles published in that state exceeds 1000 but is less than average, and coded 3 otherwise (i.e., if the number of research articles published in that state is less than 1000).

**Trade Secrets:** This issue dealt with whether states should be required to protect trade secrets under GATT rules. The status quo was the lack of such protections in place. States in greater need of such protections were therefore in a worse position if an agreement to protect trade secrets was not reached. A state's BATNA is coded based on its level of high technology exports, as a large number of trade secrets stem from this sector. The costliness of a state's BATNA is coded 3 if its high technology exports were greater than one standard deviation above average. The costliness of a state's BATNA is coded 2 if its high technology exports were not greater than one standard deviation above average, but were greater than average. The costliness of a state's BATNA is coded 0 if that state had less

than \$1 million in high technology exports and 1 otherwise. Data for this measure come from the 1993 World Bank Indicators.<sup>10</sup>

**Establish Internal Enforcement:** This issue dealt with whether or not to establish international disciplines regarding how IPRs had to be protected in states' domestic legislation. States with with lesser protections in place were best off under the current status quo because remaining at the status quo would not require them to alter their national legislation, as an agreement would do. States' BATNAs are therefore based on a proxy for the level of regulation of IPR rules in each state. The data come from information on states' regulatory capacity that comes from the World Bank Worldwide Governance Indicators. A state is coded with a costly BATNA of 3 if its own regulatory quality was greater than one standard deviation above average. A state is coded with a costly BATNA of 0 if its own regulatory quality was less than one standard deviation below average. If neither of those two conditions hold, a state is coded with a costly BATNA of 2 if its own regulatory quality was above average and 1 otherwise.

**Patents:** This issue dealt with the degree to which patent rights should be protected under the agreement. Given that the status quo was characterized by the lack of such an agreement, states whose industries were producing a greater number of patents that needed to be protected faced a worse status quo than states whose industries produced fewer patents. A state is therefore coded with a costly BATNA of 3 on this issue if the number of patents granted in that state was more than one standard deviation above average. A state is coded with a costly BATNA of 0 if no patents were granted in that state. A state is coded with a costly BATNA of 2 if the number of patents granted in that state was more than average, and with a costly BATNA of 1 otherwise. Data for this measure come from the World Intellectual Property Organization database, direct and PCT national phase entries total count by filing office.

**Trademarks:** This issue dealt with the degree to which trademark rights should be protected under the agreement. Given that the status quo was characterized by the lack of such an agreement, states whose industries registered a greater number of trademarks that needed to be protected faced a worse status quo than states whose industries produced fewer trademarks. A state is therefore coded with a costly BATNA of 3 on this issue if the number of trademarks registered in that state was more than one standard deviation above average. A state is coded with a costly BATNA of 0 if no trademarks were registered in that state. A state is coded with a costly BATNA of 2 if the number of trademarks registered in that state was more than average, and with a costly BATNA of 1 otherwise. Data for this measure come from the World Intellectual Property Organization database, counting the number of direct registrations as well as those made via the Madrid system, total count by filing office.

**Comprehensive Nature of the Agreement:** This issue dealt with whether full participation in the agreement would be required. Given that the agreement was designed to deal with *all* IPRs, the costly nature of a state's BATNA was coded based on its use of patents, trademarks and industrial designs. A state is therefore coded with a costly BATNA of 3 on this issue if the number of patents, trademarks, and industrial designs filed in that state is greater than one standard deviation above average. A state is coded with a costly BATNA of 0 if less than 1000 patents, trademarks, or industrial designs were filed in that state. A state is coded with a costly BATNA of 2 if the number of patents, trademarks, and industrial designs filed in that state was greater than average, and with a costly BATNA of 1 otherwise. Data for this measure come from the World Intellectual Property Organization database, counting the number of direct registrations as well as those made via the Madrid system, total count by filing office.

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<sup>10</sup> 1993 is the earliest that this data was available for a larger number of states. It is therefore used a proxy for the amount of technology exports a state likely had during the negotiations the late 1980s. I draw on a state's level of exports instead of net exports because data on imports of high technology products was not available.

**Minimum Standards:** This issue dealt with whether minimum standards for IPR protections should be set at the international level. Given that the agreement was designed to deal with *all* IPRs, the costly nature of a state's BATNA was coded based on its use of patents, trademarks and industrial designs. The coding procedure therefore follows that of the "comprehensive nature of the agreement" issue.

**Non-discrimination:** This issue dealt with whether to apply the GATT principles of MFN and national treatment to IPR protections. Given that the agreement was designed to deal with *all* IPRs, the costly nature of a state's BATNA was coded based on its use of patents, trademarks and industrial designs. The coding procedure therefore follows that of the "comprehensive nature of the agreement" issue.



## Negotiating Group on Goods 12: TRIMs (Trade-Related Aspects of Investment Measures)

Data for the coding of states' BATNAs on the issues in Negotiating Group 12 is largely based on states' net flows of foreign direct investment. The data for this measure come from UNCTAD's database, "inward and outward foreign direct investment flows."

**How to deal with TRIMs:** This issue dealt with how to approach the issue of investment. The debate was between whether to prohibit/discipline specific measures or whether or not to deal with the effects, not the measures themselves. States that were exporting more investment capital were worse off if the status quo remained (characterized by the use of investment-limiting measures), and preferred to institute prohibitions on these measures. The costliness of a state's BATNA is therefore coded 3 if its net outflows of FDI were greater than one standard deviation above average. The costliness of a state's BATNA is coded 0 if it was a net importer of FDI. The costliness of a state's BATNA was coded 2 if its net outflows of FDI were greater than average, and 1 otherwise.

**Local Content Requirements:** This issue dealt with whether or not to limit states' ability to impose local content requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded 3 if its net outflows of FDI were greater than one standard deviation above average. The costliness of a state's BATNA is coded 0 if it was a net importer of FDI. The costliness of a state's BATNA was coded 2 if its net outflows of FDI were greater than average, and 1 otherwise.

**Local Equity Requirements:** This issue dealt with whether or not to limit states' ability to impose local equity requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Trade Balancing Requirements:** This issue dealt with whether or not to limit states' ability to impose trade balancing requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Technology Transfer Requirements:** This issue dealt with whether or not to require foreign investors to engage in technology transfer to the countries in which they were investing. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Licensing Requirements:** This issue dealt with whether or not to limit states' ability to impose licensing requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Remittance and Exchange Restrictions:** This issue dealt with whether or not to allow states to impose remittance and exchange restrictions on foreign direct investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Manufacturing Requirements:** This issue dealt with whether or not to limit states' ability to impose manufacturing requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Incentives:** This issue dealt with whether or not to limit states' ability to provide incentives to encourage research and development. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Product Mandating Requirements:** This issue dealt with whether or not to limit states' ability to impose product mandating requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Export Performance Requirements:** This issue dealt with whether or not to limit states' ability to impose export performance requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**Domestic Sales Requirements:** This issue dealt with whether or not to limit states' ability to impose domestic sales requirements on foreign investors. States that were exporting more investment capital were worst off if the status quo (characterized by the current use of the measures) remained. The costliness of a state's BATNA is therefore coded using the same coding rules as for the issue of "local content requirements."

**IMs for Development:** This issue dealt with whether to let developing states use investment measures for development purposes. Following the standard coding rule for special and differential treatment issues, a state is coded with a costly BATNA of 0 if it was a developed state (i.e., OECD member). It is coded with a costly BATNA of 1 if it was not an OECD member but its GDP per capita was greater than one standard deviation above average. A state is coded with a costly BATNA of 3 on this issue if its GDP per capita was less than average, and with a costly BATNA of 2 otherwise. Data on states' GDP per capita was collected from UN data.

## **Negotiating Group on Goods 13: Dispute Settlement**

Data for the coding of states' BATNAs on the issues in Negotiating Group 13 is largely based on states' use of the GATT's dispute settlement mechanism to date. The data for this measure come from GATT document MTN.GNG/NG13/W/4/Rev.1.

**Adoption of Panel Reports:** This issue dealt with whether or not to make the adoption of panel reports automatic or whether to require consensus for a panel report to be adopted. Given that the status quo was characterized by

non-automatic adoption, states that had more complaints filed were worst off if an agreement to move to automatic adoption was not reached on this issue. A state is therefore coded with a costly BATNA of 0 if it had complaints raised against it and had not raised any of its own complaints. A state is coded with a costly BATNA of 3 if it had raised complaints against other states, but did not have any complaints raised against it. A state is coded with a BATNA of 1 if a state had raised its own complaints, but the number of complaints against it was greater than or equal to the number of complaints it had raised. The costliness of a state's BATNA is coded 2 otherwise.

**Implementation of Rulings Under Article XIII:2:** This issue dealt with whether to create more stringent procedures (including surveillance) to aid in the prompt implementation of rulings. Given that the status quo was characterized by less stringent procedures states that had filed more complaints were worst off if an agreement to move to stricter measures was not reached on this issue. A state's BATNA is therefore coded using the same coding rule that was used for the "adoption of panel reports" issue.

**Retaliation Procedures:** This issue dealt with whether states should have an automatic right to retaliate or whether authorization would be required for retaliation. Given that the status quo was characterized by authorization requirements, the states that had filed a greater number of complaints, and therefore would be in need of the retaliation option, were worst off if an agreement to move to automatic retaliation was not reached. A state's BATNA is therefore coded using the same coding rule that was used for the "adoption of panel reports" issue.

**When to Establish Panels:** This issue dealt with whether or not a request for a panel must be met or whether such a request could be blocked. Given that the status quo was characterized by the possibility that a panel might not be established under certain conditions, states that were more in need of dispute settlement panels to follow through with their complaints were worst off if an agreement to institute these panels more easily was not reached. A state's BATNA is therefore coded using the same coding rule that was used for the "adoption of panel reports" issue.

**Terms of Reference:** This issue dealt with whether to have standard terms of reference for all disputes or whether to use special terms of reference for each case. States that filed more complaints were more in favor of establishing standard terms of reference that could be used across all cases. A state's BATNA is therefore coded using the same coding rule that was used for the "adoption of panel reports" issue.

**Third Party Action:** This issue dealt with whether or not to allow third party actions in the dispute settlement process. Given that the status quo was characterized by limitations on the ability of third parties to participate, states that were often defenders in the dispute settlement process were best off if an agreement facilitating the ability of third parties to take actions against them was not reached and the status quo process remained. A state's BATNA is therefore coded using the same coding rule that was used for the "adoption of panel reports" issue.

**Retroactive Prejudice:** This issue dealt with whether or not to include "retroactive prejudice" in the estimation of damages. Given that the status quo was characterized by limitations on the ability of retroactive prejudice to be used in the estimation of damages caused by states' use of measures inconsistent with GATT rules, states that had more complaints filed against other states were worst off if an agreement to facilitate the invocation of retroactive prejudice was not reached. A state's BATNA is therefore coded using the same coding rule that was used for the "adoption of panel reports" issue.

**Special and Differential Treatment:** This issue dealt with whether to provide developing states with special treatment regarding the filing of complaints and/or when complaints were filed against it. Following the standard

coding rule for special and differential treatment issues, a state is coded with a costly BATNA of 0 if it was a developed state (i.e., OECD member). It is coded with a costly BATNA of 1 if it was not an OECD member but its GDP per capita was greater than one standard deviation above average. A state is coded with a costly BATNA of 3 on this issue if its GDP per capita was less than average, and with a costly BATNA of 2 otherwise. Data on states' GDP per capita was collected from UN data.

**Panel Composition:** This issue dealt with whether or not states could have government representatives on panels or whether panels should just be composed of non-governmental experts. The possibility to include government representatives, which was the status quo rule, was pushed largely by the developing states. A state is therefore coded with a costly BATNA of 3 if it was a developed (OECD) state – i.e., a state that was pushing for an agreement to change this rule. A state is coded with a costly BATNA of 2 if its GDP per capita was greater than one standard deviation above average. A state is coded with a costly BATNA of 0 on this issue if its GDP per capita was less than average, and with a costly BATNA of 1 otherwise. Data on states' GDP per capita was collected from UN data.

## **Negotiating Group on Goods 14: Functioning of GATT**

Data for the coding of states' BATNAs on the issues in Negotiating Group 14 are drawn from multiple sources. They are described in the coding for each issue.

**Trade Policy Review Mechanism (TPRM):** This issue dealt with whether to establish a trade policy review mechanism to regularly review the trade policies of all GATT member states. Developing states were largely opposed to the establishment of such a mechanism because they argued that they lacked the resources to be able to supply regular reports to the GATT. These states were therefore best off if an agreement establishing such a review mechanism was not reached. The costliness of a state's BATNA is therefore coded 0 if its GDP per capita was less than average, and 3 if it was a developed (OECD) state. The costliness of a state's BATNA was coded 2 if it was not an OECD state but its GDP per capita was greater than one standard deviation above average, and 1 otherwise. Data on states' GDP per capita was collected from UN data.

**Transparency:** This issue dealt with whether to require states to improve their domestic policies regarding transparency. Given that the status quo was characterized by the lack of improvement requirements, states that were least in favor of establishing such requirements were best off if the status quo remained. Given that the developing countries were generally less supportive of a move toward requiring the improvement of domestic policies because they lacked the resources to carry out such improvements, these states are coded with the least costly of BATNAs, while more developed states that were more in favor of such increased transparency were worst off absent an agreement. The costliness of states' BATNAs is therefore coded using the same rules as those used to code the "Trade Policy Review Mechanism" issue.

**Notification Procedures:** This issue dealt with whether or to increase states' notification requirements to the GATT. The costliness of states' BATNAs is coded using the same rules as those to code the "trade policy review mechanism" issue for the same basic reason – that developing states had fewer resources which were needed to carry out these increased notification procedures. Less developed states had less of a desire to reach an agreement on this issue.

**Small Ministerial Group:** This issue dealt with whether or not to establish a small ministerial group equivalent to the Consultative Group of 18 (CG18) under the GATT. The status quo was characterized by the lack of such a group. States that were more in favor of its establishment were therefore worse off absent an agreement. States that were members of CG18 likely expected that they would also be members of this new ministerial group, and were therefore more in favor of its establishment. Out of non-members, developing states, with less power were less likely to be able to be members of the committee. The costliness of states' BATNAs on this issue is therefore coded based on their CG18 membership and development status. A state is coded with a costly BATNA of 3 if it was a member of CG18. A state is coded with a costly BATNA of 0 if it was not a CG18 member and its GDP per capita was less than average. A state is coded with a costly BATNA of 2 if it was not a CG18 member and its GDP per capita was greater than one standard deviation above average. A state is coded with a costly BATNA of 1 otherwise.

**Multilateral Trade Organization (MTO):** This issue dealt with whether or not to create a multilateral trade organization (MTO). The costliness of states' BATNAs on this issue is coded using the same rules as those used to code the "trade policy review mechanism" issue for the same basic reason. The status quo was characterized by the lack of such an MTO. Developing states which had the fewest resources to dedicate to such an organization were best off absent its establishment because having more centralized rules to fix policies can impose higher costs on states. These states were therefore least in favor of its establishment and therefore better off if the status quo remained than those states that desired to have such an MTO established.

**Linkages to Other Economic Policies:** This issue dealt with whether states should make a formal commitment to pursue linkages between trade, financial, and monetary aspects of economic policy. States that faced balance of payments problems were worst off if the status quo absent such formal linkages remained because they needed such linkages to be able to use trade policy to help them deal with their balance of payments issues. States consulting with the GATT under Article XVIII:B (regarding balance of payments issues) are therefore coded with a costly BATNA of 3. Because balance of payments issues was largely a problem faced by the developing countries, developed countries were in the best position if an agreement extending special treatment to deal with these issue was not reached. OECD members are therefore coded with having a costly BATNA of 0. The states that were second worst off absent an agreement were states that were consulting with the GATT, but were not in a dire enough position to do so under Article XVIII:B. These states are coded with a costly BATNA of 2. States are coded with a costly BATNA of 1 otherwise. The data on states' status regarding consultations on balance of payments issues can be found in GATT document MTN.GNG/NG7/W/14.

**Link GATT to IMF and World Bank:** This issue further extended the issue regarding whether or not to make a formal commitment to pursue linkages between trade, financial, and monetary aspects of economic policy by creating formal linkages between the GATT, IMF, and World Bank. This linkage was largely requested by states that were facing debt problems, and therefore desired linkages between GATT policy and the loans given out by the IMF and World Bank in order to have trade policy help them to deal with their debt problems. Given that the status quo was characterized by a lack of such formal linkages, states with greater debt were worse off absent an agreement. A state is therefore coded with a costly BATNA of 3 if its debt was greater than the average plus one standard deviation. A state is coded with a costly BATNA of 0 if it did not have such debts. A state is coded with a costly BATNA of 2 if its debt was greater than average, and 1 otherwise. States' debt data comes from the World Bank Indicators, "External debt stocks, total (DOD, current US\$)."

## **Negotiating Group on Services**

Data for the coding of states' BATNAs on the issues in the Negotiating Group on Services (NGS) is largely based on states' exports and imports of services. The data for this measure come from the WTO database.

**GATT Competence:** This issue dealt with whether GATT competence in the area of trade in services should be expanded. Given that the status quo was characterized by the lack of GATT involvement in the area of trade in services, states with a greater amount of services exports, and thus that wanted to expand the GATT's role, were worse off absent an agreement to expand the GATT's competence in this sector so that it could work to liberalize trade in services. The costliness of a state's BATNA on this issue is therefore coded 3 if its net services exports as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. The costliness of a state's BATNA is coded 0 if its net services exports as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. The costliness of a state's BATNA was coded 2 if its net services exports as a percent of its GDP and as a percent of its total trade was greater than average, and coded 1 otherwise.

**Liberalize versus Focus on Development:** This issue dealt with the question of whether or not the goal of these services negotiations should be to liberalize trade in services or to create rules to allow states to regulate trade in services for purposes of economic growth and development. Given that the status quo was characterized by barriers to trade in services, states that exported a greater amount of services were worse off if the status quo remained than if an agreement liberalizing trade in services was reached. The costliness of states' BATNAs on this issue is therefore coded based on states' net exports of trade in services. It is therefore coded using the same coding rule as that used to code the "GATT competence" issue.

**Subject to GATT Principles:** This issue dealt with whether or not to subject trade in services to GATT principles of MFN treatment and national treatment. Given that the status quo was characterized by the lack of application of these principles to trade in services, states that most wanted to liberalize trade (i.e., states that exported a greater amount of services) were worse off if the status quo remained. The costliness of states' BATNAs on this issue is therefore coded using the same coding rule as that used to code the "GATT competence" issue.

**Scope of "Trade-able Services":** This issue dealt with the question of whether to focus liberalization of trade in services on labor-intensive services or on other types of services such as financial services. The costliness of states' BATNAs is therefore based on the percent of the services sector compared of financial services. The data come from the IMF, with total services using the indicator: "Current Account, Goods and Services, Services, Financial services, Credit, US Dollars" and financial services using the indicator: "Current Account, Goods and Services, Services, Financial services, Credit, US Dollars". Not many states actually reported financial sector statistics. Given that states with a larger financial sector are likely to want a broader scope for trade-able services, the costliness of a state's BATNA is coded in the following way. A state is coded with a costly BATNA of 3 if its reported percent of services in the financial sector is greater than one standard deviation above the average of those reporting. A state is coded with a costly BATNA of 2 if it reported financial services sector information but it is not above one standard deviation above the average. A state is coded with a costly BATNA of 0 if it reported services information but not information with regard to the financial sector, as that indicates that the financial sector was likely very small relative to its overall services production. The costliness of a state's BATNA is coded 1 otherwise.

**Definition of "Trade" in Services:** This issue dealt with whether the definition of trade in services should only include services trade across borders or whether it should include both trade across borders and internal establishment. Given that the status quo was characterized by a lack of liberalization of services, and that states exporting a greater amount of services want a more broad definition of services to liberalize, the costliness of a state's BATNA is coded based on states' net exports of services. The coding rule is therefore the same as the rule used to code the "GATT competence" issue.

**Process of Liberalization:** This issue dealt with the whether states should use a formula approach to liberalization in services or whether to use a request/offer approach. The status quo was characterized by the lack of liberalization of trade in services. States that exported a greater amount of services (and thus wanted as broad a liberalization process as possible) were therefore worse off if the formula approach was not adopted instead of the standard request/offer approach. The costliness of a state's BATNA is therefore coded based on states' net exports of services. The coding rule is thus the same as the rule used to code the "GATT competence" issue.

**Dismantle National Regulations:** This issue dealt with whether states' national regulations on services imports should be required to be dismantled under GATT rules. Given that the status quo was characterized by the existence of national regulations, states that exported a greater amount of services (and thus wanted these regulations to be dismantled) were therefore worse off if an agreement to do so was not reached, the costliness of a state's BATNA is coded based on states' net exports of services. The coding rule is therefore the same as the rule used to code the "GATT competence" issue.

**Special and Differential Treatment:** This issue dealt with the question of whether special and differential treatment should be accorded to developing countries, allowing them to maintain certain protectionist measures in the area of trade in services. Following the standard coding rule for special and differential treatment issues, a state is coded with a costly BATNA of 0 if it was a developed state (i.e., OECD member). It is coded with a costly BATNA of 1 if it was not an OECD member but its GDP per capita was greater than one standard deviation above average. A state is coded with a costly BATNA of 3 on this issue if its GDP per capita was less than average, and with a costly BATNA of 2 otherwise. Data on states' GDP per capita was collected from UN data.

**Dispute Settlement:** This issue dealt with whether trade in services should be subject to the dispute settlement mechanism of the GATT. Given that the status quo was characterized by the lack of a GATT dispute settlement process regarding trade in services, and the fact that states exporting a greater amount of services (and that thus wanted the ability to use a dispute settlement process to allow them to file complaints against that violated the liberalization process), the costliness of a state's BATNA is coded based on states' net exports of services. The coding rule is therefore the same as the rule used to code the "GATT competence" issue.

**Technology Transfer:** This issue dealt with whether developing states could require technology transfer from industries exporting services to their state and thus facilitating economic development. States with more advanced technology are therefore more likely to prefer not to be required to facilitate the transfer of their technology to other states. States with less advanced technology are worse off if no such transfers are facilitated. States' BATNAs are therefore coded based on the number of scientific and research articles that were published in their state. This indicator covers a wide range of technologies that could be required to be shared, and is data that is available during the time of interest – during this group's negotiations. A state is therefore coded with a costly BATNA of 0 if more than 10,000 research articles were published in that state, and a costly BATNA of 1 if the number of scholarly articles published in that state is less than 1,000 but greater than average. The costliness of a state's BATNA is coded 2 if the number of research articles published in that state exceeds 1,000 but is less than average, and coded 3 otherwise (i.e., if the number of research articles published in that state is less than 1000).

**Safeguards:** This issue dealt with whether or not developing states would be allowed to use safeguards in the services sector for balance of payments reasons. The costliness of a state's BATNA is therefore based on its balance of payments status. Given that the status quo is not characterized by an allowance for safeguards regarding trade in services (because services were not covered by the GATT's safeguard rules), states with greater balance of payments problems were worse off if an agreement allowing such safeguards to be used was not reached. The states worst off if an agreement was not reached to extend special treatment to states dealing with balance of payments

issues were those consulting with the GATT under Article XVIII:B to deal with precisely this issue. These states are therefore coded with a costly BATNA of 3. Because balance of payments issues was largely a problem faced by the developing countries, developed countries were in the best position if an agreement extending special treatment to deal with these issue was not reached. OECD members are therefore coded with having a costly BATNA of 0. The states that were second worst off absent an agreement were states that were consulting with the GATT, but were not in a dire enough position to do so under Article XVIII:B. These states are coded with a costly BATNA of 2. States are coded with a costly BATNA of 1 otherwise. The data on states' status regarding consultations on balance of payments issues can be found in GATT document MTN.GNG/NG7/W/14.

## **Negotiations over the Draft Final Act.**

The coding of states' BATNAs in this negotiation follow the rules laid out by Author (2015), who analyzes the overarching issues in this negotiation in her analysis of the Uruguay Round.

**Tariffs:** This issue dealt with the overall liberalization of tariffs. The costliness of a state's BATNA is therefore coded 3 if its net merchandise exports as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. The costliness of a state's BATNA is coded 0 if its net merchandise exports as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. The costliness of a state's BATNA is coded 2 if its net merchandise exports as a percent of its GDP and as a percent of its total trade was greater than average, and coded 1 otherwise. Data on states' merchandise trade come from WTO trade data, "total merchandise trade."

**Non-tariff Barriers:** This issue dealt with the removal of NTBs across the board. States that faced greater barriers to their exports because of other states' use of NTBs were therefore worst off if an agreement removing these barriers was not reached. The costliness of a state's BATNA is therefore coded based on the number of requests it made for other states to reduce their NTBs and the requests made of it.<sup>11</sup> The costliness of a state's BATNA is coded 3 if it was a net requester, 2 if it was not a net requester but made requests for other states to reduce their NTBs, 0 if its net requests were less than -100, and 1 otherwise. Data on states' requests come from MTN.GNG/NG2/RS/1 - MTN.GNG/NG2/RS/34.

**Natural Resource-Based Products:** This issue dealt with the overall removal of barriers to trade in natural resource-based products – fisheries, non-ferrous minerals, and forestry. The costliness of states' BATNAs in this overarching issue area is therefore coded based on states' net exports in these three sectors. The costliness of a state's BATNA on this issue is coded 3 if its net exports in these three sectors as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. The costliness of a state's BATNA on this issue is coded 0 if its net exports in these three sectors as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. The costliness of a state's BATNA on this issue was coded 2 if its net exports in these three sectors as a percent of its GDP and as a percent of its total trade was above average, and 1 otherwise. Data on states' exports/imports of fisheries, non-ferrous minerals, and forestry products come from UN ComTrade SITC Rev.1 categories 03, 283, 284, 24, 2512, 2516, 2517, 2518, and 2519.

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<sup>11</sup> Basing the coding of this overarching issue based on states' requests made and received regarding the reduction of NTBs is consistent with the coding by Author (2015) in her analysis of the negotiations over the Draft Final Act.



**Textiles:** This issue dealt with the overall removal of barriers to trade in textile and clothing products. The costliness of states' BATNAs in this overarching issue area is therefore coded based on states' net exports in these sectors. The costliness of a state's BATNA on this issue is coded 3 if its net exports in textiles and clothing as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. The costliness of a state's BATNA on this issue is coded 0 if its net exports in textiles and clothing as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. The costliness of a state's BATNA on this issue was coded 2 if its net exports in textiles and clothing as a percent of its GDP and as a percent of its total trade was above average, and 1 otherwise. Data on states' exports/imports of textiles and clothing come from UN ComTrade SITC Rev.1 categories 65 and 841.

**Agriculture:** This issue dealt with the overall removal of barriers to trade in agricultural products. The costliness of states' BATNAs in this overarching issue area is therefore coded based on states' net exports in this sector. The costliness of a state's BATNA on this issue is coded 3 if its net exports in agricultural products as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. The costliness of a state's BATNA on this issue is coded 0 if its net exports in agricultural products as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. The costliness of a state's BATNA on this issue was coded 2 if its net exports in agricultural products as a percent of its GDP and as a percent of its total trade was above average, and 1 otherwise. Data on states' exports/imports of agriculture come from the WTO's data on agricultural exports and imports.

**Tropical Products:** This issue dealt with the overall removal of barriers to trade in tropical products. The costliness of states' BATNAs in this overarching issue is therefore coded based on states' net exports in this sector. The costliness of a state's BATNA on this issue is coded 3 if its net exports in tropical products as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. The costliness of a state's BATNA on this issue is coded 0 if its net exports in tropical products as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. The costliness of a state's BATNA on this issue was coded 2 if its net exports in tropical products as a percent of its GDP and as a percent of its total trade was above average, and 1 otherwise. Data on states' exports/imports of tropical products come from UN ComTrade SITC Rev.1 categories 0513, 071, 072, 074, 075, 2927, 2923, 05195, 05201, 05171, 05173, 23, 242, 2926, 042, 121, 4222, 4223, and 4224.

**GATT Articles:** This issue dealt with the negotiation of various GATT Articles. Given that one of the key concerns dealt with states' balance of payments and debt problems, the costliness of states' BATNAs for this overarching issue are coded based on states' debt. A state is coded with a costly BATNA of 0 if it had no debt. A state is coded with a costly BATNA of 3 if its debt was greater than one standard deviation above the states' average debt. A state is coded with a costly BATNA of 2 if its debt was greater than average, and 1 otherwise. States' debt data comes from the World Bank Indicators, "External debt stocks, total (DOD, current US dollars)."

**MTN Agreements and Arrangements (the "Codes"):** This issue dealt with the codes negotiated during the Tokyo Round. Given that one of the key concerns at stake in the re-negotiation of the codes was the ability for new states to accede, the costliness of states' BATNAs for this overarching issue are coded based on their current membership to the codes. A state is coded with a costly BATNA of 0 if it signed or was an observer to all of the codes. A state is coded with a costly BATNA of 1 if it signed or was an observer to five or more codes (more than half). A state is coded with a costly BATNA of 2 if it signed or was an observer to any of the codes, and 3 if it had not signed and was not an observer to any of the codes.

**Safeguards:** This issue dealt with the negotiation of requirements and limitations on states' ability to use safeguards when they felt their economy was threatened by trade with other states. Given that one of the key

concerns at stake in the negotiations over safeguards was the ability of states to use grey area measures like voluntary export restraints, the costliness of states' BATNAs for this overarching issue are coded based on their use of these types of measures. A state is coded with a costly BATNA of 0 if it imposed more export restraints than were imposed against it. A state is coded with a costly BATNA of 3 if it didn't impose any restraints on other states and restraints were imposed against it. A state is coded with a costly BATNA of 1 if it did impose some restraints against other states, but more restraints were imposed against it than it imposed. A state is coded with a costly BATNA of 2 otherwise. Data on states' use of export restraints come from GATT document MTN.GNG/NG9/W/2/Rev.1.

**Subsidies:** This issue dealt with the negotiation of limitations on states' ability to use subsidies. Given that one of the key concerns at stake in the negotiations over subsidies was whether or not to impose limitations on states' ability to use export subsidies, and that export subsidies are used mainly in the agricultural sector, the costliness of states' BATNAs for this overarching issue are coded based on their agricultural exports and use of export subsidies. The costliness of a state's BATNA for this issue is coded 3 if it made no notification regarding its use of export subsidies and its net agricultural exports as a percent of its GDP or total trade are greater than average, as this indicates they do not use such measures and are hurt by others' use of them. The costliness of a state's BATNA for this issue is coded 2 if it made no notification that it uses export subsidies but it is a net exporter and its net exports as a percent of its GDP and of its total trade are less than average. The costliness of a state's BATNA is coded 0 for this issue if it made a notification and its net exports as a percent of its GDP or total trade are greater than average, and is coded 1 otherwise. Data on states' notification of export subsidies come from the WTO's agricultural information management system ("notified information"), and data on state's imports and exports of agricultural products come from the WTO database.

**TRIPs:** This issue dealt with the negotiation of protections for intellectual property rights. Given that the agreement was designed to deal with *all* IPRs, the costly nature of a state's BATNA was coded based on its use of patents, trademarks and industrial designs. A state is therefore coded with a costly BATNA of 3 on this issue if the number of patents, trademarks, and industrial designs filed in that state is greater than one standard deviation above average. A state is coded with a costly BATNA of 0 if less than 1000 patents, trademarks, or industrial designs were filed in that state. A state is coded with a costly BATNA of 2 if the number of patents, trademarks, and industrial designs filed in that state was greater than average, and with a costly BATNA of 1 otherwise. Data for this measure come from the World Intellectual Property Organization database, counting the number of direct registrations as well as those made via the Madrid system, total count by filing office.

**TRIMs:** This issue dealt with the breaking down protectionist measures used in the area of investment. Given that the key concerns at stake in the negotiations over trade-related investment measures dealt with foreign direct investment, the costliness of states' BATNAs for this overarching issue is coded based on states' net investment outflows. A state is coded with a costly BATNA of 3 if its net outflow of foreign direct investment was greater than one standard deviation above average. A state is coded with a costly BATNA of 0 if it was a net importer of foreign direct investment. A state is coded with a costly BATNA of 2 if its net outflow of foreign direct investment was greater than average, and 1 otherwise. Data on states' investment flows is coded based on data from UNCTAD.

**Dispute Settlement:** This issue dealt with the negotiation of a new and stronger dispute settlement mechanism for the GATT. Given that one of the key concerns at stake in these negotiations over this issue dealt with questions about the discrepancy in power between different states when involved in GATT disputes, the costliness of states' BATNAs for this overarching issue is coded based on states' market power. A state is therefore coded with a costly BATNA of 0 if its imports of goods and services (an indicator of its market power) were greater than one standard deviation above average. A state is coded with a costly BATNA of 1 if its imports of goods and services were greater than average. A state is coded with a costly BATNA of 3 if its imports of goods and services were less than

one half of the average level of imports of goods and services, and 2 otherwise. Data on states' imports of goods and services come from the World Bank Indicators, "imports of goods and services."

**Functioning of the GATT:** This issue dealt with the strengthening of the GATT as an institution. Given that one of the key concerns at stake in the negotiations over this issue dealt with adding requirements for reporting and transparency, which would place administrative burdens on states – particularly those with fewer resources, the costliness of states' BATNAs for this overarching issue is coded based on states' development status, with more developed states wanting to add these new requirements and less developed states preferring to remain at the status quo. A state is therefore coded with a costly BATNA of 3 if it was a developed (OECD) state. A state is coded with a costly BATNA of 0 if its GDP per capita was less than average. A state is coded with a costly BATNA of 2 if it was not an OECD state, but its GDP per capita was greater than one standard deviation above average, and 1 otherwise. Data on states' GDP per capita come from the UN data.

**Services:** This issue dealt with the liberalization of trade in services. The costliness of states' BATNAs on this overarching issue is therefore coded based on their imports and exports of services. A state is coded with a costly BATNA of 3 if its net services exports as a percent of its GDP or as a percent of its total trade was greater than one standard deviation above average. A state is coded with a costly BATNA of 0 if its net exports of services as a percent of its GDP or as a percent of its total trade was less than one standard deviation below average. A state is coded with a costly BATNA of 2 if its net exports of services as a percent of its GDP and as a percent of its total trade were greater than average, and 1 otherwise.

## Section 2:

# Coding the Concessions States Received

This section lays out the exact rules used to code the concessions each state received on each of the 136 issues in the Uruguay Round negotiations. Each section indicates a different negotiation, and the paragraph level indicates the issue. The data source for each coding process is presented. The coding rule described here codes each state's concessions into one of four ordered categories, with larger values indicating that a state received a greater degree of concessions.

### Negotiating Group on Goods 1: Tariffs

**Reduction Approach:** This issue dealt with whether to use a formula-based approach or a request/offer approach. A formula approach would create overarching ceilings for tariffs on all industrial products. In contrast, the request/offer procedure would create individual ceilings for each state on each product of manufactured goods, which could vary across state and product. As GATT document MTN.GNG/NG1/W/45 shows, states were using the request/offer approach in their exchange of concessions on tariff reductions. For states that wanted the elimination of tariffs (generally the developing states), the concessions they received are coded 0 because instead of across-the-board, formula elimination, a request/offer approach was used. For states that wanted to pursue the cautious elimination approach (generally the developed states), the concessions they received are coded 3 because this is the reduction approach that was adopted.

**Base Rates: Bound versus Applied:** This issue dealt with whether to use bound or applied tariffs as the base rate for negotiations. Applied tariffs refer to the *de facto* tariffs that states employ. These tariff rates were still constrained by the ceiling set by the GATT, so can only be lower. However, the bound tariff rates were those that would typically be used as the base rate for negotiations. GATT document MTN.GNG/NG1/20 (page 2) statements show that states are using the "official schedule" as the base rate for negotiations. The "official schedule" uses the base rate of bound tariffs. For those that wanted to use applied tariff rates as the base rate for reduction (generally the developing states), the concessions received are coded 0 because this is not the approach that was adopted. For those that wanted to use bound tariff rates as the base rate for reduction (generally the developed states), the concessions received are coded 3 because this is the approach that was adopted.

**Developed versus Developing State Bindings:** This issue dealt with whether or not to allow developing states to have lower bound tariff rates than developed states. As GATT document MTN.GNG/NG1/23 (pages 3-6) shows, at the end of the NG1 negotiations, the developing states were still calling for developed states to live up to their obligations regarding special and differential treatment. By the end of 1990, the developing states therefore had not given in on this issue. The concessions received by developed states are therefore coded 0. As page 3 shows, the developed states still wanted the developing states to reduce their bindings, but they did propose tariff levels that were lower for less developed states. The concessions received by the developing states are therefore coded 2.

**"Very Low" Tariffs:** This issue dealt with the degree to which tariffs that were already "very low" on industrial products should be further reduced. GATT document MTN.GNG/NG1/23 (page 3) statements show that "many" offers do not meet the expectations of states wanting to reduce "very low" tariffs. For those states that wanted these "very low" tariffs reduced (the developing states and Cairns Group), few concessions were received. The

concessions received are coded 1. Note that because the statement said “many” rather than “all” offers do not meet the expectations of states that wanted to reduce “very low” tariffs, the concessions received are coded 1 rather than 0. The statements also show that those states that wanted “very low” tariffs reduced were not giving in on pushing the issue. The concessions received by their bargaining opponents (generally developed states minus the Cairns Group) are coded 0.

## **Negotiating Group on Goods 2: Non-Tariff Barriers**

**Pre-shipment Inspection:** The issue dealt with here was whether or not to subject pre-shipment inspection to international discipline. As GATT document MTN.GNG/NG2/W/72 (pages 3-16) shows, states that wanted to have pre-shipment inspection subject to international discipline (generally developed states) received concessions. Most of the draft text designed to subject pre-shipment inspection to international discipline was not subject to disagreement (i.e., it was not in brackets). The concessions received by these states is therefore coded 2. In contrast, states that did not want pre-shipment inspection subject to international discipline (generally the developing states) are coded as receiving 0 concessions because the other side was still pushing for agreement on this issue – i.e., they had not given in on reaching an agreement to subject pre-shipment inspection to international discipline.

**PTAs and Rules of Origin:** This issue dealt with here was whether or not to include PTAs in the “rules of origin.” As GATT document MTN.GNG/NG2/W/72 (pages 17-32) shows, non-PTA members had not received concessions from PTA members by the end of 1990 when this negotiating group halted its work. Indeed, Article 1 paragraph 1 (on page 19) shows that the reference to subjecting PTAs to the rules of origin is still in brackets – signaling that this language had not been accepted. For those states that wanted to include PTAs in the rules of origin, concessions received are therefore coded 0, as PTA members have not given in on this issue. For states that did not want PTAs included in the rules of origin, the concessions received are also coded 0, as the text subjecting PTAs to the rules of origin is still in the text (in brackets) showing that the other side is still pushing for this language to be in the document.

**“Requests”:** This issue dealt with the requests made by states for other states to reduce their NTBs. A state is coded as receiving concessions of 3 if it made a request and received an offer in return. This indicates that a state’s request was met by at least some states. A state is coded as receiving concessions of 2 if it did not make a request but did receive an offer. This indicates that a state received some concessions, even though these were not explicitly requested. A state is coded as receiving concessions of 0 if it made a request and did not receive an offer in return. This indicates that a state’s request was not met by any states. The concessions a state received is coded 1 otherwise. For information regarding these requests and offers, see GATT documents MTN.GNG/NG2/W/74 (pages 5-8) and MTN.GNG/NG2/W/72 (pages 33-36).

**Elimination versus Cautious Reduction:** This issue dealt with whether NTBs on industrial products should be eliminated or just “cautiously” reduced. A formula approach would create overarching ceilings for non-tariff barriers, thus making their elimination by all states possible. In contrast, the request/offer procedure would create individual ceilings for each state on each product, which could vary across state and product. Full elimination would therefore be difficult as each state would have to negotiate its policies vis-à-vis every other state. As GATT document MTN.GNG/NG2/W/72 (pages 33-36) shows, states were using the request/offer approach in their exchange of concessions on tariff reductions. For states that wanted the elimination of NTBs (generally the developing states), the concessions they received are coded 0 because instead of an across-the-board, formula elimination which they wanted, a request/offer approach was used. For states that wanted to pursue the cautious elimination approach (generally the developed states), the concessions they received are coded 3 because this is the reduction approach that was adopted.

## Negotiating Group on Goods 3: Natural Resource-Based Products

**Fisheries, Non-Ferrous Minerals, and Forestry:** These issues dealt with the requests made by states for other states to reduce their barriers to trade in fisheries, non-ferrous minerals, and forestry products. A state is coded as receiving concessions of 3 if it made a request and received an offer in return. This indicates that a state's request was met by at least some states. A state is coded as receiving concessions of 2 if it did not make a request but did receive an offer. This indicates that a state received some concessions, even though these were not explicitly requested. A state is coded as receiving concessions of 0 if it made a request and did not receive an offer in return. This indicates that a state's request was not met by any states. The concessions a state received is coded 1 otherwise. For information regarding these requests and offers, see GATT documents MTN.GNG/NG3/W/41 (pages 5-8) and MTN.GNG/NG3/W/40 (using only those requests and offers notified or submitted to this negotiating group (NG3)).

**Dual Pricing:** This issue dealt with whether or not to end dual pricing practices as they related to trade in natural resource-based products. This was largely a practice used by developing countries (who were key exporters of natural resource-based products), and it was therefore the developed states that were generally pushing for an end to these practices. As the statement in GATT document MTN.GNG/NG3/19 (page 2) shows, the developed states still have not given in on pushing this issue. The concessions received by developing countries are therefore coded 0. The statement also shows that developing states are still unwilling to address the issue. The concessions received by the developed countries are therefore also coded 0.

**Domestic Subsidies:** This issue dealt with whether or not to end the use of domestic subsidies to aid producers of natural resource-based products. As GATT document MTN.GNG/NG3/15 shows, the United States was still pushing for the elimination of domestic subsidies in 1990. GATT document MTN.GNG/NG18 shows Australia was also pushing for this, and GATT document MTN.GNG/NG3/20 shows Canada was as well. Overall, these statements show that several developed states were not giving up on this issue, although not all developed states made such statements. This indicates some degree of concessions by those other states that were not pushing the issue. The concessions received by the states that wanted to protect the ability to use domestic subsidies (the developing countries) are therefore coded 1. On the other side, a review of GATT documents MTN.GNG/NG3/11 through MTN.GNG/NG3/23 shows that no statements explicitly defending the use of these measures were made in 1989 or 1990 by the developing states. At the same time, however, no statement was made supporting the reduction/end of the use of domestic subsidies. The concessions received by the states that wanted to eliminate the use of these subsidies (the developed states) are therefore coded 2.

**Energy Sector:** This issue dealt with whether or not to put energy products on the list of products included in the market access reductions in this negotiating group. As GATT document MTN.GNG/NG3/W/41 (page 3, paragraph 11) shows, no concessions were received by those that wanted the energy sector included because they were still not yet included in the negotiations. This document also shows that no concessions were received by those that did not want the energy sector included because the states that wanted it included had not yet given in on pushing this issue through. Both sides are therefore coded as receiving concessions of 0.

**Method of Reduction:** This issue dealt with whether to use a formula-based approach or a request/offer approach. A formula approach would create overarching ceilings for tariffs and NTBs on natural resource-based products. In contrast, the request/offer procedure would create individual ceilings for each state on each product, which could vary across state and product. As GATT document MTN.GNG/NG3/W/41 (pages 5-8) shows, states were using

the request/offer approach in their exchange of concessions on tariff reductions. For states that wanted the elimination of tariffs (generally the developing states), the concessions they received are coded 0 because instead of across-the-board, formula elimination, a request/offer approach was used. For states that wanted to pursue the cautious elimination approach (generally the developed states), the concessions they received are coded 3 because this is the reduction approach that was adopted.

## **Negotiating Group on Goods 4: Textiles**

**Overall Liberalization:** This issue dealt with the degree to which trade in textiles and clothing would be brought under GATT disciplines and liberalized. As GATT document MTN.GNG/NG4/25 (page 2, paragraph 7) shows, states that wanted greater liberalization (generally the developing states) were still complaining about low percentages which means they had not yet given in on pushing for greater liberalization. The concessions received by states that wanted less liberalization (generally the developed states) are coded 0. The fact that the proposed percentages are low shows that few concessions were made to states that wanted significant liberalization. At the same time, the fact that the text proposing these liberalizing measures is not bracketed shows that some concessions were made. The concessions received by states that wanted greater liberalization are therefore coded 1.

**Scope:** This issue dealt with the scope of products that would be liberalized under this agreement. As GATT document MTN.GNG/NG4/W/68 (page 43) shows, the text referencing the scope of products to be liberalized is still in brackets, showing that the states pushing for a more narrow scope of products (generally the developed states) have not completely given in on agreeing to the wide scope proposed in the draft text. At the same time, however, the long list of products that are covered (listed in Annex II) shows that the developed states have made concessions on this issue. The concessions received by the developing states are therefore coded 2. The fact that this statement is still in the text shows that the developing states have not given up on pushing this issue. The concessions received by the developed states are therefore coded 0.

**Transition Period Length:** This issue dealt with the length of the transition period moving from the MFA to full GATT governance of trade in textiles and clothing. As GATT document MTN.GNG/NG4/22 (page 4, paragraph 13) shows, several states spoke out in favor of a transition period ending 31 December 1997. Building on Author's (2015) coding, this counts as a "short" transition period – as it is less than or equal to seven years. Given that the states in favor of a shorter time period were still pushing for such a short time period, the concessions received by the states on the other side are coded 0. In rebuttal to the proposal of ending the transition at the end of 1997, states on the other side argued that this period would be too short – showing that they are not yet willing to give in and accept such a date. The concessions received by those wanting a shorter time period are therefore also coded 0.

**Safeguard Actions:** This issue dealt with the question of whether to have the same rules for safeguards that govern all other GATT products or to have special safeguard rules in the area of textiles during the transition period. As the statements in GATT document MTN.GNG/NG4/25 (page 2, paragraph 9) show, those against having special safeguard rules were still pushing that states should not have special treatment in the area of textiles. The concessions received by those pushing for these special measures are therefore coded 0. On the other side, states that were pushing for special treatment were still "stressing the importance of recognizing the special needs of these suppliers," showing that they had not given up on pushing for this special treatment. The concessions received by states against special treatment in textiles are therefore coded 0.

**Anti-dumping:** This issue dealt with whether to allow recourse to anti-dumping duties during the transition period. As shown by the statements in GATT document MTN.GNG/NG4/22 (page 3, paragraph 11), neither side offered concessions to the other on this issue. The statement that the requirement to refrain from levying anti-dumping duties during the phase-out period on products subject to quantitative restrictions “would not be acceptable as it would prejudice their GATT rights” shows a lack of concessions by states that wanted to protect their ability to use anti-dumping measures (largely the developed states). The statement that these measures “should not be permitted during the transition period” shows the lack of willingness to give on this issue by states that wanted to prevent the use of anti-dumping measures (generally the developing states). The concessions received by both sides are therefore coded 0.

**Implementation Process:** This issue dealt with whether to base integration of textiles and clothing only on MFA products, or whether to use a global baseline, including all textile and clothing products. The negotiations did end up being based on MFA goods. The states pushing for a MFA basis for reduction (generally the developing countries) therefore received concessions coded 3, as this is the outcome that occurred. On the other side, the states that were pushing for a more global baseline for reductions received concessions coded 0, as the opposite outcome occurred. In other words, the states pushing for an MFA base for reduction got their interest reflected in the negotiations, while those pushing for a global baseline did not.

## **Negotiating Group on Goods 5: Agriculture**

**Developed States’ Domestic Subsidies:** This issue dealt with the reduction of domestic subsidies in the agricultural sector that were instituted in developed states. As shown by GATT document MTN.GNG/NG5/W/150/Rev.1 (pages 2, 4, and 6), the (non-Cairns group) developed states were still pushing for the ability to keep domestic support measures in place. Given that these developed states were unwilling to give from their set position, the states on the other side – generally the developing states and the Cairns Group and United States – are coded as receiving concessions of 0. As shown by the same document (pages 2, 6, and 8), *some* developing states accepted some willingness to allow some of these measures to remain in place, but overall, the removal of domestic subsidies was being pushed strongly by the US and Cairns group. Given that some developing states did accept some degree of ability to keep these measures in place, but that this was not the overarching position of the whole group, the concessions received by the (non-Cairns) developed states are coded 1.

**Developing States’ Domestic Subsidies:** This issue dealt with the reduction of domestic subsidies in the agricultural sector that were instituted in developed states. As shown by statements made in GATT document MTN.GNG/NG5/W/150/Rev.1 (pages 3, 5, 7, 8, and 10) show, most developed states, as well as members of the Cairns group, expressed a willingness to allow developing states to keep some degree of domestic subsidies in place. The United States, however, was still pushing for their removal. Given that most, but not all, states were willing to allow at least some of these measures to remain in place, the concessions received by the developing states are coded 2. On the other side, statements documented in GATT document MTN.GNG/NG5/W/150/Rev.1 (pages 6-8) show, many developing states (including Morocco, Korea, Mexico, Israel, India, Egypt, the LDCs, and many more) were still pushing for the ability to keep these measures in place. These statements therefore reflected an unwillingness to give on this issue. The concessions received by the developed states and Cairns group are therefore coded 0.



**Liberalization of Cereals, Sugar, and Dairy:** These issues dealt with the reduction of barriers to trade in cereals, sugar, and dairy products. The GATT documents in 1990 do not report information on the status of negotiations on these three issues. Data is therefore not available on the level of concessions each side received by the end of 1990.

**Developed States' Export Subsidies:** This issue dealt with whether to require developed states to remove export subsidies on agricultural products. The concessions received by states that were pushing for the removal of developed states' export subsidies (largely the Cairns group, United States, and net food importers) are coded 2, as the statements made by both the European Community and the Nordic states (main players on the other side) reflect some willingness to limit these subsidies, though they were defending their ability to use them in some cases. For evidence of this, see GATT document MTN.GNG/NG5/W/150/Rev.1 (pages 27 and 30). On the other side, the United States and Cairns group made statements showing a lack of flexibility on this issue – still pushing for the removal of these subsidies. The concessions received by states that wanted to protect their use are therefore coded 0.

**Developing States' Export Subsidies:** This issue dealt with whether to require developing states to remove export subsidies on agricultural products. The concessions received by states that were pushing for the removal of developing states' export subsidies (largely the Cairns group, United States, and developed net food importers) are coded 0, as the statements made by both the European Community and the Nordic states (key players on the other side) reflect an lack of flexibility on this issue. (Note that these developed states were defending developing states' ability to use export subsidies because if the developing states were not able to do so, the developed states would certainly not be able to do so. Protecting developing states' ability to use export subsidies was therefore a key part of the position of developed states that wanted to protect their ability to use export subsidies too.) For evidence of this inflexibility, see GATT document MTN.GNG/NG5/W/150/Rev.1 (pages 29 and 31). On the other side, the United States, Cairns group, and key developed importers made statements showing a lack of flexibility on this issue – still pushing for the removal of these subsidies. The concessions received by states that wanted to protect their use are therefore coded 0. For evidence of these statements, see MTN.GNG/NG5/W/150/Rev.1 (pages 29 and 31).

**Sanitary Measure:** This issue dealt with whether to restrict states' ability to use sanitary and phytosanitary measures to limit certain agricultural products from entering their market. As GATT document MTN.GNG/NG5/W/150/Rev.1 shows, statements made by the European Community, Japan, and the Nordic states (states on the side of wanting to protect the ability to use sanitary and phytosanitary restrictions to trade) still wanted the ability to use these measures. At the same time, however, their statements reflected a willingness to “harmonize” the use of sanitary measures. The concessions received by the states pushing for restrictions on the use of these sanitary and phytosanitary measures are therefore coded 2. On the other side, statements by developing states, the Cairns group, and the United States reflect a lack of willingness to give on this issue. They were still pushing for restrictions on the use of sanitary measures. The concessions received by states that wanted to protect their use are therefore coded 0.

**Developed States' Tariffs:** This issue dealt with the potential elimination of developed states' tariffs on agricultural products. As GATT document MTN.GNG/NG5/W/150/Rev.1 shows, the statements made by the European Community, Austria, and Switzerland reflect a willingness to reduce their tariffs to some degree, but a desire to still protect the ability to use them. (These statements can be found on pages 13 and 20.) The concessions received by the states pushing for the removal of developed states' tariffs on agricultural products (the Cairns group, United States, and developing states) are therefore coded 1. On the other side, the statements made by the United States and Cairns group reflect an unwillingness to give in on this issue and allow developed states' tariffs to remain in place. (These statements can be found on page 13.) The concessions received by the developed states are therefore coded 0.

**Developed States' NTBs:** This issue dealt with the potential elimination of developed states' non-tariff barriers that were disrupting trade in agricultural products. As GATT document MTN.GNG/NG5/W/150/Rev.1 shows, the statements made by the European Community, Austria, and Switzerland reflect a willingness to reduce their tariffs to some degree, but a desire to still protect the ability to use them. (These statements can be found on pages 13 and 20.) The concessions received by the states pushing for the removal of developed states' tariffs on agricultural products (the Cairns group, United States, and developing states) are therefore coded 1. On the other side, the statements made by the United States and Cairns group reflect an unwillingness to give in on this issue and allow developed states' tariffs to remain in place. (These statements can be found on page 13.) The concessions received by the developed states are therefore coded 0.

**Developing States' Import Restrictions:** This issue dealt with the potential elimination of border measures developing states had in place that were disrupting trade in agricultural products. As the statements made in GATT document MTN.GNG/NG5/W/150/Rev.1 show, the LDCs, Mexico, India, and other developing states were still strongly defending special and differential treatment regarding the use of border measures in the agricultural sector. They were unwilling to agree to the removal of such barriers. (These statements can be found on pages 21, 22, 25, and 26.) The concessions received by the developed states and Cairns group (the states largely pushing for a removal of these border measures) are therefore coded 0. On the other side, statements made by the United States, Cairns group, European Community, Japan, the Nordic states and Austria reflect a willingness to provide special treatment to developing states and thus allow certain developing states' border measures to remain in place. The concessions received by the developing states are therefore coded 2.

**Method of Reduction:** This issue dealt with whether to use a formula-based approach or a request/offer approach. A formula approach would create overarching ceilings for tariffs and NTBs on agricultural products. In contrast, the request/offer procedure would create individual ceilings for each state on each product, which could vary across state and product. No specific approach had yet been adopted by the end of 1990. Moreover, as GATT document MTN.GNG/NG5/W/150/Rev.1 shows, the Cairns group was still explicitly pushing for a formula-based approach and the United States was pushing for tariffication. These statements reflect an unwillingness by these states to accept the request/offer approach. (These statements can be found on page 13). The concessions received by the states pushing for a request/offer approach (largely the non-Cairns developed states) are therefore coded 0. On the other side, the concessions received by the states pushing for a formula-based approach are coded 2. Statements found on pages 13 and 17 reflect some willingness to support a global/formula approach, but they want some degree of flexibility. Concessions were therefore reflected in these statements, although they were not fully accepting of the formula approach.

## **Negotiating Group on Goods 6: Tropical Products**

The seven product categories that were negotiated in the tropical products negotiating group are all coded based on the same rule. The GATT documents MTN.GNG/NG6/LT series lays out explicit requests and offers made by developed and developing states in these various product groups. If the developing states made a significant number of requests in a given product group, they are coded as making fewer concessions to the developed states on that particular issue, as they are still pushing hard for greater liberalization on those products. Specifically, 56 requests/offers were put forth. If more than one third of those requests/offers included a request by a developing state in a given product group, the concessions received by the developed states are coded 0. If some requests were made, but they accounted for less than one third of the requests/offers that were put forth, the concessions received by the developed states are coded 1. If no explicit requests were made, the concessions received by the developed states are coded 2. The coding of 3 is not used here as even if no explicit requests were made by the states that submitted requests/offers, the developing states, as a whole, were still pushing for liberalization in all of these

product categories. They therefore had not completely given in on the issue. On the other side, offers made by developed states shows some willingness to liberalize in a particular category of products. The greater the number of offers made by developed states, the greater the concessions made on this issue. If a request was made by a developing state in a particular product category and offers were made by all developed states in that product category, the concessions received by that state are coded 3. If more than two thirds of the developed states made offers in a particular product category (i.e., if more than eight offers were made), the concessions received by a developing state that made a request in that product category are coded 2. If no offers made by the developed states in a particular product category, the concessions received by the developing states that made requests in that product category are coded 0. Otherwise, the concessions received by a developing state that made a request in a particular category are coded 1. Developing states that did not make a request in a given product category are not coded as receiving as significant a degree of concessions when offers were made. This coding choice was made because while all developing states generally were pushing for concessions in the area of tropical products, states that did not make an explicit request did not have as strong a stance on the issue. Any concessions made to them were therefore of less value. If all developed states made an offer in a particular product category, a developing state that did not make a request in that category is therefore coded as receiving concessions of 2. If more than two thirds of developed states offered concessions in a particular product category, a developing state that did not make a request in that category is therefore coded as receiving concessions of 1. Otherwise, a developing state that did not make a request in that product category is coded as receiving 0 concessions.

**Oilstuffs:** Nine developed states made offers in the oilstuffs product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 2 and developing states that did not make a request in this product category are coded as receiving concessions of 1. Twenty-six requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Roots, Rice, and Tobacco:** Six developed states made offers in the roots, rice, and tobacco product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 1 and developing states that did not make a request in this product category are coded as receiving concessions of 0. Twenty-two requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Rubber and Wood:** Eight developed states made offers in the rubber and wood product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 1 and developing states that did not make a request in this product category are coded as receiving concessions of 0. Twenty-two requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Fruits and Nuts:** Nine developed states made offers in the fruits and nuts product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 2 and developing states that did not make a request in this product category are coded as receiving concessions of 1. Twenty-nine requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Jute:** Six developed states made offers in the jute product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 1 and developing states that did not make a request in this product category are coded as receiving concessions of 0. Twenty requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Spices, Flowers, and Plaiting Products:** Ten developed states made offers in the spices, flowers, and plaiting products product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 2 and developing states that did not make a request in this product category are coded as receiving concessions of 1. Twenty-six requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Coffee, Tea, and Cocoa:** Nine developed states made offers in the coffee, tea, and cocoa product category. The concessions received by developing states that made a request in this product category are therefore coded as receiving concessions of 2 and developing states that did not make a request in this product category are coded as receiving concessions of 1. Twenty-four requests were made by developing states in this product category. The developed states are therefore coded as receiving 0 concessions.

**Bananas:** The concessions received on this issue are coded using largely the same rule as the seven product categories. The coalitions in this product category, however, were somewhat different, as the ACP countries joined with the developed countries in wanting to keep measures designed to protect trade in bananas in place (as they received special treatment under these rules), and the rules are therefore necessarily somewhat different. Eighteen requests from non-ACP developing countries were made regarding bananas. This exceeds one third of the requests/offers put forth. The concessions received by the developed and ACP countries are therefore coded 0. Seven offers were made by the developed and non-ACP countries. This is significantly less than two thirds of the developed and non-ACP countries. Moreover, the European Community – the key actor on the developed and non-ACP countries coalition regarding protection of bananas – did not offer concessions on this issue. The concessions received by the non-ACP developing states are therefore coded 0 on this issue.

**Special and Differential Treatment:** This issue dealt with the question of whether to give special treatment to developing countries in the liberalization of tropical products. As the MTN.GNG/NG6/LT series shows, most developing countries made requests without making offers. This reflects the fact that these countries feel the developed states should liberalize while the developing do not have to do the same. This is further evidenced by statements made by states like Nicaragua (MTN.GNG/NG6/LT/23) and Brazil (MTN.GNG/NG6/LT/10) that explicitly argue that they do not feel the developing states should have to reciprocate concessions made by developed states in the area of tropical products. The developing states have therefore not given in on this issue. The concessions received by the developed states are therefore coded 0. On the other side, most developed countries made offers in the area of tropical products without making requests. This shows that they are willing to give some degree of concessions. However, several developed states did also state that they did expect some degree of reciprocity from the developing states. For evidence of these types of statements, see MTN.GNG/NG6/LT24, MTN.GNG/NG6/LT33, MTN.GNG/NG6/LT35, MTN.GNG/NG6/LT9. The concessions received by the developing states are therefore coded 2.

**ACP Special Treatment:** This issue dealt with whether the ACP countries should be allowed to continue to have the special treatment afforded to them by their preferential trade arrangements with the European Community. As GATT document MTN.GNG/NG6/W/61 (page 2) shows, the ACP countries are still pushing for this special treatment. They therefore have not given in on this issue, and the concessions received by the non-ACP developing states are therefore coded 0. The fact that the ACP countries still have to push for this special treatment also shows that they have not won on the issue yet. The concessions received from the non-ACP developing states are therefore also coded 0.

**Degree of Liberalization:** This issue dealt with the overall degree of liberalization of trade in tropical products that should take place. As GATT document MTN.GNG/NG6/W/47 (page 3) and the LT series show, several developed states have made offers of concessions on this issue. At the same time, the statements reflected in document W/47 also show that many countries do not think that these offers go anywhere near far enough. Complaints were also made about the general lack of movement on the tropical products issues (MTN.GNG/NG6/27, page 2). The developing states therefore received a degree of concessions, but those concessions were not significant enough to satisfy the developing states. Moreover, many of the developed states made these offers while expecting reciprocal concessions in return. The concessions received by the developing states are therefore coded 1. The statements in GATT document MTN.GNG/NG6/W/47 also show that the developing states have not given up on further liberalizing trade in tropical products. The concessions received by the developed states are therefore coded 0.

## **Negotiating Group on Goods 7: GATT Articles**

**Article XII and XVIII, Balance of Payments:** This issue dealt with the degree to which balance of payments protections would be reflected in the new GATT agreement. As GATT document MTN.GNG/NG7/W/73 (pages 5-9) show, the developed states had put forth some proposals on this issue, demonstrating some willingness to keep these protections in the document. However, these concessions were not even significant enough to warrant a draft text by the chairman (see page 9). The concessions received by the developing states are therefore coded 1. The fact that the developing states were still pushing hard for the protection of balance of payments provisions shows an unwillingness on their part to give on this issue. The concessions received by the developed states are therefore coded 0.

**Article XVII, State Trading:** This issue dealt with the degree to which state-trading would be brought under further GATT discipline. As GATT document MTN.GNG/NG7/22 (pages 2, 12-13) shows, the users of state-trading agreed to “notification” requirements, but not further GATT discipline. The concessions received by those that wanted to discipline state-trading are therefore coded 1. On the other side, states that wanted to further discipline state-trading expressed a willingness to accept only the “notification” procedures, as well as to allow certain exemptions. This largely reflected the interests of those wanting to protect state-trading practices, and the concessions received by these states are therefore coded 2.

**Article XXV, Waivers:** This issue dealt with whether to terminate existing waivers and have states re-apply if they wanted to keep such waivers. As GATT document MTN.GNG/NG7/22 (page 14) shows, an agreement was made that all current waivers would expire and states would have to renegotiate those waivers. This outcome reflected the interests of those that wanted to terminate these waivers. The concessions received by these states are therefore coded 3. In contrast, the states pushing for the termination of waivers did not make concessions, as the outcome reflected their own interests and position. The concessions received by states that wanted to protect their waivers are therefore coded 0.

**Article XXI, Security Interests:** This issue dealt with whether or not to revise Article XXI in order to address the inequality of bargaining power between the developed and developing states. By the end of 1990, the GATT documents did not provide any substantive information about where the negotiations stood on this issue. No data is therefore available to code the concessions states received on this issue.

**Article XXIV, PTAs:** This issue dealt with whether to expand/revise this article in order to limit the discriminatory practices of PTAs. As MTN.GNG/NG7/22 (pages 2-6) shows, there was “general consensus” on the draft text,

which reflected a compromise between the two sides. States on both sides are therefore coded as receiving concessions of 2.

**Article XXVIII, Renegotiating Rights:** This issue dealt with whether to revise this article in order to take into account the importance of the good to the exporter. As MTN.GNG/NG7/22 (page 15) shows, the draft decision shows language that is designed to take into account the importance of the good to the exporter. The concessions received by the states pushing for this language are therefore coded 3. At the same time that this language was present in the draft text, language was also included to allow for the possibility to change this agreement in five years. This shows a degree of concessions made by the states pushing for this language. The concessions received by the states that were not pushing for this language are therefore coded 1.

**Article XXXV:** This issue dealt with whether to discipline the use of Article XXXV or to expand its use further. As GATT document MTN.GNG/NG7/22 (page 7-8, 17) shows, language was adopted that reflected the ability to invoke Article XXXV in relation to acceding parties. This reflects an expansion of its use. The concessions received by states that were pushing for its expansion are coded 2. At the same time, the expansion did only deal with acceding states, and so the concessions received by the states pushing against expansion are coded 1.

**Protocol to Provisional Application:** This issue dealt with whether or not to revise the protocol. As GATT document MTN.GNG/NG7/22 (pages 8 and 18) shows, the draft agreement reflects a willingness to let the protocol expire. Concessions were therefore made by states that would prefer to protect the protocol. However, the date of expiration had not yet been agreed, reflecting the fact that concessions had not completely been made. The concessions received by states pushing for expiration of the protocol are therefore coded 2. Because states that wanted the protocol to expire were still pushing for its expiration, the concessions received by states that would prefer to keep the protocol are coded 0.

## **Negotiating Group on Goods 8: MTN Agreements and Arrangements (the “Codes”)**

**Code of Good Practice:** This issue dealt with whether to extend scope of the agreement on technical barriers to trade to local governmental bodies and non-governmental bodies at the national and local level. Page 1 of GATT document MTN.GNG/NG8/W/83/Add.3 reports a statement made by the Chairman of the negotiating group that some states are opposed to the inclusion of the code of good practice and are still unwilling to accept this. However, by saying “at least one” indicates that they are willing to accept it, it shows that some concessions were made. The concessions received by the states that were pushing for inclusion of this code of good practice are therefore coded 1. As GATT document MTN.GNG/NG8/W/83/Add.3 (pages 8,9,32, and 48) shows, this potential code of good practice is still in the draft text. The states pushing for inclusion of this code therefore had not given up on having it in the text. The concessions received by those that did not want to include the code are therefore coded 0.

**Technical Barriers to Trade:** This issue dealt with whether to expand the agreement to include additional areas such as product approval, testing, inspection, and certification. As GATT document MTN.GNG/NG8/W/83/Add.3 (page 53) shows, testing, inspection, certification, and product approval are all included in the draft agreement. Given its place in the draft text, this shows that the states pushing for the inclusion of these measures in the agreement have not given up on trying to get them included. The concessions received by those that are not pushing

for their inclusion are therefore coded 0. However, this is part of the text that is not yet agreed, showing that those that were not pushing for their inclusion have not completely given in on allowing for their inclusion. The concessions received by the states pushing for the inclusion of these measures are therefore coded 0.

**PPMs:** This issue dealt with whether to extend current disciplines of the Technical Barriers to Trade Agreement to specifications drafted in terms of process and production method (PPM). As GATT document MTN.GNG/NG8/W/83/Add.3 (page 42) shows, standards based on PPMs are included in the draft agreement. Given its place in the draft text, this shows that the states pushing for a basis of PPMs have not given up on trying to get this included. The concessions received by those that are not pushing for this change are therefore coded 0. However, this is part of the text that is not yet agreed, showing that those that were not pushing for this change have not completely given in on allowing for their inclusion. The concessions received by the states pushing for the basis of PPMs are therefore coded 0.

**Government Procurement:** This issue dealt with whether or not to create overall threshold requirements. As GATT document MTN.GNG/NG8/21 (page 4) shows, the states that were pushing for the creation of overall threshold requirements had given up on pushing this change through (i.e., they dropped pushing their draft proposals for the change). Indeed, those that put forth proposals had given up on pursuing those proposals. The concessions received by states that were not pushing for the creation of threshold requirements are therefore coded 3. On the other side, those that were not pushing for the creation of threshold agreements had not been willing to agree to those draft proposals. The concessions received by those pushing for the creation of threshold requirements are therefore coded 0.

**Government Procurement: Special and Differential Treatment:** This issue dealt with whether or not to loosen the accession requirements in order to help developing countries accede to this code. GATT document MTN.GNG/NG8/W/85/Add.1 (page 1) shows a willingness by the developed states to allow flexibility in the accession requirements. However, the compromise proposed was that the accession requirements would be negotiated individually and had to be approved by the current parties to the code. There was therefore still the possibility for more flexible requirements to be rejected. The concessions received by the developing states are therefore coded 2. On the other side, the developed states are coded as receiving concessions of 1, given that the developing countries were still pushing for more flexible requirements, but were also willing to accept the fact that more flexible requirements could potentially be rejected in the negotiation process.

**Customs Valuation: Special and Differential Treatment:** This issue dealt with whether or not to take into account limited resources of customs administrations to ease accession to code. As GATT document MTN.GNG/NG8/22 (page 1) shows, an agreement was forged with the “understanding” that accession will be “facilitated” – i.e., some flexibility would be allowed for those states that needed it. However, this language was not to be included in the actual text of the agreement (see MTN.GNG/NG8/W/83/Add.4 page 2). The concessions made to those states that wanted flexibility in the accession requirements (largely the developing states) are therefore coded 2. Given that the developing states were willing to accept that the language would not be included in the text, the concessions received by the developed states are also coded 2.

**Antidumping:** This issue dealt with whether to create stricter rules to limit scope of anti-dumping measures or whether to leave flexibility in states’ ability to use these measures. As GATT document MTN.GNG/NG8.W.83/Add.5 shows, by the end of 1990 there was not even a consensus to accept the draft text on this issue as a basis for future negotiations. Those that wanted the text were not willing to give in and leave it out and those that did not want the text were not willing to let it in. The concessions received by both sides are therefore coded 0.

**Import Licensing:** This issue dealt with whether to limit the use of licensing (automatic and non-automatic, in particular) versus not limiting the use of these licenses, thus allowing non-signatories some flexibility to join the code. As GATT document MTN.GNG/NG8/W/83/Add.1/Rev.2 shows, the amendments proposed that would be used to limit the use of these licenses were still being pushed by the states that wanted to limit licensing. The concessions received by the states that wanted to protect the ability to use these licenses are therefore coded 0. On the other side, very little of the text of these amendments was left in brackets, showing that there was little opposition to this text left. However, some of the text did still remain in brackets. The concessions received by those that wanted to limit the use of licenses are therefore coded 2.

## **Negotiating Group on Goods 9: Safeguards**

**Grey Area Measures:** This issue dealt with whether to allow the states to continue to use grey area measures in some cases. As GATT document MTN.GNG/NG9/W/25/Rev.3 (page 4) shows, the defenders of the use of grey area measures were willing to accept the imposition of fairly rigorous requirements in order to be able to use these measures. At the same time, however, they were still pushing for the ability to use these measures under certain conditions. Their concessions were therefore not complete. The concessions received by the states wanting to ban the use of grey area measures are therefore coded 2. On the other side, the fact that the text on the use of grey area measures is still in brackets shows that those opposed to the use of grey area measures had not agreed to a text protecting the ability to use them under certain conditions. The concessions received by the states defending the use of grey area measures are therefore coded 0. GATT document MTN.GNG/NG9/21 (page 3) also provides evidence of the lack of flexibility by those that were against the use of grey area measures.

**Structural Adjustment:** This issue dealt with whether or not to allow states to use safeguard measures to address some structural adjustment problems rather than just imminent threat. As GATT document MTN.GNG/NG9/W/25/Rev.3 (paragraph 8) shows, agreement existed on the ability to only use safeguards to “remedy serious injury” and to “facilitate structural adjustment.” In other words, both would be required. At the same time, language was agreed that would allow the use of safeguards to “prevent” injury. States would therefore still be allowed some flexibility in their ability to use these measures. The concessions received by both sides are therefore coded 2. Each side was willing to concede on this compromise over the requirements.

**Countermeasures:** This issue dealt with whether or not users of “legitimate” safeguards should or should not be subject to countermeasures. As GATT document MTN.GNG/NG9/W/25/Rev.3, paragraph 18 shows, the ability to use countermeasures was built into the agreement and not bracketed, showing broad acceptance of this part of the text by those that were opposing the use of countermeasures. However, paragraph 19 does reflect fact that there are limitations on the ability to use these measures. The concessions received by states pushing for the ability to use countermeasures are therefore coded 2. On the other side, paragraph 19 shows that the agreement also imposes limits on the right to use countermeasures. The concessions received by these states are therefore also coded 2.

**Timeframe of Safeguards:** This issue dealt with the length of time a state should be allowed to keep a safeguard in place. As GATT document MTN.GNG/NG9/W/25/Rev.3, paragraph 9 shows, the divide between states that were pushing for a shorter timeframe in which safeguards could be kept up (less than 5 years) and those that were pushing for a longer timeframe (more than 5 years) had not been settled – i.e., the agreed timeframe was still



bracketed off. At the same time, the possibility for an extension which could extend to 5 to 8 years (paragraph 11) shows that some concessions were made by the states pushing for a shorter timeframe. By the end of 1990, the concessions received by the states pushing for a longer timeframe are therefore coded 2 and the concessions received by the states pushing for a shorter timeframe are coded 0.

**Special and Differential Treatment:** This issue dealt with whether or not special exceptions to these other issues should be made for developing countries. As GATT document MTN.GNG/NG9/W/25/Rev.3 (page 8) shows, text referencing special and differential treatment for developing states was present in the draft agreement. This shows that the developing states had not given up on pushing for this special treatment. The concessions received by the developed states are therefore coded 0. At the same time, however, this text remained in brackets showing that the developed states had not yet given in and agreed to that proposed text. The concessions received by the developing countries are therefore also coded 0.

## Negotiating Group on Goods 10: Subsidies

**Domestic Subsidies and Issues of Development:** This issue dealt with the question of whether or not to include domestic subsidies with certain economic and policy objectives (such as structural adjustment, research and development, and regional development) on the list of non-actionable subsidies. As GATT document MTN.GNG/NG10/W/38/Rev.3 (pages 12-15) shows, the presence of all these objectives in the list of non-actionable subsidies (i.e., subsidies that can be used without other countries being able to use countervailing duties) shows that concessions were made by those that were not pushing for the use of these subsidies and the lack of concessions by those that were. At the same time, all “level indicators” (the percentages that are allowed without a subsidy being actionable) are all bracketed showing a lack of agreement on the level of assistance that would be allowed in these issue areas. Complete concessions were therefore not made by those against the use of these subsidies. The concessions received by those pushing for the use of these subsidies are therefore coded 2 and the concessions received by those against the use of these subsidies are coded 0.

**Scope of Actionable Subsidies:** This issue dealt with the question of whether to have a more narrow or more expansive definition of subsidies that were actionable. The statement in GATT document MTN.GNG/NG10/24 (page 1, paragraph 3) shows that states were still wanting the term “financial contribution” to be clarified. This shows that those wanting to make the definition of actionable subsidies more explicit (thus limiting the interpretation that would allow a subsidy to be actionable) were still pushing for a more explicit and narrow definition. The concessions received by those that wanted a more expansive definition are therefore coded 0. There was also a statement that Article 1(a) (the part indicating that a financial contribution is necessary for it to be considered a domestic industry) shows that those against narrowing the definition are also not giving in. The concession received by those wanting a more narrow definition are also coded 0.

**Prohibition of Domestic Subsidies:** This issue dealt with the question of whether to include some types of domestic subsidies on the list of prohibited subsidies. As shown by GATT document very few domestic subsidies are actually included in the proposed list of prohibited subsidies (see GATT document MTN.GNG/NG10/W/38/Rev.3). This shows that concessions were made by the states pushing for the prohibition of these subsidies. At the same time, the statement in GATT document MTN.GNG/NG10/24 (paragraph 3) proposing the deletion of footnote 4 in GATT document MTN.GNG/NG10/W/38/Rev.3 shows that the states supporting the inclusion of some domestic subsidies in the list of prohibited subsidies haven’t given in on this issue, as they want to remove the footnote that explicitly defends the use of domestic subsidies. The concessions were therefore not complete. The concessions received by the states that wanted to protect the use of domestic subsidies are therefore coded 2. On the other side, Article II paragraph 3.1.b of GATT document MTN.GNG/NG10/W/38/Rev.3 shows that some concessions were made by those defending the use of these subsidies because there were some domestic subsidies that fit the criteria for a subsidy to be prohibited. However, very few domestic subsidies actually fit this criteria. The concessions made by the defenders of domestic subsidies to the states that wanted to prohibit these subsidies are therefore coded 1.

**Primary Products:** This issue dealt with the question of whether or not to expand the ban on export subsidies on industrial products to include primary (agricultural) products as well. The GATT documents in 1990 do not report information on the status of negotiations on these three issues. Data is therefore not available on the level of concessions each side received by the end of 1990.

**Definition of Domestic Industry:** This issue dealt with the question of whether to include processed primary products in the definition of “domestic industry.” As GATT document MTN.GNG/NG10/21 (page 1, paragraph 2c) shows, the states pushing for an expansion of the definition of domestic industry have not given up on pushing the issue. The concessions received by those that were against such an expansion of the definition are therefore coded

0. In addition, the fact this expansion of the definition is not present in the draft text shows that those against the expansion of the definition have not given in to allow the broader definition into the draft agreement. The concessions received by those pushing for the expansion of the definition are therefore also coded 0.

**Special and Differential Treatment:** This issue dealt with the question of whether to provide developing states with special and differential treatment regarding their ability to use domestic subsidies to support their domestic industries. In GATT document MTN.GNG/NG10/24, reference is made to Article 27 in GATT document MTN.GNG/NG10/W/38/Rev.3, which states that special and differential treatment will apply for states that aren't already competitive or that are LDCs. Statements reported in MTN.GNG/NG10/24 shows that developing countries that are not covered by either of these definitions are pushing against this limited application of special and differential treatment. The developing states that were covered, however, were largely accepting of the definition. Some concessions were therefore made by developing states, but not most of them. The concessions received by the developed states are therefore coded 1. On the other side, the inclusion of special and differential treatment for certain developing states shows that the developed states, in large part, conceded on this issue. The concessions received by the developing states are therefore coded 2.

**Definition of Material Injury:** This issue dealt with the question of whether or to count cumulative effects of domestic subsidies in the definition of material injury or whether to make non-cumulative calculations. As GATT document MTN.GNG/NG10/W/38/Rev.3 (paragraph 15.3) shows, those against the use of cumulative calculations have made some concessions, as the language reflects the ability of authorities to use such calculations. At the same time, limitations were placed on its use, which reflected these states' interests. The concessions received by the states pushing for the use of cumulative calculations are therefore coded 2. On the other side, with the ability to use cumulative calculations reflected in the text, but with a degree of limitations placed on its use, the concessions received by states against the use of cumulative calculations are coded 1.

## **Negotiating Group on Goods 11: TRIPs (Trade-Related Aspects of Intellectual Property Rights)**

**Counterfeit Goods:** This issue dealt with the improvement of the enforcement of the prevention of trade in counterfeit goods. The fact that reference to the prevention of trade in counterfeit goods is in the draft text shows that the developed states had not given in on having this issue included in the final agreement. The concessions received by the developing states are therefore coded 0. On the other side, as GATT document MTN.GNG/NG11/W/76 shows, the approach to the negotiations proposed by the developing states (Approach "B") reflects a willingness to include the prevention of trade in counterfeit goods in the final agreement (not separating it out like the other IPRs that the developing states did not want included in the agreement). However, that agreement had not yet been reached. The concessions received by the developed states are therefore coded 2.

**Dispute Settlement:** This issue dealt with whether or not to include IPR protections in the GATT dispute settlement mechanism. As the statements reported in GATT document MTN.GNG/NG11/25 (page 3) show, by the end of 1990, the developing states were still unwilling to have the GATT's dispute settlement mechanism cover IPR protections. The concessions received by the developed states are therefore coded 0. On the other side, the inclusion of IPRs in the dispute settlement process was still reflected in the draft text (see GATT document MTN.GNG/NG11/W/76, page 70). The developed states therefore had not given up on having them included. The concessions received by the developing states are therefore also coded 0.

**Technology Transfer:** This issue dealt with whether or not states can limit IPR protections in order to facilitate technology transfer to developing countries, facilitating economic development. As GATT document MTN.GNG/NG11/W/76 (pages 9-10) shows, there are statements regarding technology transfer included in the draft agreement. However, as the statements in GATT document MTN.GNG/NG11/27 (page 2) show, the developing states do not feel that the developed states have gone far enough on this issue. The concessions received by the developing states are therefore coded 1. The concessions received by the developed states are coded 0, as the statements pushing this issue show that the developing states have not given up on getting a strong technology transfer requirement included in the agreement.

**Trade Secrets:** This issue dealt with whether states should be required to protect trade secrets under GATT rules. As GATT document MTN.GNG/NG11/W/76 shows, the developing countries refused to even consider trade secrets as part of the agreement, demonstrating a lack of concessions on this issue. The concessions received by the developed states are therefore coded 0. On the other side, the fact that the protection of trade secrets was still present in the draft text shows that the developed states had not given up on getting this included in the final agreement. The concessions received by the developing states are therefore also coded 0.

**Establish Internal Enforcement:** This issue dealt with whether or not to establish international disciplines regarding how IPRs had to be protected in states' domestic legislation. As GATT document MTN.GNG/NG11/28 (page 2) shows, the developing states expressed an unwillingness to change their national legislation. The developed states are therefore coded as receiving 0 concessions. On the other side, the fact that the developed states are still pushing the issue shows that they have not given up on working to have these required changes included in the final agreement. The concessions received by the developing countries are therefore also coded 0.

**Patents:** This issue dealt with the degree to which patent rights should be protected under the agreement. As GATT document MTN.GNG/NG11/W/76 (page 29) shows, patent protections are included in the draft text. This shows that the developed states have not given up on having patent protections in the final agreement. The concessions received by the developing states are therefore coded 0. As GATT document MTN.GNG/NG11/28 (page 2) shows, the developing states have come some way toward reaching an agreement on patent protections. However, "substantial differences" still remain. The developing states therefore have made some concessions, but not many. The concessions received by the developed states are therefore coded 1.

**Trademarks:** This issue dealt with the degree to which trademark rights should be protected under the agreement. As GATT document MTN.GNG/NG11/W/76 (page 18) shows, trademark protections are included in the draft text. This shows that the developed states have not give up on having trademark protections in the final agreement. The concessions received by the developing states are therefore coded 0. On the other side, the statement reported in GATT document MTN.GNG/NG11/28 (page 2) shows that the developing states are still unwilling to accept an agreement on trademarks at the international level. The concessions received by the developed states are therefore coded 0.

**Comprehensive Nature of the Agreement:** This issue dealt with whether full participation in the agreement would be required. As GATT document MTN.GNG/NG11/28 (page 1) shows, the developing states were complaining that special and differential treatment regarding participation was not present in the draft text. This shows that the developing states have not given in on pushing for special treatment. The concessions received by the developed states are therefore coded 0. On the other side, the fact that such special treatment was not present in the draft text shows that the developed states had not given in and accepted such treatment. The concessions received by the developing states are therefore also coded 0.

**Minimum Standards:** This issue dealt with whether minimum standards for IPR protections should be set at the international level. As GATT document MTN.GNG/NG11/28 (page 2) shows, the developing states expressed an unwillingness to change their national legislation. The developed states are therefore coded as receiving 0 concessions. On the other side, the fact that the developed states are still pushing the issue shows that they have not given up on working to have these required changes to meet minimum standards of IPR protection included in the final agreement. The concessions received by the developing countries are therefore also coded 0.

**Non-discrimination:** This issue dealt with whether to apply the GATT principles of MFN and national treatment to IPR protections. GATT document MTN.GNG/NG11/W/76 (page 7) shows that there is a differentiation between the developed and developing states in terms of using the words “arbitrary and unjustifiable discrimination between nationals of a party to those of any other country.” This shows that neither side has yet been willing to make concessions and give up on their own preference regarding potential protections against discrimination. Both sides are therefore coded as receiving concessions of 0.

## **Negotiating Group on Goods 12: TRIMs (Trade-Related Aspects of Investment Measures)**

Data for the coding of states’ BATNAs on the issues in Negotiating Group 12 is largely based on states’ net flows of foreign direct investment. The data for this measure come from UNCTAD’s database, “inward and outward foreign direct investment flows.”

**Discipline Measures or Deal with Effects not Measures:** This issue dealt with how to approach the liberalization of TRIMs: whether to prohibit/discipline TRIMs-limiting measures directly or whether to deal solely with their effects. As evidenced by the various GATT documents described below, the negotiations during this time focused on attempting to discipline the various TRIMs measures states had in place. At the same time, little to no concessions were given on these various measures during this time, showing fairly small concessions to the states pushing to focus on the measures directly. The concessions received by those states pushing for disciplining these measures are therefore coded as receiving concessions of 1. On the other side, those states were not giving in on trying to discipline the measures. The states not wanting to do so are therefore also coded as receiving 0 concessions.

**Local Content Requirements:** This issue dealt with whether or not to limit states’ ability to impose local content requirements on foreign investors. Paragraph A6 of GATT document MTN.GNG/NG12/W/27 reflects a proposed text to disallow the use of local content requirements. The fact that this text is in the chairman’s draft text (the “A” text) shows that the developed states have not given up on getting this limitation on local content requirements included in the final agreement. This is further evidenced by the statement by the United States reported in MTN.GNG/NG12/20 that these measures are incompatible with free trade and should therefore not be allowed. The concessions received by the developing states are therefore coded 0. The fact that this part of the text is still in brackets shows that the developing states have not given in on letting such a limitation be included in the agreement. This is further evidenced by the “C” text (the developing states’ proposed text). Paragraphs C12(a) and C12(b) of GATT document MTN.GNG/NG12/W/27 reflect the desire of the developing states to protect their ability to use such measures. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore also coded 0.

**Local Equity Requirements:** This issue dealt with whether or not to limit states’ ability to impose local equity requirements on foreign investors. Paragraph B10(b) of GATT document MTN.GNG/NG12/W/27 is a text

forwarded by the developed states that is pushing for disallowing the use of local equity requirements. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore coded 0. Paragraph C12(c) of GATT document MTN.GNG/NG12/W/27 reflects a text forwarded by the developing states that is pushing for protection of states' ability to use local equity requirements. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore also coded 0.

**Trade Balancing Requirements:** This issue dealt with whether or not to limit states' ability to impose trade balancing requirements on foreign investors. Paragraph C6 of GATT document MTN.GNG/NG12/W/27 reflects a text forwarded by the developing states that defends all TRIMs measures used for balance-of-payment purposes. TRIMs with this goal are "trade-balancing" measures. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore coded 0. Paragraphs B8(a) and B9 of GATT document MTN.GNG/NG12/W/27 reflect text forwarded by the developed states to disallow the use of local content requirements and export requirements (trade balancing measures). However, the text proposed by the developed states also does not explicitly state that they are unwilling to let IMs be used for balance-of-payment purposes. The concessions received by the developing states are therefore coded 1 on this issue.

**Technology Transfer Requirements:** This issue dealt with whether or not to require foreign investors to engage in technology transfer to the countries in which they were investing. Paragraph B8(e) of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developed states pushing for a prohibition of technology transfer requirements. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore coded 0. Paragraph C8(m) of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developing states that seeks to protect the use of technology transfer requirements. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore coded 0.

**Licensing Requirements:** This issue dealt with whether or not to limit states' ability to impose licensing requirements on foreign investors. Paragraph B8(e) of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developed states pushing for a prohibition of the use of licensing requirements. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore coded 0. In contrast, the text proposed by the developing states does not include an explicit defense of the use of licensing requirements. At the same time, their text also does not include an explicit willingness to prohibit these measures. The concessions received by the developed states are therefore coded 2.

**Remittance and Exchange Restrictions:** This issue dealt with whether or not to allow states to impose remittance and exchange restrictions on foreign direct investors. Paragraph B10(a) of GATT document MTN.GNG/NG12/W/27 is a text forwarded by the developed states that is pushing for disallowing the use of remittance and exchange restrictions. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore coded 0. Paragraph C12(h) of GATT document MTN.GNG/NG12/W/27 reflects a text forwarded by the developing states that is pushing for protection of states' ability to use remittance and exchange restrictions. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore also coded 0.

**Manufacturing Requirements:** This issue dealt with whether or not to limit states' ability to impose manufacturing requirements on foreign investors. Paragraphs C12(d) and C12(e) of GATT document

MTN.GNG/NG12/W/27 reflect text forwarded by the developing states that is pushing for protection of states' ability to use IMs in order to prevent abusive practices by corporate enterprises and/or to protect local firms from predatory practices. This is what manufacturing requirements are designed to do. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore coded 0. Paragraph B8(c) of GATT document MTN.GNG/NG12/W/27 is a text forwarded by the developed states that is pushing for disallowing the use of manufacturing requirements. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore also coded 0.

**Incentives:** This issue dealt with whether or not to limit states' ability to provide incentives to encourage research and development. Paragraph C8(l) of GATT document MTN.GNG/NG12/W/27 reflect text forwarded by the developing states that is pushing for protection of states' ability to use IMs in order to encourage research and development. This is what the incentives referenced by this issue are designed to do. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore coded 0. Page 4, footnote 4 of GATT document MTN.GNG/NG12/W/27 shows that the developed states are not pushing for a complete restriction on states' ability to use incentives; they are just pushing for prohibition of them under certain conditions. They therefore came a long way toward the preferences of the developing states on this issue. The concessions received by the developing states are therefore coded 2.

**Product Mandating Requirements:** This issue dealt with whether or not to limit states' ability to impose product mandating requirements on foreign investors. Paragraph C12(i) of GATT document MTN.GNG/NG12/W/27 reflects a text forwarded by the developing states that pushes for the ability to use investment measures for the prevention of market allocation and exclusivity contracts (which is what product mandating requirements are designed to do). This shows that the developing states have not given up on having the use of these measures protected. The concessions received by the developed states are therefore coded 0. Paragraph B7 of GATT document MTN.GNG/NG12/W/27 reflects a text forwarded by the developed states that references the trade-distorting effects of measures that "displace" or require exports. By requiring that exports be made from the host country, this is essentially what product mandating requirements do. This text therefore shows that the developed states have not given up on getting limitations on the use of these measures in the final agreement. The concessions received by the developing states are therefore coded 0.

**Export Performance Requirements:** This issue dealt with whether or not to limit states' ability to impose export performance requirements on foreign investors. Paragraph B9 of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developed states that seeks to prohibit the use of export performance requirements. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore coded 0. Paragraph C8(i) of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developing states that seeks to protect states' ability to use export requirements to assist in development. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore coded 0.

**Domestic Sales Requirements:** This issue dealt with whether or not to limit states' ability to impose domestic sales requirements foreign investors. Paragraph B8(f) of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developed states that seeks to prohibit the use of domestic sales requirements. This shows that the developed states have not given up on getting this limitation in the final agreement. The concessions received by the developing states are therefore coded 0. Paragraph C12(f) of GATT document MTN.GNG/NG12/W/27 reflects a text proposed by the developing states that seeks to protect states' ability to use domestic sales requirements. This shows that the developing states have not given up on being able to use these measures. The concessions received by the developed states are therefore coded 0.

**IMs for Development:** This issue dealt with whether to let developing states use investment measures for development purposes. As the statements reported throughout GATT document MTN.GNG/NG12/22 show, developing states have not given up on protecting their ability to use IMs for developing purposes. The concessions received by the developed states are therefore coded 0. The statements reported throughout GATT document MTN.GNG/NG12/22 also show that despite the opposition of the developing states, the developed state are still pushing the text that developing countries oppose. The concessions received by the developing states are therefore coded 0.

## **Negotiating Group on Goods 13: Dispute Settlement**

**Adoption of Panel Reports:** This issue dealt with whether or not to make the adoption of panel reports automatic or whether to require consensus for a panel report to be adopted. The section on “consideration of panel reports” in GATT document MTN.GNG/NG13/W/45 lists out several options for the adoption of panel reports. None of these options calls for an automatic adoption – they all allow for the possibility for appeal or reflect traditional consensus. The fact that no option left on the table reflects their most preferred outcome demonstrates that concessions were made by the states pushing for automatic adoption. However, because most options do not call for traditional consensus means that these states have not come all the way toward the preferences of the states pushing for consensus. The concessions received by those pushing for consensus are therefore coded 2. The fact that traditional consensus was still on the table shows that the traditional consensus proponents had not completely given up on their position, but several states did express a willingness to consider “modulated” consensus (see GATT document MTN.GNG/NG13/19). The concessions received by those that were not in favor of traditional consensus are therefore also coded 2.

**Implementation of Rulings Under Article XXIII:2 :** This issue dealt with whether to create more stringent procedures (including surveillance) to aid in the prompt implementation of rulings. GATT document MTN.GNG/NG13/W/43 paragraph 14 shows that regarding Article XXIII, it is “generally agreed” to have flexibility to adapt the common procedures for implementation to accommodate different cases. This shows that concessions were made by the states pushing to have consistent procedures for all cases. The concessions received by those pushing for more flexibility are therefore coded 3. Because the general agreement is to have “flexible” procedures, the states pushing for flexibility won on this issue. The concessions received by those pushing for more consistent procedures are therefore coded 0.

**Retaliation Procedures:** This issue dealt with whether states should have an automatic right to retaliate or whether authorization would be required for retaliation. GATT document MTN.GNG/NG13/W/45 (pages 5-7) lays out four different options that remained on the table for this issue. These four options included an automatic right to retaliate as well as different requirements for authorization. Because both sides still had options on the table, neither had yet given in on achieving their preferred outcome on this issue. The concessions received by both sides are therefore coded 0.

**When to Establish Panels:** This issue dealt with whether or not a request for a panel must be met or whether such a request could be blocked. GATT document MTN.GNG/NG13/W/45 (page 8) lays out three options regarding the establishment of panels. All three reflect that the idea that the establishment will be automatic. None of these options includes the possibility for the establishment of a panel to be blocked, but some options did call for certain steps to be carried out before a panel could be established. The concessions received by those pushing for states to



be able to block the establishment of a panel are therefore coded 1. On the other side, because no option included the ability of a state to block the establishment of a panel, the states pushing for this ability had conceded this more extreme position. The concessions received by the states pushing for automatic adoption are therefore coded 3.

**Terms of Reference:** This issue dealt with whether to have standard terms of reference for all disputes or whether to use special terms of reference for each case. The GATT documents in 1990 do not report information on the status of negotiations on this issue. Data is therefore not available on the level of concessions each side received by the end of 1990.

**Third Party Action:** This issue dealt with whether or not to allow third party actions in the dispute settlement process. GATT document MTN.GNG/NG13/W/45 (page 8) lays out draft text regarding the possibility for third party action. This text includes certain rights that will be allotted to third parties. This shows that the states pushing for third parties to have rights in the dispute settlement process have not given in on this issue. The concessions received by the states pushing against such rights are therefore coded 0. At the same time, this text remains in brackets, showing that the states pushing against the establishment of third party rights have not given in and agreed to this text. The concessions received by the states pushing for these rights are therefore also coded 0.

**Retroactive Prejudice:** This issue dealt with whether or not to include “retroactive prejudice” in the estimation of damages. GATT document MTN.GNG/NG13/W/45 (page 5-7) lays out four options regarding the calculation of damages. Option 3 states that injury will be calculated from the data of circulation of the panel report. In other words, retroactive damages will not be included. The other options allow for the possibility of the use of retroactive prejudice in calculations of injury. The concessions received by both sides are therefore coded 0, as the options still on the table cover both sides regarding the use of retroactive prejudice. Neither side had therefore given on trying to get their most preferred outcome through.

**Special and Differential Treatment:** This issue dealt with whether to provide developing states with special treatment regarding the filing of complaints and/or when complaints were filed against it. GATT document MTN.GNG/NG13/W/45 (pages 8-9) lays out draft text calling for special and differential treatment for LDCs. The lack of brackets around paragraphs 1, 2, and 3 shows that the developed states are willing to accept this special treatment for LDCs. However, the text calling for special and differential treatment for all developing states is still in brackets, showing that the developed states have not given in completely on this issue. The concessions received by the developing states on this issue are therefore coded 2. Because the text calling for special and differential treatment for all developing states is still in the proposed text shows that the non-LDC developing states are still pushing for such special treatment. The concessions received by developed states are therefore coded 0.

**Panel Composition:** This issue dealt with whether or not states could have government representatives on panels or whether panels should just be composed of non-governmental experts. GATT document MTN.GNG/NG13/W/45 (page 8) lays out draft text regarding the selection of panelists. This text includes the possibility for governmental representatives to be included on panels. This shows that the states pushing for inclusion of governmental actors have not given in on this issue. The concessions received by the states pushing against the inclusion of governmental representatives are therefore coded 0. At the same time, this text remains in brackets, showing that the states against the inclusion of governmental actors have not given in and agreed to this text. The concessions received by the states pushing for the inclusion of governmental actors are therefore also coded 0.

## Negotiating Group on Goods 14: Functioning of GATT

Data for the coding of the concessions states received on the issues in Negotiating Group 14 are drawn from multiple sources. They are described in the coding for each issue.

**Trade Policy Review Mechanism (TPRM):** This issue dealt with whether to establish a trade policy review mechanism to regularly review the trade policies of all GATT member states. As GATT document MTN.GNG/NG14/W/44 (page 1) shows, there was agreement on this issue such that the states were already working on the reporting forms that would be used under this mechanism. The concessions received by those pushing for the TPRM are therefore coded 3. At the same time, it was also agreed that the TPRM would be reviewed and reconsidered. The possibility for this review represents a degree of concessions to the states that were pushing against the establishment of the TPRM. The concessions received by these states are therefore coded 1.

**Transparency:** This issue dealt with whether to require states to improve their domestic policies regarding transparency. GATT document MTN.GNG/NG14/W/44 (pages 8 and 9) lays out draft text regarding transparency requirements. Paragraph II.3 calls for the creation of a central registry to increase the transparency of notifications. Paragraph III.8 shows that the goal of the Working Group they were going to create to deal with this issue would be to improve the transparency of national trade policies and the effectiveness of the surveillance arrangements established to this end. Together with paragraph II.3, this shows that the states had agreed on transparency such that they were already creating institutions to keep states in line with the reporting schemes. The concessions received by states pushing for stringent transparency requirements are therefore coded as receiving concessions 3. At the same time, the text also shows that there is some flexibility in the transparency requirements, recognizing that developing states needed special treatment and assistance in order to fulfill their notification obligations. This shows some degree of concessions by the states pushing for greater transparency across the board because they were willing to accept some limitations on transparency for certain states. The concessions received by states pushing against stringent procedures are therefore coded in category 1.

**Notification Procedures:** This issue dealt with whether or to increase states' notification requirements to the GATT. GATT document MTN.GNG/NG14/W/44 (page 2, paragraph 2(d) shows that agreement was reached on notification procedures. At the same time, however, the procedures were not significantly expanded from their current form and flexibility was built in for developing states. The concessions received by states pushing for the institution of notification procedures are therefore coded 2. On the other side, GATT document MTN.GNG/NG14/W/44 (page 8) shows that there is flexibility built into the notification procedures that would be required of developing states, and stated that they would be entitled to assistance in carrying out their notifications. The concessions received by the developing states, which had concerns about the implementation of these notification procedures, are therefore also coded 2.

**Small Ministerial Group:** This issue dealt with whether or not to establish a small ministerial group equivalent to the Consultative Group of 18 (CG18) under the GATT. As GATT document MTN.GNG/NG14/W/44 (pages 2-3) shows, agreement was not reached on this issue, and states against the creation of this group argued that "further study" was needed before such a group could be established. The concessions received by the end of 1990 by the states pushing for the creation of this group are therefore coded 0. It also reflects overall disagreement, with some states still pushing for the creation of this group. The concessions made by those pushing for this group (and received by the states not pushing for it) are therefore coded 0

**Multilateral Trade Organization (MTO):** This issue dealt with whether or not to create a multilateral trade organization (MTO). As GATT document MTN.GNG/NG14/W/44 (page 3, paragraph 3.c) shows, agreement had not yet been reached on the creation of an MTO. The states pushing for the creation of an MTO were still pushing

for it, showing that they had not given up their position. The concessions received by the states against its creation are therefore coded 0. On the other side, some flexibility was shown by the states pushing against the creation of an MTO. They had not yet accepted its creation, but did express some flexibility in that they were willing to consider the issue down the road. The concessions received by the states pushing for the creation of an MTO are therefore coded 1.

**Linkages to Other Economic Policies:** This issue dealt with whether states should make a formal commitment to pursue linkages between trade, financial, and monetary aspects of economic policy. As GATT document MTN.GNG/NG14/W/44 (page 4) shows, little progress had been made on this issue by the end of 1990. The states pushing for a political statement expressing a willingness to link these issues were still pushing for that statement, while those opposed remained opposed. The concessions received by both sides are therefore coded 0.

**Link GATT to IMF and World Bank:** This issue further extended the issue regarding whether or not to make a formal commitment to pursue linkages between trade, financial, and monetary aspects of economic policy by creating formal linkages between the GATT, IMF, and World Bank. As the comments reported in GATT document MTN.GNG/NG14/W/44 (pages 5-7) show, only preliminary views had been expressed on this issue, and no concessions had yet been made. The concessions received by both sides are therefore coded 0.

## **Negotiating Group on Services**

**GATT Competence:** This issue dealt with whether GATT competence in the area of trade in services should be expanded into the realm of the competences of existing institutions. GATT document MTN.GNS/W/101 reflects a draft text put forth by developing countries. Article 3 of this proposed text states: “Nothing in this Framework shall affect rights and obligations under existing international agreements in the field of services.” This shows the states pushing against the expansion of GATT competence (generally the developing states) have not given in on this issue. The concessions received by the developed states are therefore coded 0. GATT document MTN.GNS/33 (page 3, paragraphs 13 and 15) shows that there is some degree of flexibility in developed states’ positions regarding the relation of the new GATT agreement to existing institutions. However, this flexibility is very limited, given that they also state that they are unwilling to allow other institutions to govern when there is a conflict between existing institutions and the GATT agreement. The concessions received by the developing states are therefore coded 1.

**Liberalize versus Focus on Development:** This issue dealt with the question of whether or not the goal of these services negotiations should be to liberalize trade in services or to create rules to allow states to regulate trade in services for purposes of economic growth and development. As the statements reported in GATT document MTN.GNS/33 (page 1, paragraphs 2 and 3) show, developing states were still pushing the *development* side of any liberalization process. GATT document MTN.GNS/W/101 also shows that the developing states were willing to liberalize to some degree, but again, only in a development context. The concessions made to the states pushing for pure liberalization are therefore coded 1. As GATT document MTN.GNS/W/105 shows, the EC expressed a willingness to accept (and even proposed) that the level of liberalization can/should be consistent with states’ level of development. Switzerland also expressed a willingness to limit liberalization for development purposes, but only for the LDCs. These statements reflect some concessions by some developed countries. At the same time, other developed states like the United States were not willing to consider liberalization and development together (see GATT document MTN.GNS/33, page 7). Overall, only some concessions were therefore offered by some states, while others were completely unwilling to concede. Overall, the concessions received by the developing states are therefore coded 1.

**Subject to GATT Principles:** This issue dealt with whether or not to subject trade in services to GATT principles of MFN treatment and national treatment. As GATT document MTN.GNS/40 (page 5) shows, there is a “general consensus” on this issue – with the consensus being that the most-favored nation principle should govern trade in services. This is evidenced by many statements by both developed and developing states throughout this meeting summary. The concessions received by the developed states that were pushing for the inclusion of GATT principles in the agreement are therefore coded 3 and the concessions received by the states pushing against this are coded 0.

**Scope of “Trade-able Services”:** This issue dealt with the question of whether to focus liberalization of trade in services on labor-intensive services or on other types of services such as financial services. GATT document MTN.GNS/40 (pages 5-8) show statements by several developing states indicating their unwillingness to give on the issue of labour mobility (i.e., unwilling to stop pushing for the liberalization of labour-intensive services). The concessions received by the developed states are therefore coded 0. On the other side, the statement by Kenya reported in GATT document MTN.GNS/40 (page 8) shows that no commitments have yet been made to labour mobility. This shows that the developed states have not given in on this issue either. The concessions received by the developing states are therefore also coded 0.

**Definition of “Trade” in Services:** This issue dealt with whether the definition of trade in services should only include services trade across borders or whether it should include both trade across borders and internal establishment. GATT document MTN.GNS/W/101 reflects a draft text put forth by developing countries. Article 1, paragraph 1 of this draft text shows that the developing states are pushing for a definition of trade in services that includes only cross-border trade. Article 1 paragraph 2 shows that the developing states are unwilling to include internal service provision in the definition. The fact that they are still pushing against a more broad definition shows that they have not given in on this issue. The concessions received by the developed states are therefore coded 0. GATT document MTN.GNS/28 lays out a draft text put forth as a potential compromise document. Article I paragraphs 1 and 2 of this text capture services trade that is beyond the definition of trade in services being pushed by the developing countries. GATT document MTN.GNS/35 lays out a subsequent text, in which most of this more broad definition has been removed. The fact that much of it was removed shows that the developed states were no longer pushing for as broad a definition. The concessions received by the developing states are therefore coded 2.

**Process of Liberalization:** This issue dealt with the whether states should use a formula approach to liberalization in services or whether to use a request/offer approach. The statements made in GATT documents MTN.GNS/34 and MTN.GNS/37 show that most (but not all) developed states are willing to accept the possibility of a request/offer approach instead of a formula approach. The concessions received by the developing states are therefore coded 2. The statements in GATT document MTN.GNS/34 and MTN.GNS/37 show that some developing states are willing to potentially accept the formula approach. The concessions received by the developed states are therefore coded 2. Neither received complete concessions because agreement had not yet been reached, but the broad flexibility offered by both sides indicates a degree of concessions.

**Dismantle National Regulations:** This issue dealt with whether states’ national regulations on services imports should be required to be dismantled under GATT rules. The contrast between the draft texts put forth in GATT document MTN.GNS/35 Article XV and GATT document MTN.GNS/W/101 Article 13 shows that the latter is significantly more restrictive in allowing developing states to use domestic measures such as subsidies to support their services industry. At the same time, the text does have a provision that could allow developing countries to use such measures. However, the possibility to reject the use of these types of measures was also built into the text. The concessions received by the developing states are therefore coded 1. On the other side, the text in GATT document MTN.GNS/W/101 shows that the developing states are still pushing for the ability to use these types of domestic measures. The concessions received by the developed states by this point in the negotiations are therefore coded 0.

**Special and Differential Treatment:** This issue dealt with the question of whether special and differential treatment should be accorded to developing countries, allowing them to maintain certain protectionist measures in the area of trade in services. The text proposed by developing countries, which is reflected in GATT document MTN.GNS/W/101 shows that the developing states are still pushing for the ability to protect their own industries from unfettered competition with services from other states. Article 13 paragraph 1 explicitly states the developing states want " (1) the developed states to have to take measures to prevent their industries from being able to “unfairly” compete with the developing states’ more fledgling services industries, as well as (2) to protect their own ability to support their industries. Because the developing states are still pushing hard for these special measures to protect their industries, the concessions received by the developed states on this issue are coded 0. GATT document MTN.GNS/35 Article XVIII, paragraph 2 shows that the developed states are willing to allow some degree of special and differential treatment for the developing states. However, this treatment must be consistent with states’ level of development. More developed developing states would therefore be very limited in the protections afforded to their industries. Concessions were therefore, to some degree, made to the developing states. The concessions they received are therefore coded 1.

**Dispute Settlement:** This issue dealt with whether trade in services should be subject to the dispute settlement mechanism of the GATT. The statements made by developed states that are reported in GATT document MTN.GNS/34 show that the developed states placed significant importance on having the Services Agreement subject to the dispute settlement mechanism. They were still pushing this issue and therefore not willing to give up on it. The concessions received by the developing states are therefore coded 0. The statements made by developing states that are reported in GATT document MTN.GNS/34 also show that the developing states are still pushing against having services subject to the GATT’s dispute settlement mechanism. They had not given in on this issue. The concessions received by the developed states are therefore coded 0.

**Technology Transfer:** This issue dealt with whether developing states could require technology transfer from industries exporting services to their state and thus facilitating economic development. GATT document MTN.GNS/W/101 lays out a draft text proposed by developing states. Article 8 paragraph 2 lays out text that argues that a key condition in regards to their willingness to provide access to their markets is “access to technology.” This shows that the developing states have not given in on pushing for technology transfer. The concessions received by the developed states are therefore coded 0. GATT document MTN.GNS/37 (pages 3 and 4) shows that developed states are willing to allow a level of technology transfer requirements. However, they are not willing to accept a blanket, general provision. Instead, they argue that the level of technology transfer should be based on the development needs of states. Only the least developed countries are therefore the ones that received real concessions. The concessions received by developing states, as a whole, are therefore coded 1.

**Safeguards:** This issue dealt with whether or not developing states would be allowed to use safeguards in the services sector for balance of payments reasons. A comparison of the draft text forwarded in GATT document MTN.GNS/35 Articles X and XI with GATT document MTN.GNS/W/101 Article 9 shows significant differences in the ability of developing states to use safeguards. Concessions were therefore made by the developed states between the circulation of these two texts. The concessions received by developing states are therefore coded 1. In contrast, GATT document MTN.GNS/W/101 shows that the developing states are still pushing for the ability to use safeguards – i.e., they have not given in on the issue. The concessions received by the developed states are therefore coded 0.

## Negotiations over the Draft Final Act

The coding of the concessions states' received in this negotiation follow the rules laid out by Author (2015), who analyzes the overarching issues in this negotiation in her analysis of the Uruguay Round.

**Tariffs:** This issue dealt with the reduction and binding of tariffs. According to the WTO website on “Tariffs: more bindings and closer to zero”, which describes: the bulkiest results of Uruguay Round are the 22,500 pages listing individual countries' commitments on specific categories of goods and services. These include commitments to cut and “bind” their customs duty rates on imports of goods. In some cases, tariffs are being cut to zero. There is also a significant increase in the number of “bound” tariffs — duty rates that are committed in the WTO and are difficult to raise. According to this website, developed countries agree to cut tariffs and bound additional tariffs. Developing states, however, bound a significantly greater number of tariffs. Developing countries still maintained fewer bound tariffs, however. Developed states (coded as OECD states) are therefore coded as receiving concessions coded as 2 from developing countries, and developing countries are coded as receiving concessions coded as 1.

**Non-Tariff Barriers:** This issue dealt with the removal of NTBs across the board. As described in the WTO's “Summary of the Final Act of the Uruguay Round,” agreement was not reached to include PTAs in the harmonization process. Non-PTA members therefore did not win on this issue. Pre-shipment inspection was also included under GATT disciplines, the position being pushed largely by the developed states. Moreover, several states agreed to reduce their NTBs. Because these NTB reductions were made, all states would benefit from them, and are therefore coded as receiving some degree of concessions. If a state was a developed state and a member of a major PTA, the concessions it received regarding NTBs are coded 3. If it was a developed state but not a member of a major PTA, the concessions it received regarding NTBs are coded 2. If a state was a developing state and a member of a major PTA, the concessions it received are coded 2, as it won on the PTA issue and received some NTB concessions, but did not achieve its interests regarding pre-shipment inspection. Finally, the concessions received by developing states that were not members of a major PTA are coded 1, as the only place their interests were reflected in the agreement was on was receiving a degree of concessions on the NTB reductions taken on by other states.

**Natural Resource-Based Products:** This issue dealt with the overall removal of barriers to trade in natural resource-based products – fisheries, non-ferrous minerals, and forestry. Overarching data on the concessions received by states in the natural resource-based products issue area was not available. Data was only available on the requests and offers made on natural resource-based products is bilaterally specific across the full gamut of countries and therefore not comparable and generalizable across the whole.

**Textiles:** This issue dealt with the overall removal of barriers to trade in textile and clothing products. As described in the WTO's “Summary of the Final Act of the Uruguay Round, Agreement on Textiles and Clothing,” all textile and clothing products were agreed to come under GATT competence by 2005. There was also a phase-out process agreed for MFA restrictions. There is also the possibility of states to use safeguards. The presence of a safeguard mechanism shows that the states pushing for liberalization made some concessions on this issue, though those concessions are small in relation to the fact that they “won” on the most important issue in this part of the negotiation – the liberalization of trade itself. The concessions made by the developing states to the developed states are therefore coded 1. On the other side, the total phase-out over time shows that fairly significant concessions were made by the states that did not want significant liberalization of trade in textiles. However, these concessions were not complete because they did not give in on the possibility to use a safeguard mechanism. The concessions made by the developed states to the developing states are therefore coded 2.

**Agriculture:** This issue dealt with the overall removal of barriers to trade in agricultural products. As described in the WTO's "Summary of the Final Act of the Uruguay Round," agreement was made to lessen domestic subsidies, as well as for NTBs to be tariffed and all tariffs reduced in the agricultural sector. This indicates concessions to those pushing for liberalization. The agreement also includes several instances of special and differential treatment, where reductions required of developing countries are less than those required of developed states. This indicates concessions made to the developing states. A safeguard mechanism was also built into the agreement, showing concessions to the states that wanted to maintain certain levels of protection in agricultural trade. In addition, some measures were coded as "green box" measures which means that they could be maintained under the agreement. This shows concessions by those that were pushing for liberalization. It was also agreed that export subsidies would be reduced (but not eliminated). This shows concessions by both sides – those that were pushing for elimination and those pushing for protection of export subsidies. Finally, the agreement allowed for states to use sanitary and phytosanitary measures, but the stated goal was to harmonize those measures, as well as limit their use "only to the extent necessary" to protect human, animal, and plant life or health. Overall, the concessions made and received by both sides were fairly significant, but not complete. The concessions received by both sides are therefore coded 2.

**Tropical Products:** This issue dealt with the overall removal of barriers to trade in tropical products. Overarching data on the concessions received by states in the tropical products issue area was not available. Data was only available on the requests and offers made on tropical products is bilaterally specific across the full gamut of countries and therefore not comparable and generalizable across the whole.

**GATT Articles:** This issue dealt with the negotiation of various GATT Articles. As the individual agreements that include these articles show, concessions were received, to at least some degree, by all states involved in the negotiations. The balance of payments articles still allow for trade barriers to be used to assuage balance of payments problems when needed, but put requirements and restrictions on states' ability to use them. Some concessions were therefore received by states on both developed and developing states, though the developed states likely received somewhat more concessions as the requirements and restrictions placed fairly significant limitations on states' ability to use trade restrictions. Regarding Article XXIV on regional trading arrangements, the agreement still allows for the existence of PTAs, but puts them under more strict arrangements. Concessions were again made by both sides. However, states that wanted to restrict PTAs received more concessions than those outside of them. Regarding state trading, the agreement strengthens notification requirements, but does not change them that much. Concessions were again made by both sides. Overall, a state is coded as receiving concessions of 1 if it was a developing state that was a PTA member. A state is coded as receiving concessions of 2 if it was a developed PTA member or if it was a developing state that was not a PTA member. A state is coded as receiving concessions of 3 if it was a developed non-PTA member.

**MTN Agreements and Arrangements (the "Codes"):** This issue dealt with the codes negotiated during the Tokyo Round. As described in the WTO's "Summary of the Final Act of the Uruguay Round," agreement was reached on several measures in the Codes negotiations. Regarding technical barriers to trade, PPMs were included in the agreement, as was testing and certification requirements. The states pushing for these measures to be adopted into the Code therefore received significant concessions on this issue. Regarding import licensing, notification procedures were included in the final agreement. Moreover, the original language that argued that automatic licensing was assumed to be trade distorting was changed to language that stated these types of licensing were trade distorting only under certain conditions. Moreover, the agreement called for the use of non-automatic licensing to be used only when "absolutely necessary," reflecting language that the states that wanted to limit the use of licenses were supporting. Regarding government procurement, special and differential treatment was built into the agreement and no description of threshold requirements was added. Regarding anti-dumping, rules governing when a state could invoke anti-dumping procedures were made more strict. Regarding customs valuation, no mention of

special and differential treatment for acceding countries was made. Regarding the “code of good practice” for technical barriers to agreement, those pushing for strengthening the application by extending it to local and non-governmental bodies got that position reflected in the text. Overall, therefore, developing states won to at least some degree on issues of government procurement, antidumping, and import licensing. Non-signatories to the technical barriers to trade code also received concessions. The developing states did not, however, get their interests reflected in the customs valuation agreement. The concessions made to the developing states, overall, are therefore coded 2. On the other side, the developed states that were signatories to the technical barriers to trade had their interests reflected in the agreement. The developed states also won to some degree on the import licensing issue, and states that had not invoked anti-dumping recently also received concessions. Finally, regarding the code of good practice, non-federal developed states received concessions. A developed state is therefore coded as receiving concessions of 3 if it fulfilled all of those conditions, and as receiving concessions of 2 otherwise.

**Safeguards:** This issue dealt with the negotiation of requirements and limitations on states’ ability to use safeguards when they felt their economy was threatened by trade with other states. As described in the WTO’s “Summary of the Final Act of the Uruguay Round,” the agreement reached on safeguards prohibits all grey area measures, which is a major concession to those states that were against their use (which included all states but the users of these measures). The timeframe reflects the preferences of states that were pushing for a shorter timeframe. The possibility for countermeasures was built into the agreement, but some limitations on the ability of states to use them was also included. This indicates concessions were made to both sides on this issue. Finally, special and differential treatment for developing states was built into the agreement, showing concessions to the developing states were made. Developing states except the users of safeguards therefore received concessions of 3 because they won on all of these issues. The other developing states, who won on all but the timeframe issue are coded as receiving concessions of 2. Developed states that were not users of safeguards or of grey area measures are coded as receiving concessions of 2, as they won on all issues but special and differential treatment. Developed states that both gave on the grey area measures issue and the timeframe limitations are coded as receiving concessions of 0, as they gave on almost all issues. The other developed states, that gave on only one of these two issues are coded as receiving concessions of 1.

**Subsidies:** This issue dealt with the negotiation of limitations on states’ ability to use subsidies. As described in the WTO’s “Summary of the Final Act of the Uruguay Round” and the text of the Subsidies and Countervailing Measures Agreement itself, the agreement allows certain subsidies that have specific economic and policy objectives, indicating concessions made by those that wanted these types of subsidies to be actionable. In addition, special and differential treatment for developing countries was reflected in the agreement. This special treatment covered not just the LDCs, but other developing states as well, showing a concession to the developing states, as a whole. No mention of primary products or processed primary products was made in the agreement, showing a lack of concessions to the states that were pushing for the inclusion of these provisions. The agreement also shows that the definition of a domestic subsidy is more than just a “financial contribution,” indicating a concession made to states that were pushing for a broader definition. In addition, the definition of prohibited subsidies includes some domestic subsidies, indicating concessions made to the states that wanted more expansive prohibition. Finally, the agreement allows for cumulative calculation for determination of injury, but only under certain conditions. This reflects a degree of concession by states on both sides of this “cumulative calculation” issue. Overall, the developing states that were members of the Cairns group won on issues 1 and 2. Developing non-Cairns member states won on issues 1, 2, and 3. All developed Cairns member states won on issues 5, 6, and 7. All other developed states won on issues 1, 3, and 6. All states therefore got something, but not everything that they wanted. If a state won on three or more issues, the concessions it received are coded 2, and coded 1 otherwise.

**TRIPs:** This issue dealt with the negotiation of protections for intellectual property rights. First, the fact that an Agreement on Trade-Related Aspects of Intellectual Property Rights was reached highlights a large concession received by the developed states that were pushing for it. Moreover, as described in the WTO’s “Summary of the Final Act of the Uruguay Round” and the text of the TRIPs agreement itself, the TRIPs agreement applies GATT



principles to IPRs, lays out enforcement measures, and calls for inclusion of TRIPs in the multilateral dispute settlement process. Moreover, protections for patents, trademarks, industrial designs, and more were included in the agreement. Moreover, the agreement calls for recourse to courts for both foreigners as well as nationals. These were all key issues being pushed by the developed states. The concessions they received are therefore coded 3 and the concessions received by the developing states on the TRIPs issue are coded 0.

**TRIMs:** This issue dealt with the breaking down protectionist measures used in the area of investment. First, the fact that an Agreement Trade-Related Aspects of Investment Measures was reached highlights a significant concession received by the developed states that were pushing for it. Moreover, as described in the WTO's "Summary of the Final Act of the Uruguay Round," local content requirements and trade balancing requirements (which include export requirements) are banned by the agreement. However, all other investment measures whose use developing states sought to protect were not banned by the agreement. The developing states are therefore coded as receiving fairly significant concessions (coded 2) because they won the ability to keep several investment measures in place. The developed states are also coded as receiving fairly significant concessions (coded 2) because they were able to get an agreement, as well as the prohibition of several different kinds of investment measures.

**Dispute Settlement:** This issue dealt with the negotiation of a new and stronger dispute settlement mechanism for the GATT. As described in the WTO's "Summary of the Final Act of the Uruguay Round," the consent of parties was not needed for a panel to be formed. This represented a concession by the states that were pushing for consensus requirements (largely the net defenders in the GATT's current dispute settlement system) to those pushing for automatic establishment. In addition, the terms of reference and composition of the panels are not dependent on the consent of the parties, showing concessions by the net defenders. The agreement also extends the lack of consensus requirement to the adoption of panel reports and Appellate body findings. The agreement also specifies that standard terms of reference will apply unless the parties both agree to special terms within 20 days. This shows concessions were received both by states pushing for standard terms of reference and those that were pushing for case-specific terms of reference. The parties to the dispute are also not allowed to have representative on the panel, demonstrating that concessions were made to states that were pushing against having governmental representatives present on the panels. The agreement also called for the creation of an appellate system – a concession to the net defenders who, in the face of a lack of consensus for the establishment of panels faced the possibility of being "overrun." Finally, measures giving special and differential treatment to developing states were built into the agreement. Overall, all states received at least some degree of concessions. The net defenders received some concessions, such as the creation of the appellate system, but did not win on many other issues. The concessions received by the net defenders are therefore coded 1. In contrast, states on the other side received fairly significant concessions. The concessions received by these states are therefore coded 2.

**Functioning of GATT:** This issue dealt with the strengthening of the GATT as an institution. As described in the WTO's "Summary of the Final Act of the Uruguay Round," the agreement reflected the receipt of fairly significant concessions by states on both sides. A trade policy review mechanism was established, a multilateral trade institution was established (the WTO), and the trade policy review mechanism included strong surveillance and notification procedures. These were the issues being pushed by the developed states. The concessions they received are therefore coded 3. On the other side, the agreement cited the need for exchange rate stability, reflecting the recognition that inter-linkages exist between trade and other economic policies, and that the WTO alone cannot deal with them. In addition, informal cooperation between all economic IOs was proposed. These were all things that the developing states wanted reflected in the agreement, though they did not go as far as they would have liked. The concessions the developing states received are therefore coded 2.

**Services:** This issue dealt with the liberalization of trade in services. First, the fact that there was a Services Agreement reached was a large concession received by the developed states that were pushing for it. Moreover, as described in the WTO's "Summary of the Final Act of the Uruguay Round," and the General Agreement on Trade

in Services text itself, the most-favoured-nation principle was included in the agreement, another concession to the developed states. In addition, the agreement on services was also subject to the GATT's dispute settlement mechanism – another win for the developed states. Finally, the definition of trade in services that was agreed was somewhat more expansive than just covering cross-border trade. This was another win for the developed states. The concessions received by the developed states are therefore coded 3, as they won on the most important issues to their interests. On the other side, the concessions received by the developing states are coded 0 because they did not “win” on any of the issues that were central to their interests.

## Section 3:

# Robustness Checks for Models Reported in Paper

This section lays models designed to check the robustness of the results reported in the paper.

**Figure 1** presents the results equivalent to those of the Figure 1 reported in the paper. Instead of taking the “final phase” variable at its mean, which makes little sense, the figure in the paper assumed that it was not the final phase of the Uruguay Round, which linked all issues together. Figure 1 here assumes that it is the final phase, to ensure that the results are not sensitive to the specification for the derivation of the figure. The results from Figure 1, reported here, are consistent with those of Figure 1 in the paper. When issues are not differently valued, the likelihood any state will receive concessions on an issue is quite low, regardless of the costliness of its BATNA. When the issues are differently valued, however, states facing a costly BATNA on an issue are significantly more likely to receive concessions on that issue, all else constant. The difference between this figure and the figure in the paper is simply that concessions are more likely to be made, overall.

**Table 1** presents the results of a robustness check on the paper’s models, treating the costly issue-specific BATNA as a factor variable instead of one that has an implicit underlying continuum. WA Models 1 through 4 re-run Models 1 through 4 in the paper treating the costliness of a state’s issue-specific BATNA as a factor variable. Because the results of such an analysis are difficult to interpret directly from the coefficients themselves, **Figure 2** presents a visual representation of the relationship between the degree to which the issues on the table are linked together, the costliness of a state’s BATNA on a given issue, and the likelihood a state will receive concessions. As this figure shows, when issues on the table are not differently valued, regardless of the costliness of a state’s BATNA, that state is not likely to receive concessions. When the issues on the table are differently valued, however, states with a highly costly issue-specific BATNA are significantly more likely to receive concessions on that issue than states that do not have a costly BATNA on that issue. This provides empirical support for the argument presented in the paper.

**Tables 2 and 3** present the results of a robustness check using measures of individual state power and coalition power based on absolute levels of GDP rather than GDP as a percent of the overall GDP of the negotiating states. WA Models 5 through 8 in **Table 2** re-run Models 1 through 4 in the paper using these alternative measures of power. **Figure 3** (based on WA Model 5) plots the predicted probability of concessions for states with costly and non-costly issue-specific BATNAs at different levels of the degree to which the issues on the table are differently valued. **Table 3** (WA Models 9 and 10) re-runs Models 5 and 6 in the paper using these alternative measures of power. **Figures 4 and 5** (corresponding to Figures 2 and 3 in the paper) plot the predicted probability of concessions for states with costly and non-costly issue-specific BATNAs when their negotiation-level BATNA is costly and when it is beneficial.

As the results in **Table 2** show, across all four models, the interaction of having a more costly issue-specific BATNA and more differently valued issues on the table is associated with an increased likelihood of receiving concessions on that issue. **Figure 3** illustrates this relationship graphically. When the issues on the table are not differently valued, the likelihood of concessions is low. This low likelihood remains for states with non-costly issue-specific BATNAs regardless of the degree to which the issues on the table are differently valued. In contrast, states with a costly issue-specific BATNA are significantly more likely to receive concessions when the issues are differently valued. This provides additional empirical support for the results presented in the paper.

Drawing on the results in of WA Model 9 in Table 3, **Figure 4** shows that when a state’s issue-specific BATNA is not costly, the likelihood it will receive concessions on that issue is low. This holds regardless of the degree to which the issues on the table are differently valued, and regardless of the nature of a state’s negotiation-level BATNA. This supports the results presented in Figure 2. **Figure 5** shows that when a state’s issue-specific BATNA is costly, the likelihood it will receive concessions depends on the degree to which the issues on the table are differently valued. When the issues are not differently valued, the likelihood of receiving concessions is low. Regardless of a state’s negotiation-level BATNA, that likelihood increases significantly when the issues on the

table are more differently valued. This supports hypothesis 3 and is consistent with Figure 3 in the paper. Finally, Figure 5 also shows that when a state's issue-specific BATNA is costly, the likelihood of receiving concessions on that issue is actually lower for states with a better negotiation-level BATNA than for those with a costly one. This is consistent with the findings and discussion in the paper.

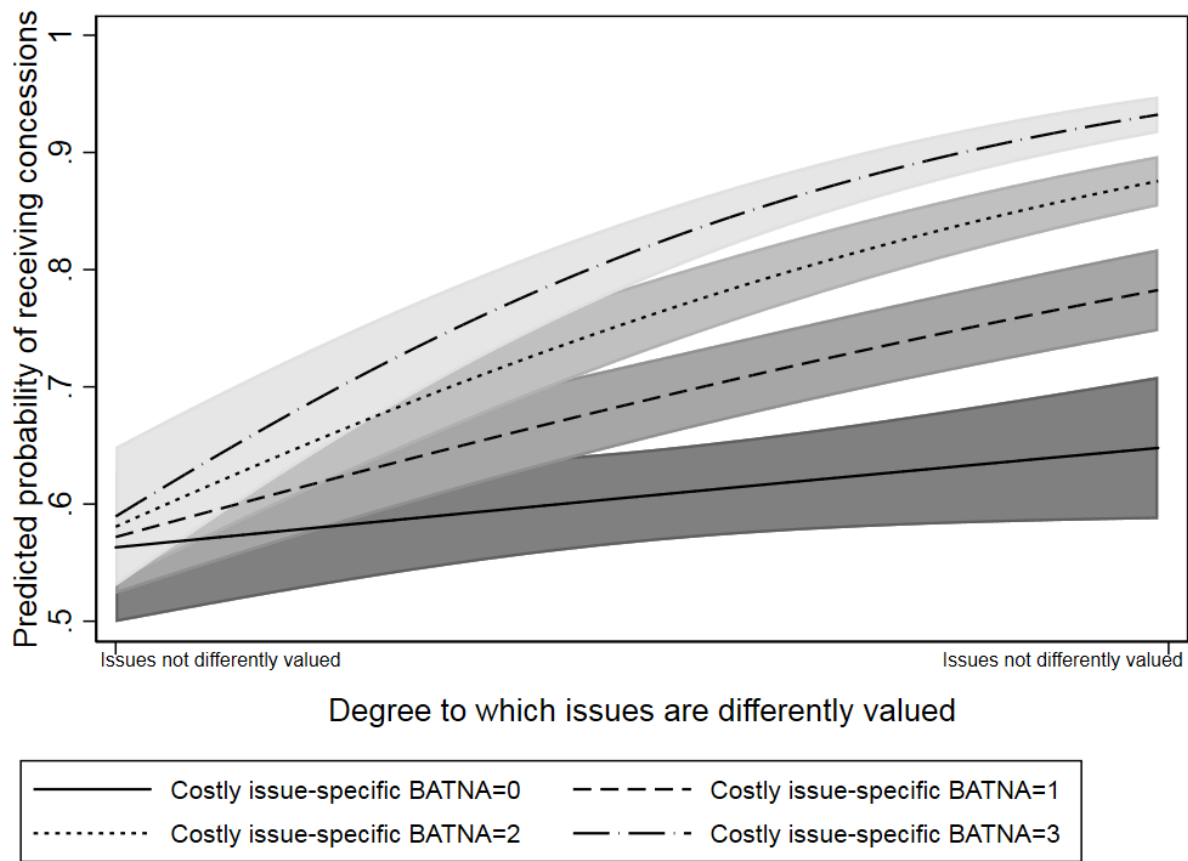


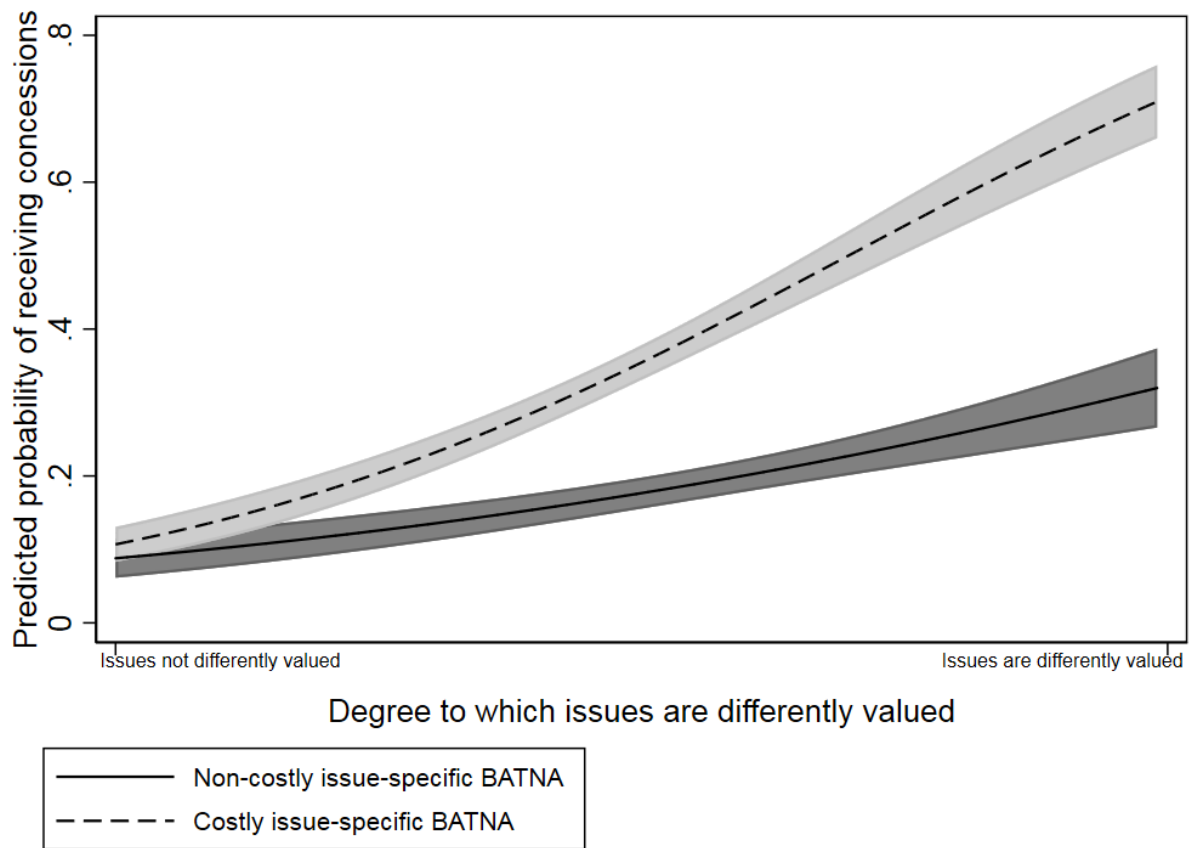
Figure 1: Predicted Probability of Receiving Concessions at Different Levels of BATNA Costliness as the Differently-Valued Nature of the Table Increases (assume it is final phase of the negotiations)

**Table 1: Costly BATNA, Issue Linkage, and Concessions Received**  
(Costly BATNA is a Factor Variable)

	WA Model 1	WA Model 2	WA Model 3	WA Model 4
Differently-valued issues	3.200* (.522)	3.077* (.503)	-13.953* (1.772)	-12.268* (1.642)
Costly issue-specific BATNA = 1	.152 (.096)	.086 (.094)	.241* (.120)	.263* (.081)
Costly issue-specific BATNA = 2	.782* (.108)	.791* (.107)	.648* (.134)	.790* (.093)
Costly issue-specific BATNA = 3	.794* (.102)	.768* (.101)	.650* (.124)	1.064* (.086)
Costly issue-specific BATNA=1 x Differently-valued issues	-3.427* (.696)	-3.082* (.680)	-5.900* (.963)	-4.760* (.651)
Costly issue-specific BATNA=2 x Differently-valued issues	-1.318* (.633)	-1.161 (.615)	-1.254 (.812)	-2.477* (.671)
Costly issue-specific BATNA=3 x Differently-valued issues	2.895* (.692)	2.979* (.671)	3.386* (.822)	.252 (.654)
Beneficial negotiation-level BATNA	-.165* (.032)	-.144* (.032)	-.035 (.038)	.089* (.030)
Final negotiating phase	2.162* (.087)	2.108* (.087)		
Individual state GDP (percent of overall states' GDP)	-.624 (.504)	.775 (.461)	-.170 (.543)	-.039 (.570)
Coalition GDP (percent of overall states' GDP)	.829* (.097)		.518* (.117)	-.220 (.117)
Constant	-1.748* (.103)	-1.476* (.098)	1.343* (.161)	
Cut 1				-2.185* (.139)
Cut 2				-1.101* (.135)
Cut 3				1.296* (.128)
Observations	8416	8416	8416	8416
Pseudo R <sup>2</sup>	.150	.143	.216	.133
Chi-squared	1235.05	1177.18	1550.61	2170.89

Robust standard errors are reported in parentheses.

\*  $p < .05$



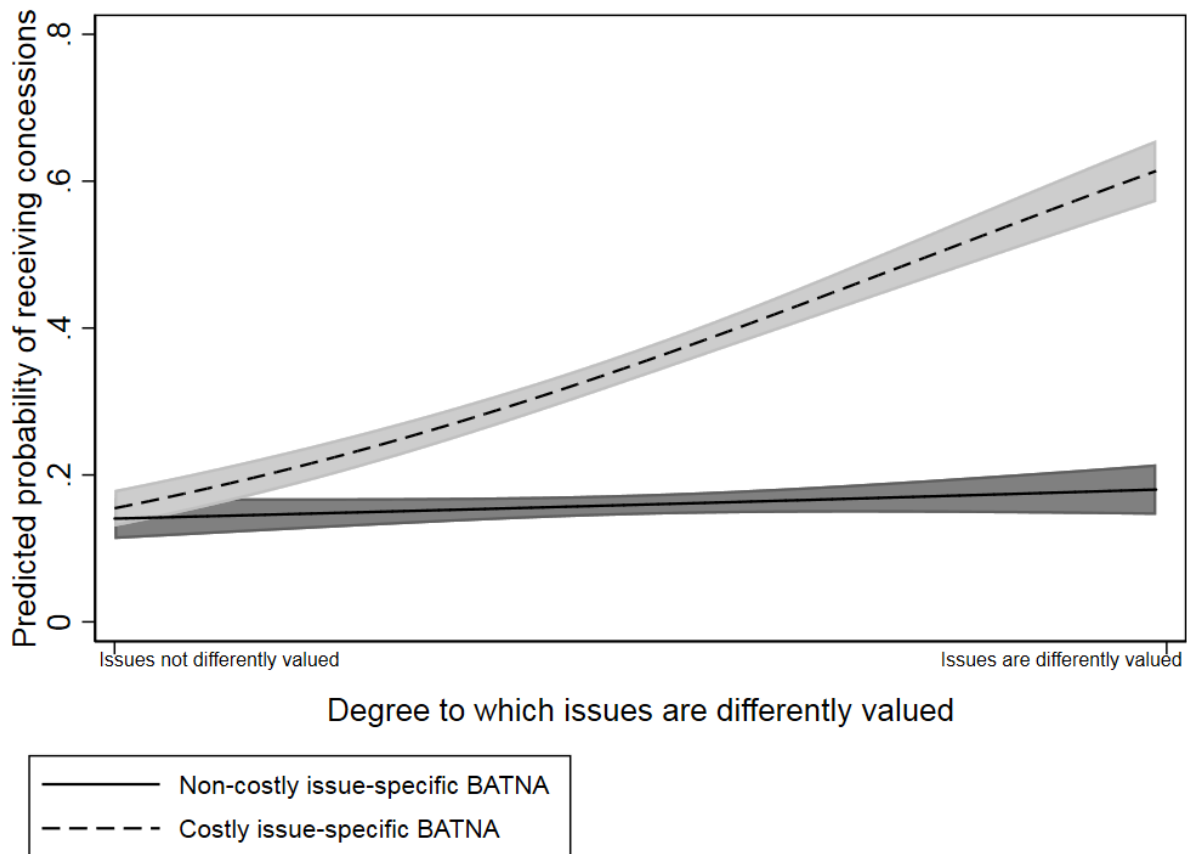
*Figure 2: Predicted Probability of Receiving Concessions at Different Levels of Issue-specific BATNA Costliness as the Differently-Valued Nature of the Issues on the Table Increases (Costly BATNA as a factor variable)*

**Table 2: Differently valued issues, costly issue-specific BATNAs, and concessions received  
(using absolute measures of individual and coalition GDP)**

	WA Model 5	WA Model 6	WA Model 7	WA Model 8
Differently-valued issues x Costly issue-specific BATNA	1.258* (.207)	1.220* (.202)	1.994* (.258)	.605* (.194)
Differently-valued issues	.595 (.426)	.941* (.415)	-17.098* (1.715)	-15.568* (1.654)
Costly issue-specific BATNA	.289* (.028)	.303* (.029)	.200* (.033)	.349* (.023)
Beneficial negotiation-level BATNA	-.164* (.031)	-.146* (.031)	-.003 (.035)	.092* (.029)
Final negotiating phase	1.981* (.085)	2.061* (.085)		
Individual state GDP (ln)	-.038 (.013)	.006 (.012)	-.010 (.013)	.003 (.011)
Coalition GDP (ln)	.326* (.034)		.155* (.042)	-.104* (.040)
Constant	-10.011* (.915)	-1.682* (.277)	-2.822* (1.170)	
Cut 1				-5.036* (1.136)
Cut 2				-3.967* (1.132)
Cut 3				-1.598 (1.119)
Observations	8416	8416	8416	8416
Pseudo R <sup>2</sup>	.142	.133	.203	.127
Chi-squared	1195.79	1120.61	1500.10	2225.45

Robust standard errors are reported in parentheses.

\*  $p < .05$



*Figure 3:  
Predicted Probability of Receiving Concessions at Different Levels of BATNA Costliness as the Differently-Valued Nature of the Issues on the Table Increases (using absolute levels of GDP for measure of material power)*



**Table 3: Differently valued issues, costly issue-specific BATNAs, beneficial negotiation-level BATNAs, and concessions received (using absolute measures of individual and coalition GDP)**

	WA Model 9	WA Model 10
Differently-valued issues	-.095 (.846)	-18.568* (2.008)
Costly issue-specific BATNA	.378* (.045)	.295* (.050)
Differently-valued issues x Costly issue-specific BATNA	1.250* (.378)	2.238* (.448)
Beneficial negotiation-level BATNA	-.052 (.054)	.133* (.062)
Differently-valued issues x Beneficial negotiation-level BATNA	.413 (.483)	.564 (.639)
Costly issue-specific BATNA x Beneficial negotiation-level BATNA	-.090* (.028)	-.103* (.032)
Differently-valued issues x Costly issue-specific BATNA x Beneficial negotiation-level BATNA	.135 (.238)	-.083 (.296)
Final negotiation phase	2.015* (.088)	
Individual state GDP (ln)	-.038* (.013)	-.009 (.013)
Coalition GDP (ln)	.314* (.035)	.143* (.043)
Constant	-9.755* (.940)	-2.561* (1.208)
Observations	8416	8416
Pseudo R <sup>2</sup>	.143	.204
Chi-squared	1203.32	1495.64

Robust standard errors are reported in parentheses.

\* $p < .05$

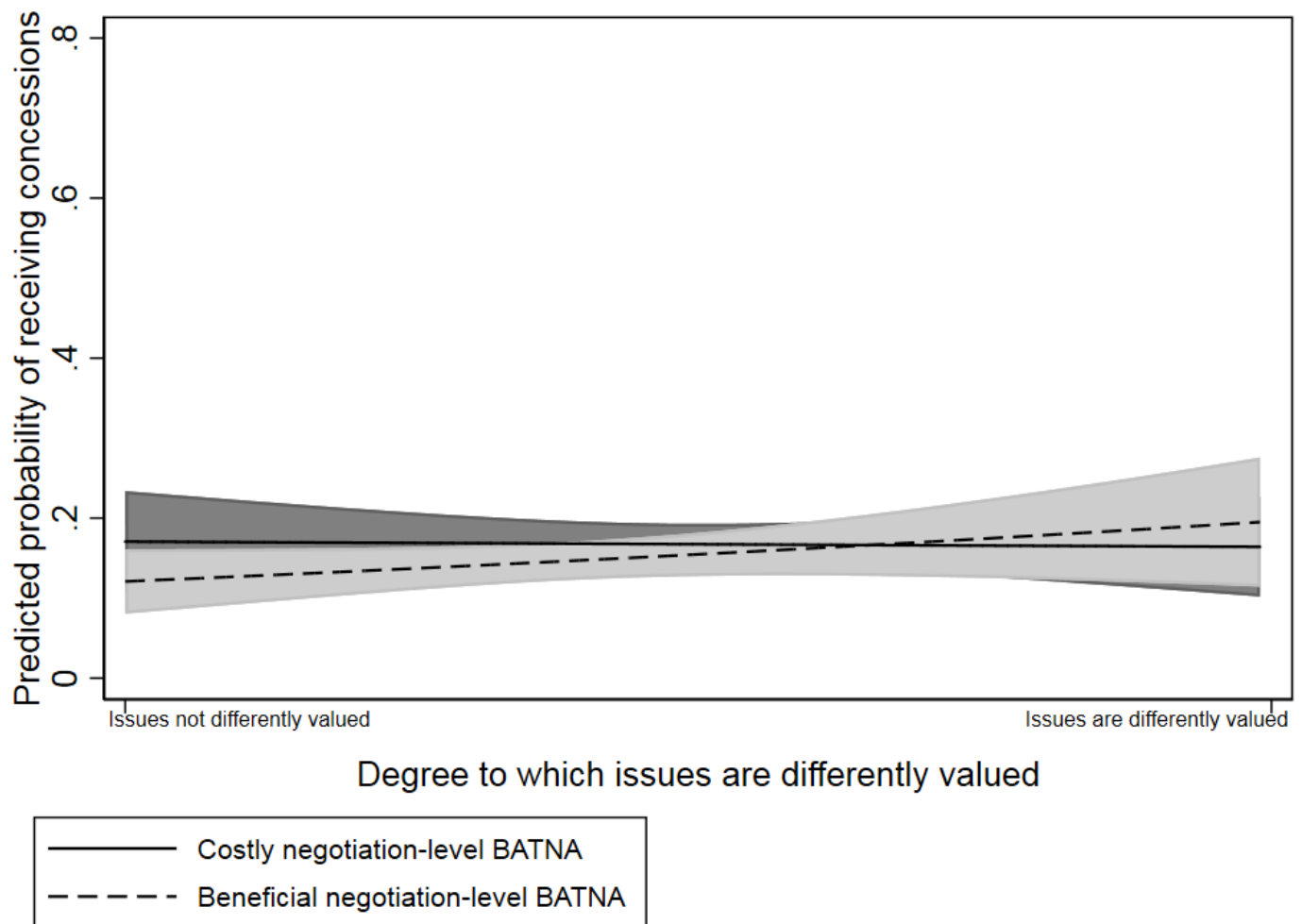


Figure 4: Predicted Probability of Receiving Concessions When a States' Issue-Specific BATNA is Not Costly (using absolute measures of material power)

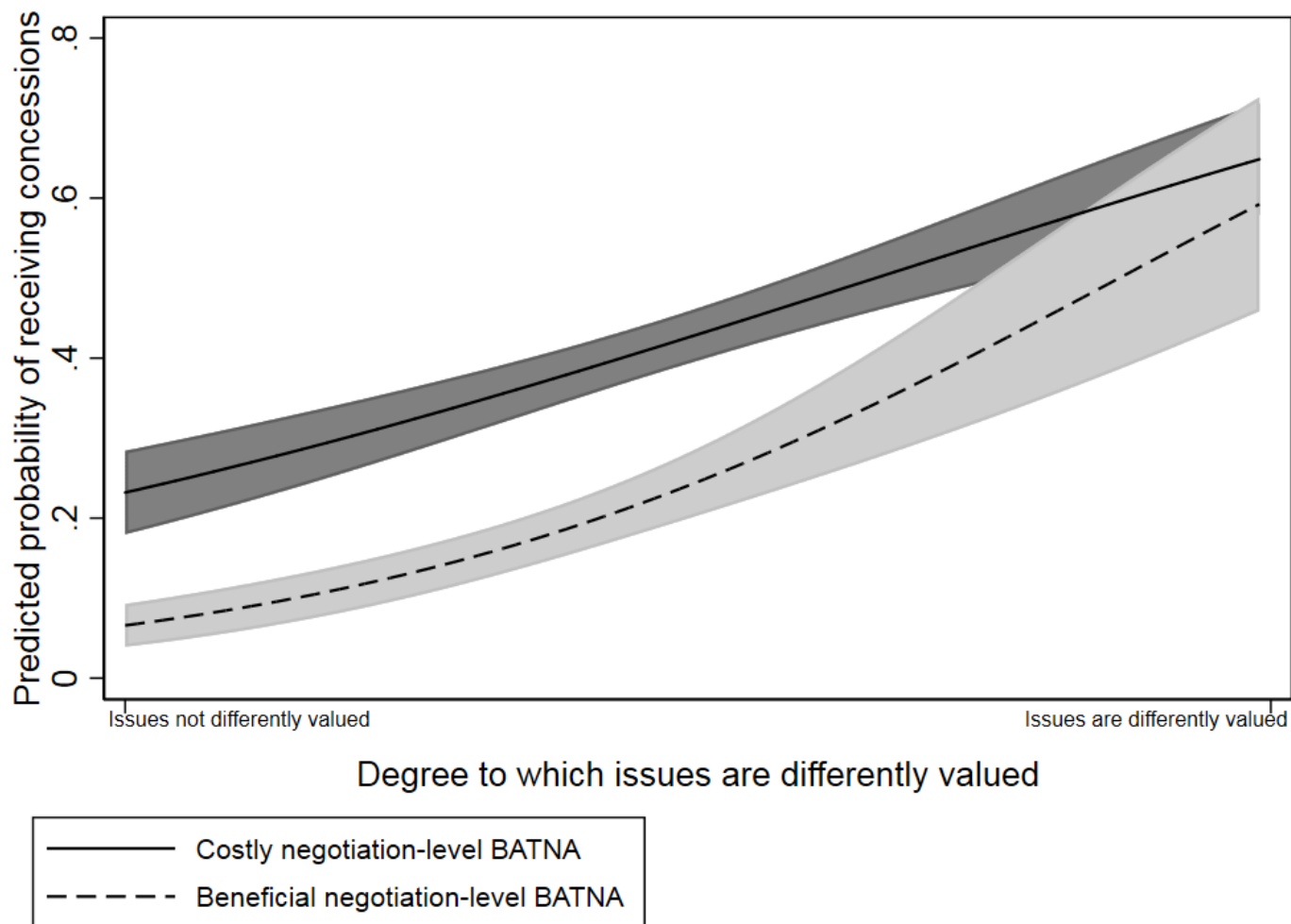


Figure 5: Predicted Probability of Receiving Concessions When a States' Issue-Specific BATNA is Costly (using absolute measures of material power)