

Dynamics of influence in international politics: The ICC, BIAs, and economic sanctions

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Abstract

In 2002, the USA asked all countries to sign agreements exempting US citizens from prosecution by the International Criminal Court (ICC) and threatened economic sanctions if they refused. Some countries yielded to this pressure even after ratifying the ICC Statute, while others chose to honor their original commitments. Why were some countries more responsive to US influence than others? This article provides an explanation of state vulnerability to attempts of influence through the lens of economic sanctions. Assessing the success of sanctions is difficult because of the selection bias in the instances of the use of such strategies observed by the researcher. Since all countries were asked to sign such agreements, one can observe exactly which signed, whether sanctions were enforced, and how quickly countries responded to such pressure. Arguments about sources of influence – shared interests, economic and security dependence, and domestic politics – are tested using an original dataset collected on country decisions to sign bilateral immunity agreements (BIAs). The authors find support for some existing explanations, including relative power and the relationship of dependency, while previously held beliefs about alliance and security relationships appear to be less influential on decisions to ratify BIAs. These findings have implications for existing research programs on economic sanctions, international organizations, and power politics.

Keywords

bilateral immunity agreements, foreign policy, influence, international criminal court, sanctions

Introduction

States' attempts to influence each other define international relations. Most such efforts are made through diplomatic channels and fall beneath the radar of both international and domestic audiences. Some attempts at influence, however, are far more conspicuous. These include situations such as the US attempt to build a coalition to invade Iraq in March 2003 or the ongoing efforts of the European Union and the USA to persuade Iran to cease its uranium enrichment program. In this light, the reaction of the USA to the newly formed International Criminal Court (ICC) represents an interesting puzzle in international relations. States' commitment to international law, which would normally be considered a matter of 'low politics', has gained the attention of the international community as the USA has sought to exploit states' vulnerability to economic pressure and persuade them to undermine their commitment to the ICC through economic disincentives. In this article, we ask why some states

were willing to risk sanctions imposed by the USA, while others yielded quite readily to the threat of sanctions? Answering this question affords us leverage on the larger issues of what makes states more or less vulnerable to attempts at influence and what determines the strength of their commitments to international law.

In 2002, the ICC came into force. Soon after, the USA asked countries around the world to sign Bilateral Immunity Agreements (BIAs) that would protect US service members stationed abroad from ICC prosecution.¹ To encourage countries to sign a BIA, the US Congress passed the American Servicemembers Protection Act (ASPA), which threatened sanctions in the form of military aid reductions to countries that did not ratify a BIA by July 2003. Thus far, 102 countries

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¹ BIAs are also known as Bilateral Nonsurrender or Article 98 agreements.

have signed such BIAs, and 95 of these agreements have come into force after being ratified domestically.² In the very first month after ASPA was passed, four countries signed a BIA and, within two months, another 10 countries joined them. A year later, 60 countries had signed. Even so, six years and several US sanctions later, many countries have yet to sign a BIA with the USA. What explains variation in the USA's ability to get countries to ratify BIAs?

This article makes two main contributions to existing literatures in political science. Substantively, we add to a growing literature on the politics surrounding the International Criminal Court. The ICC is one of the newest international organizations to be formed and as such there is relatively little research at this point on how countries have reacted to it (but see Kelley, 2007). Methodologically, this study helps answer existing questions in the sanctions literature. The use of economic sanctions, and economic statecraft, more generally, as a means of exercising influence in international politics, has been an object of research and considerable interest to political scientists for many years (Baldwin, 1985; Drezner, 1998, 2003; Elliott, 1998; Galtung, 1967; Hufbauer, Schott & Elliott, 1990; Kaempfer & Lowenberg, 1988; Nooruddin, 2002; Pape, 1997; Smith, 1995). However, in spite of substantial attention paid to the question of whether economic sanctions succeed, there is no consensus on this essential question. This is principally because of difficulties posed by selection effects (Smith, 1995; Nooruddin, 2002). We often consider only cases in which sanctions were imposed rather than just threatened, which limits our understanding of the threat period before the sanction is enacted.³ A second problem in the study of sanctions is general disagreement on the definition of success. Is target state concession necessary, or is more modest policy change an acceptable measure of success (Baldwin, 1985; Baldwin & Pape, 1998; Pape, 1997)? Third, how do we assess the contribution of the sanction to 'success' when in some cases the economic pressure is accompanied by military threats or action (Pape, 1997)? It is therefore impossible to determine a state's vulnerability to economic pressure without considering the circumstances surrounding the initial application of that pressure and the uniformity of the threat across all cases.

The specific case of the ICC and BIAs provides us unique leverage on these concerns. First, the USA asked every country, regardless of whether it was a state party to the ICC, to conclude a BIA and threatened sanctions, albeit only in some cases, if they refused to do so. Thus, we can observe governments' reactions to the threat of US sanction to determine states' vulnerability to economic pressure independent of the

selection bias inherent in studying only observed sanctions. Second, the goal of the pressure (i.e. the definition of success) was constant in all cases: a ratified BIA. Finally, while much attention to sanctions has focused on larger sanctioning events and multilateral sanctions, most attempts to influence the behavior of other states through economic means occur through smaller, targeted policies conducted by diplomats and lower-level foreign policy officials. In this way, ostentatious multilateral sanctions regimes – with concurrent threats of military action – are the exceptions in the use of economic statecraft. Understanding how countries respond to lower-level threats, or those that targeted specific types of aid, will enhance our knowledge of the uses of economic statecraft as a tool of foreign policy influence.

We proceed as follows: after a brief background on the ICC and the US demand that states sign BIAs, we describe variation in states' responses to this request. Building from the economic statecraft literature, we generate testable hypotheses about why states might acquiesce to US pressure and, in some cases, undermine their commitment to the ICC. The penultimate section describes results from statistical analyses designed to test these hypotheses. We conclude with the implications of our findings for existing research on economic sanctions and the ICC.

The ICC and Bilateral Immunity Agreements

Early in the negotiation process for the International Criminal Court, both the Clinton administration and the Republican-controlled Congress expressed support for the idea of a permanent court to try egregious abuses of human rights (US House, 1997). However, during the course of the 1998 UN Conference on the Establishment of an ICC, support for the court began to erode among US legislators and major figures in the Clinton administration. US resistance centered on several key issues and principal among them was the jurisdiction of the Court.⁴ These issues led to a 'no' vote by the USA on the Rome Statute in July 1998, principally on the grounds that it imperiled American soldiers deployed abroad and that it constituted an unacceptable breach of US security and sovereignty.⁵

Despite US opposition, the Rome Statute received its 60th ratification in April 2002 and was set to enter into force the following July, at which time states parties could begin submitting requests of investigation to the Court's prosecutor. Anticipating this eventuality, Senator Jesse Helms (R-NC)

² In some cases BIAs were ratified through legislative channels, in others they were enforced by the executive. For ease of discussion, we consider both cases 'ratification'.

³ See Drezner (2003) and Morgan, Krustev & Bapat (2006) for important exceptions. The latter have constructed a dataset that includes the threat of sanctions as well as their imposition.

⁴ The Court may assume jurisdiction over an individual in three ways: if the accused is a citizen of a country that is an ICC party, if the accused commits the crime in a country that is a state party, or upon referral by the UN Security Council (Rome Statute, Art. 12); see United Nations (1998). Therefore, individuals need not be citizens of a country that ratified the ICC for them to be tried by the Court.

⁵ The USA was one of seven countries to vote against the Rome Statute. The official vote tally was 120–7–21 (Schabas, 2007: 20–21).

introduced legislation prohibiting US cooperation with the ICC. The American Servicemembers Protection Act became law in August 2002 (US Congress, 2002: Title II).⁶ Citing risks to US military forces and the usurpation of UN Security Council prerogative, ASPA allowed the State Department to sign agreements with foreign governments, ostensibly permitted by Article 98 of the Rome Statute, requiring the latter to extradite US citizens to the USA rather than to the Court if indicted by the ICC prosecutor.⁷

As a means of exacting compliance, ASPA – an appropriations bill – conditioned US financing of foreign defense activities for ICC parties on concluding a Bilateral Immunity Agreement with the USA. Specifically, ASPA targeted two specific areas of US military aid: International Military Education and Training (IMET) programs and Foreign Military Financing (FMF).⁸ In addition to the funds targeted originally by ASPA, Economic Support Funds (ESF) for ICC states parties that had not signed a BIA were cut by an amendment to a foreign operations appropriations bill in 2004, called the Nethercutt Amendment (US House, 2004). Unlike IMET and FMF funds, ESF programs are not directly associated with military financing but are implemented by USAID for purposes of economic stabilization and to enhance government transparency and accountability in transitional democracies (US Department of State, 2006: 39).

ASPA did allow exceptions. The president may issue an Article 98 waiver if it is determined that the target government will ratify the BIA, or a national interest waiver if the president deems it important that a foreign government received the funds. Finally, a state may be exempted from the provisions of ASPA if it is a NATO or major non-NATO ally.⁹

In summer 2002, the USA officially began to negotiate BIAs with foreign governments. On 1 August 2002, Romania became the first to sign.¹⁰ Three more countries followed that month, and there was a steady increase in signatories to BIAs over the next year. A sizeable jump occurred in June 2003 just before the ASPA-mandated reductions in aid went into effect. By that point, 54 countries had signed BIAs, and approximately 25 – mostly OECD states – had been granted exemptions by the USA. By early 2004, the number of signed BIAs had swelled to 80, and, by July 2007, the total was 102. Of these, 95 had also ratified their agreements.

To explain the decision to sign a BIA, we develop a sanctions-based theory of BIA signing, which we contrast with

a norms-based argument offered by Kelley (2007). We derive testable hypotheses from each framework and subject these to empirical evaluation in the following section.

International commitments and economic sanctions: Theoretical expectations

Why did some states decline to sign BIAs in spite of the threat and enactment of reductions in US aid? For Kelley (2007), the decision to sign a BIA implicated states' commitments to principles of law and order. States that value law and order domestically arguably placed a higher value on the same notions in international relations. This places law-and-order-respecting states that had already ratified the ICC in a quandary: to sign a BIA with the USA would result in undermining an international commitment. These states, she demonstrates, were therefore less likely to sign a BIA, lending support to norms-based explanations of international relations, since such a pattern is more difficult to explain via more materially-based explanations. However, her analysis yields a finding that cannot be accounted for by her theory: US sanctions against countries that did not sign BIAs were very counterproductive. In fact, in all the models explaining the decision to sign a BIA, the US sanction variable has a large negatively-signed coefficient and is statistically significant at the .05 level or better. Why would this be so? Kelley offers no explanation but suggests it warrants consideration of 'the more complicated issues surrounding who faces a cut' (p. 580), which challenge we take up here.

In this section, we approach the question of why states sign BIAs from a different perspective. Rather than ask why states choose to honor their international commitments, we ask why states are willing to resist external pressure in the form of economic sanctions from the most powerful state in the system. We argue that analyzing the decision to sign a BIA from the perspective of the economic sanctions literature is likely to be more fruitful than the norms-based explanation employed by Kelley. Specifically, such a perspective helps us understand which states were more likely to yield to US pressure and why sanctions, when imposed, proved to be ineffective at best and counterproductive at worst. Seen this way, our argument can account for both the empirical variation explained by Kelley's framework and the seemingly anomalous sanctions finding she reports.

A sanctions theory of BIAs

States seek to influence other states through a variety of means. One of the most common forms of influence comes under the label 'economic statecraft' (Baldwin, 1985). Economic statecraft includes policies that use economic sources of influence to change the behavior of other states. Of the variety of means that fall under the category economic statecraft, economic sanctions have been the focus of considerable attention by political scientists. Sanctions typically involve the reduction

⁶ Hereafter, ASPA 2002.

⁷ US persons covered by ASPA include US military personnel, elected and appointed officials, and any person acting on behalf of the US government (ASPA 2002).

⁸ Military assistance includes any funding provided by the Foreign Assistance Act of 1961 (22 U.S.C. 2151) (ASPA 2002).

⁹ Major non-NATO allies include Australia, Bahrain, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand (ASPA 2002).

¹⁰ Romania never ratified the agreement and the country eventually received an exemption from ASPA as a NATO ally.

of trade, aid, and financial linkages between states (Hufbauer, Schott & Elliott, 1990). The state that imposes the sanction is referred to as the sender, while the state that is the object of the sanction is referred to as the target. The fundamental question motivating most research on economic sanctions is why do some targets appear more vulnerable to economic sanctions than others?

At its core, a sanction is imposed by the sender against a target to pressure the target to change a status quo policy to one preferred by the sender. The target has some positive utility associated with the status quo policy. The goal of the sender is to raise the costs associated with maintaining the status quo to the point where the benefits no longer exceed the costs. Applied here, the status quo policy for states was the absence of a BIA signed with the USA, and states would be expected to maintain the status quo as long as the benefits of doing so outweighed the costs associated with resisting a BIA.

What were the benefits associated with maintaining the status quo? Kelley (2007) suggests that the main benefit was the normative value attached to adhering to one's international commitments. The stronger the commitment of a state to international law and, more generally, to rules-based governance of the international system, the greater the benefit accrued from refusing to undermine that commitment, even in the face of pressure to do so. She argues that states that respect law and order domestically place greater value on maintaining their international commitments. Empirically, Kelley's framework yields three testable hypotheses:

H1a: States that have ratified the ICC should take longer to sign BIAs.

H1b: States with a high domestic rule of law should take longer to sign BIAs.

H1c: States with a high domestic rule of law should take longer to sign BIAs if they have ratified the ICC than if they have not done so.

Maintaining the status quo of not having a BIA with the USA had no inherent costs. Therefore, the USA threatened and implemented military aid reductions to raise the costs associated with the status quo position. Why did some states feel these costs more keenly than others? Existing explanations of the success of economic sanctions can usefully be divided into three main arguments: power, leverage, and domestic vulnerabilities. Consider each in turn.

States employ economic sanctions to influence other states. More specifically, the goal of such economic statecraft is to get the target state to do something it otherwise might not do. The ability of State A to get State B to do something it otherwise might not do is also the classic definition of power. In other words, sanctions are a power-play between states. As such, it is hardly surprising that a central claim and finding in this literature is that the *relative power* of states should affect the success of sanctions. More powerful states should find it easier to get their way than less powerful ones and find it easier to

persuade less powerful states to do their bidding than more powerful states (Drury, 1998; Hart, 2000; Morgan & Schwebach, 1997). The type of influence discussed here is purely economic and unaccompanied by military threats and as such, economic might is the relevant arena in which to consider relative power. In the context of the USA, which is the most powerful state in the system, the relevant question is not whether it is more powerful than others, but rather, just how large the power differential is. That is, the power perspective would indicate that the USA should have more success against less powerful developing countries than against relatively more powerful OECD states, for instance. This suggests:

H2: States should take less time to sign BIAs the weaker economically they are relative to the USA.

While power differentials are undoubtedly important, their relevance is conditional on the avenues of leverage the sender has over the target. That is, even if a state enjoys clear dominance in objective terms over another, its ability to influence the other is characterized by the relationship of dependency. The more dependent the target is on the sender, the greater the ability of the sender to impose costs on the target. If, for instance, the weaker state does relatively little trade with or receives no aid from the stronger state, then the stronger state has little leverage over the weaker state. Or if the weaker state does not have any diplomatic relationships or other 'entanglements' with the stronger state, the leverage is minimal. This notion of leverage enters the sanctions literature via a focus on trade and aid linkages and alliance relationships.

Historically, the most common form of economic sanction has been trade sanctions in which the sender state either boycotts the target state by refusing to import any of its goods or services, or enforces an embargo against the target state and refuses to export its products to that state. The expectation is that the greater the economic dependence of the target state on the sender state, the more vulnerable the target is to the sender's influence. A testable hypothesis follows:

H3: Higher levels of bilateral trade between the USA and target make the target more likely to sign a BIA quickly.

Economic linkages are but one way in which states are connected to each other. States also form diplomatic and military connections that increase interdependence and make them susceptible to demands from other states. Generally, we might expect senders to be less likely to use blunt tools of economic statecraft, such as sanctions, against their allies for fear of estranging them. In the ICC case, where the sender asked all countries – irrespective of alliance history – to sign a BIA, we would expect allies to be more likely to acquiesce. Drezner (1998) argues that allies are less likely to worry that a temporary concession will be interpreted as a sign of weakness in the future and therefore more likely to concede. States with adversarial relations with the sender, on the other hand, worry about

reputation costs if they back down, and so are more likely to resist the sanction. As such, we would expect the following:

H4: Allies of the USA should be more likely to sign BIAs quickly.

Next, we consider two domestic factors that might make it more or less vulnerable to external pressure. First, the country's regime type is thought to affect the leaders' sensitivity to the deprivations imposed by economic sanctions (Hart, 2000; Marinov, 2005). To the extent that economic sanctions hurt the target state's economy, the populace suffers. If the leader is insulated from popular pressure (e.g. in a dictatorship), then the leader has little incentive to concede to the sender's demands. If, conversely, the leader's survival depends on popular support, then the leader might be more likely to accede. This logic suggests that sanctions against democracies should be more likely to succeed. A counter-argument is more persuasive, however. Since democracies rely on popular legitimacy, the perception of outside 'bullying' by a more powerful state could engender a 'rally-around-the-flag' effect that emboldens the target leader to withstand the sender's pressure (Galtung, 1967). Also, the military aid targeted by ASPA is less relevant to the quotidian lives of citizens, but much more relevant to the political and military elites that run the state. Given that the military is more likely to be influential in non-democracies than in democracies where civilian control of the military tends to be paramount, we would expect such targeted sanctions to be more successful in non-democracies.¹¹

H5: Non-democracies should sign BIAs more quickly than democracies.

A leader's ability to resist an economic sanction is likely to be a function of the domestic stability of the state and the political coalitions underpinning the original treaty commitment (Galtung, 1967; Marinov, 2005). States undergoing rapid political transitions are less stable, and domestic oppositions are better able to exploit external pressures for their own advantage. Thus, leaders that are more politically vulnerable (i.e. those in transitional states) should be more sensitive to the costs of abdicating foreign aid. In more stable states where leaders tend to be more insulated, domestic reaction is likely to be more muted and, if anything, more likely to be pro-government than anti-government. This suggests that,

H6: States undergoing political transitions should sign BIAs more quickly than stable regimes.

Finally, what should we expect the effect of the US sanctions to be? The conventional wisdom behind the use of

sanctions focuses on the *cost to the target* as a result of the sanction. Simply put, a sanction is thought to be more likely to succeed when the cost of resisting is greater, as this reduces the target's expected utility from resistance (Dashti-Gibson, Davis & Radcliff, 1997; Drury, 1998; Hart, 2000; Kaempfer & Lowenberg, 1988). Therefore, countries that suffered a complete cut in aid targeted by ASPA should be most susceptible to US pressure. This implies:

H7: Full sanctions should reduce the time till a country signs a BIA.

As intuitive as H7 is, it flies in the face of the anomalous finding reported by Kelley (2007: 580) that sanctions, when imposed, reduced the probability of concluding a BIA successfully. The norms-based approach adopted by Kelley cannot account for this finding, but we believe the sanctions-based approach advocated here might provide leverage by considering the possibility of selection effects.

Selection effects in studies of sanctions emanate from two main sources, both having their roots in the strategic interactions between senders and targets. First, presumably sender states wish to see their sanctions succeed rather than fail. Even if we believe that the senders are imposing the sanction for purely 'expressive' rather than 'instrumental' purposes, a rational sender government would welcome 'success'. Accordingly, we should expect sender states to choose their targets with an eye to expected success. That is, states should be more likely to impose sanctions where they think them most likely to succeed, and so the relative success rate of sanctions should be inflated since the sender has 'cherry-picked' its cases. But, as stated above, empirically, we know the opposite is true: sanctions hardly ever succeed.

The low success rate of sanctions is well explained by a second type of selection effect. Assuming leaders of target states are rational, they should only resist when they expect the benefits of doing so to exceed the costs. The expected utility of resisting the pressure is a function of the benefits, costs, and the probability of success. If this cost-benefit calculus does not look favorable, either because the costs clearly exceed the benefits or the target is pessimistic about being able to hold out over the long run, the leader would prefer to make the requested concession immediately rather than bear the cost of the sanction interminably. As such, sanctions are only ever imposed on the 'hard cases', since the 'easy cases' acquiesce before the sanction ever needed to be imposed. Because only those with an especially high utility for the status quo remain, sanctions against them are less successful and, when we ignore the strategic considerations that resulted in their imposition, appear counterproductive.

H8: States against whom the USA imposes sanctions should take longer to sign a BIA.

This hypothesis, which is the opposite of the conventional view expressed in H7 above, would explain the apparently

¹¹ If one assumes that democracies are more likely to respect the rule of law domestically and therefore to value the ICC more highly, one can generate the same expectation; see hypothesis H1c in Kelley (2007: 577).

poor rate of sanction success, but how would we know if this explanation were correct? That is, the explanation generated above is consistent with what we already know to be true, and therefore evaluating it requires us to seek alternative tests. In the empirical section, therefore, we analyze the exemptions granted by the USA, as well as US decisions to impose sanctions selectively on those countries deemed non-exempt.

Based on our framework, we should observe vulnerable states acceding to the sender's request prior to the imposition of sanctions, sanctions imposed only on the less vulnerable states, and therefore little success associated with the actual sanction. If this is in fact the pattern observed, we would have independent corroboration of the argument and further support for a sanctions-based framework for understanding the decision to sign BIAs.

Beyond what it promises to reveal about the politics of international commitments, this analysis is potentially quite important for scholars of sanctions too. Analyses of economic sanctions have been bedeviled by concerns of selection bias resulting from strategic interactions between states. Since most major datasets of economic sanctions only include those that were actually imposed rather than those that were threatened (but see Drezner, 2003, and Morgan, Krustev & Bapat, 2006), selection bias is rife. Where scholars have attempted to do something about this selection bias, the solutions have been mainly statistical, involving the identification of the universe of possible cases of sanctions, developing a model of sanction imposition, and then interpreting a statistical parameter rho for evidence of correlation between the sanction imposition and outcome stages (e.g. Nooruddin, 2002).¹² While clearly better than simply ignoring the possibility of selection bias, this statistical correction is less desirable than a more direct test in which, ideally, all states would face the same request from the same sender and be threatened with the same sanction. Under that scenario, we would be able to observe the processes by which selection may or may not occur and the implications for policy success. Fortunately, just such an ideal research situation is available as a result of US insistence that all countries sign a BIA or face a sanction. This provides us with the perfect opportunity to answer the central questions in the sanctions literature: Why do some states risk sanctions? Why do some concede immediately? And when do sanctions succeed? To answer these questions, we turn to data.

Research design, model, and results

In this section, we describe a set of event history and logistic analyses designed to test the hypotheses derived above. We

¹² Blake & Klemm (2006: 146) express skepticism about Nooruddin's (2002) analysis because (1) his probit model utilizes too few cases per predictor and (2) his model is 'troubling' and 'not specified in a manner designed to capture the selection bias at issue'. Using a Boolean analysis instead, they nonetheless reach the same conclusions: selection bias is present and its direction leads scholars to underestimate sanctions' efficacy.

begin by analyzing the determinants of states' decisions to sign BIAs and the speed with which they did so. While the results confirm some existing explanations of state behavior in response to external pressure, they also confirm that US sanctions against states were extremely counterproductive. Why? A secondary analysis of US decisions to grant exemptions and to impose sanctions reveals selection bias of a form that explains the ineffectiveness of sanctions and raises questions about existing explanations. The section concludes with a discussion of our results.

We focus on three dependent variables in the statistical analysis that follows. Our main focus is on the *time until a BIA is ratified* (Georgetown Law Library, 2008).¹³ We use Cox survival models to estimate the determinants of the speed with which states ratify BIAs, treating those states that had not signed an agreement by June 2007 as right-censored. Secondly, we also analyze the granting of *exemptions* and imposition of *sanctions*.¹⁴ In these cases, we are interested in the likelihood of each condition and so we utilize logistic regression to analyze their determinants.

Following the hypotheses derived from the existing literature, we focus on the following independent variables. First, to assess Kelley's (2007) argument about respect for rule of law domestically and internationally, we follow her strategy and create an interaction term between *ratification of the ICC* and *domestic respect for rule of law*. The ICC ratification variable is a dichotomous indicator, while the rule of law variable comes from the World Bank's Worldwide Governance Research Indicators Dataset and ranges empirically from -1.90 to 2.01 with higher values indicating stronger rule of law (Kaufmann, Kraay & Mastruzzi, 2005: 4; Kelley, 2007: 579).

Second, to measure the strength of the target state's economy, we use the *log of the country's Gross Domestic Product* (World Bank, 2006).¹⁵ Next, to see if trade linkages matter,

¹³ We conducted a number of robustness checks. First, we used the *signing of a BIA* as the dependent variable. Since the set of countries ratifying a BIA is, by definition, a subset of those that signed one, and because the overlap is virtually complete (95 out of 102 signatories to BIAs have already ratified the agreement), the results are virtually identical. Second, including a frailty term in the Cox models does not affect the results. Finally, treating only the decision to ratify (or sign) a BIA, rather than the time till that decision, as the dependent variable, and using logistic rather than event history techniques, do not alter our results. Results from these alternative specifications are available upon request.

¹⁴ We also collected data on the national interest and Article 98 waivers issued by the Bush administration. The waivers granted a number of countries a grace period in which they avoided sanction in the first several months of ASPA restrictions. Most of the countries that received waivers during this time went on to ratify BIAs before December 2003 before their waivers expired to avoid sanction. However, there is very little action in the case of countries that received waivers after the initial period, as the countries that were granted later waivers tended to be the 'hard' cases.

¹⁵ Note that H1 is stated in terms of the relative size of the target state's economy to that of the sender. However, since the sender (i.e. the USA) is constant in this analysis, we can simply use the target's GDP to test H1. Kelley (2007) also controls for military expenditure, but this variable is not significant in her analysis, and so we do not include it here.

Table I. Summary statistics

Variable	<i>N</i>	Mean	Std. dev.	Minimum	Maximum
GDP per capita (Log)	10,382	7.50	1.58	4.41	10.72
Trade w/ USA (% GDP)	10,098	9.53	13.20	0	94.02
Defense pact	10,890	0.34	0.47	0	1
Freedom House combined	10,778	6.29	3.72	2	12
Δ Freedom House	10,890	0.32	0.63	0	6
ICC state party	10,976	0.53	0.50	0	1
Rule of law (World Bank)	10,778	-0.06	0.99	-1.90	2.01
Aid request as % GDP	4,465	0.29	1.22	0	15.86
Sanction (full cut)	10,976	0.14	0.34	0	1

we measure the bilateral trade between the USA and the target state measured as a proportion of the target state's GDP (Gleditsch, 2002).

To test the proposition that allies should be more susceptible to pressure, we create a dichotomous indicator for the presence of a *defense pact* between the USA and the target state (Bennett & Stam, 2000).¹⁶ The country's combined Freedom House score is used to measure its regime type (Freedom House, 2007).¹⁷ Higher values correspond with less free, or non-democratic, countries. For domestic stability, we code a dichotomous variable equal to 1 if the absolute change in the country's Freedom House score is greater than 1, and 0 otherwise.

Finally, we code a *sanction* as occurring if there was a complete cut-off in IMET, FSF, or ESF aid provided by the USA.¹⁸ The source of these data is the US Department of State. Summary statistics for all variables utilized in the analyses reported below are provided in Table I.

Results

Table II presents the results of two Cox survival models for the time until a BIA is signed.¹⁹ The samples over which the models reported in Table II are estimated differ. In Model 1, we use all countries for which data are available, since the USA had in principle asked all countries to sign a BIA. However, not all countries were equally at risk of an economic sanction for two reasons. First, ASPA specifically targeted ICC states parties. Second, some countries were formally exempted by the USA. Therefore, Model 1 controls for whether the target country received an exemption and if it was an ICC state party. But,

Table II. Event history analysis of country decisions to ratify a BIA

Variable	All states	At risk
Exemption*	0.46 (0.39) ^{.24}	—
GDP per capita (Log)	-0.37 (0.16) ^{.02}	-0.61 (0.29) ^{.04}
Trade with USA (% GDP)*	0.01 (0.003) ^{.00}	0.04 (0.02) ^{.06}
Defense pact with USA	-1.31 (0.52) ^{.01}	-0.85 (0.59) ^{.15}
Freedom House combined*	0.03 (0.05) ^{.33}	-0.10 (0.14) ^{.48}
Δ in Freedom House > 1 *	0.04 (0.04) ^{.44}	-0.18 (0.12) ^{.15}
Sanction*	-0.59 (0.22) ^{.01}	-3.11 (0.59) ^{.00}
ICC state party*	-0.16 (0.20) ^{.42}	—
Rule of law (World Bank)	0.70 (0.25) ^{.01}	-0.41 (0.50) ^{.41}
ICC party x Rule of law*	-0.50 (0.11) ^{.00}	—
No. of country-month observations	6691	2399
No. of countries	150	82
Log likelihood	-400.50	188.72
Sample	All states	Non-exempt ICC states

Cell entries are estimated coefficients from a Cox model estimated using the Efron method for ties. Standard errors corrected for clustering by country are included in parentheses with *p*-values super scripted. The time dependency present in Model 1 (the global Ph test has *p* = 0.00) is accounted for by interacting the log of the duration variable *t* with offending variables (indicated by *). A global PH test suggests that the assumption of proportional hazards is not violated in Model 2 (*p* = 0.152).

to ensure that our results hold when we use only those countries that were 'at risk' of a sanction under ASPA, Model 2 utilizes data only from non-exempt ICC state party countries. Obviously, just why some countries are given exemptions bears centrally on the question of selection bias, and so, following the event history analysis, we analyze the determinants of exemptions (Table III). But, for now, we begin by considering the results reported in Table II.

Why do some states sign BIAs? Note first that Kelley's (2007) argument about the importance of domestic rule of law

¹⁶ Alternatively, we controlled for whether the state was a declared member of the US 'coalition of the willing' in the war against Iraq. The results do not change.

¹⁷ The Polity index of regime type is only available through 2003, while the Freedom House score is available throughout the period under investigation here. Therefore, we use the latter.

¹⁸ As an alternative, we compared the actual amount of aid disbursed relative to the amount requested and treated any reductions in aid as cases of 'sanction'. The results hold.

¹⁹ The event history dataset is organized as country-month, since signing and ratification dates vary at the level of month, but the covariates are measured annually; the standard errors from the event history analysis are therefore corrected for clustering by country.

Table III. Logit analysis of US decisions to grant exemptions and impose sanctions

Variable	Exemptions	Sanctions
GDP per capita (Log)	1.38 (0.91) ^{.13}	0.06 (0.38) ^{.88}
Trade with USA (% GDP)	-0.80 (0.28) ^{.00}	0.04 (0.03) ^{.11}
Defense pact with USA	5.73 (2.09) ^{.01}	-0.77 (0.79) ^{.32}
Freedom House combined	-0.40 (0.29) ^{.17}	-0.44 (0.23) ^{.05}
Δ in Freedom House > 1	-2.53 (1.56) ^{.10}	-0.18 (0.35) ^{.62}
Aid received	4.48 (1.61) ^{.01}	-5.66 (3.81) ^{.14}
ICC state party	-3.31 (2.14) ^{.12}	—
Rule of law (World Bank)	-0.14 (1.23) ^{.91}	-1.51 (0.80) ^{.06}
Constant	-8.27 (6.40) ^{.20}	1.21 (3.15) ^{.38}
No. of Countries	119	67
Log likelihood	-10.95	-35.95
Sample	All states	Non-exempt ICC ratifiers only

Cell entries are estimated coefficients from logit models. Standard errors are reported in parentheses with *p*-values superscripted.

receives strong support. In fact, the pattern of coefficients for the three variables is the same as in that study. Countries that had ratified the ICC took much longer to sign a BIA, and this was especially true if they had high domestic rule of law. Thus, the norms-based argument appears vindicated.

Turning to the more material factors of power, leverage, and domestic vulnerability to US pressure, as expected, we find that richer countries took longer to succumb to US pressure. Again, this result is consistent with those reported by Kelley (2007). For trade dependence, we find inconsistent support for the claim that countries that were more dependent on trade with the USA were more likely to sign BIAs, but this inconsistency is itself revealing. When we consider all countries available in the sample, trade dependence decreases the time until a country signs a BIA. When we limit the sample to non-exempt countries only, the coefficient is larger and borders on significance, indicating that 'at risk' states maintaining higher levels of trade with the USA tended to be quicker to sign BIAs. However, the defense pact variable raises an interesting inconsistency. When all countries are concerned, those that have defense pacts with the USA took longer to accede to US pressure, but this result vanishes when we consider only non-exempt countries. Clearly, the countries given exemptions are different from those that were not, and we will turn to understanding just how a little later. There are no noteworthy results associated with the democracy or regime stability variables. Finally, then, we turn to the sanction variable, which, as in Kelley (2007), is large, negatively signed, and statistically significant. Substantively, the risk of signing a BIA is about 44% lower if a country was sanctioned in Model 1 and 95% lower when considering only 'at-risk' countries (Model 2).

Table II thus confirms our basic intuitions of why some states are more susceptible to international pressure than others, while, at the same time, replicating the theoretically anomalous finding that those states that were the recipients of the most overt attempts at pressure – the imposition of a sanction – were least vulnerable to pressure. This finding, we have argued, cannot be explained by norms-based theories of states' commitment to international law; rather, we believe the lessons from the sanctions literature about the nature of selection effects are more likely to be revealing. Therefore, we turn to a secondary analysis of US decisions to offer exemptions to some countries and impose sanctions on others.

Exemptions and sanctions Why would US sanctions have been counterproductive in securing BIAs from target countries, and what might this tell us about why some countries chose to resist US pressure to sign a BIA and honor their commitment to the ICC instead? A norms-based explanation answers the latter question via country's commitment to the rule of law but cannot answer the former question. A sanctions-based explanation, on the other hand, offers an explanation to both questions. The USA, faced by the exigencies of having to maintain an international coalition to prosecute an unpopular war, chose to offer exemptions to its most important allies, which included those countries that were the largest recipients of the very types of aid targeted by ASPA. Among ICC states parties, states that were sanctioned received 0.04% of their GDP in targeted aid, while those that were not sanctioned received 0.62%, a statistically significant difference ($p = 0.000$). Thus, by the time exemptions and national interest waivers were doled out, the countries that remained were the 'hard' cases for ASPA, which explains why sanctions were not effective. Conversely, because the USA gave exemptions mainly to its NATO allies, a group of countries strongly committed to the rule of law, it might appear that these countries were more likely to resist US pressure, but the fact is that they were never under threat of sanction in the first place, which implies that the rule of law finding might be an artifact of selection bias. To illustrate, among ICC states parties, exempted countries had an average World Bank rule of law score of 1.04 (the variable is normalized to have mean 0), those that were not exempted yet not sanctioned had an average of -0.05, and those that were sanctioned had an average of -0.26.

To test the claim that the countries that suffered sanctions under ASPA were the 'hard' cases, we collected data on exemptions to BIAs offered by the USA. We also utilize the sanction indicator as a dependent variable. We model the granting of exemptions and imposition of sanctions as a function of the target state's level of economic development, its trade and aid dependence on the USA, whether or not it had a defense pact with the USA, its level of democracy as measured by the Freedom House index, whether it experienced any change in its regime type, whether it had ratified the ICC, and its domestic commitment to the rule of law. The results of this analysis are presented in Table III.

Model 1 in Table III analyzes exemptions granted by the USA, and the findings are revealing. Countries in which bilateral trade with the USA comprised a large share of the national income were less likely to be exempted from the requirement that they sign a BIA, which is not a surprise since OECD states were more likely to be given exemptions and poorer countries are more likely to be dependent on a single major trade partner than richer countries. Interestingly enough, though, those countries that had defense pacts with the USA and that received larger amounts of military aid from the USA were also more likely to get an exemption. In the context of the 'War on Terror', the USA was loath to endanger relationships with close allies, who were also more likely to have signed defense pacts or to receive US military aid. While eminently understandable, the implication of this finding is that *those countries against which the USA had greatest leverage were also more likely to be exempted from the requirement to sign a BIA*. Indeed, ICC states that maintained a defense pact with the USA were approximately 30% more likely to receive an exemption than states without a pact. Finally, our data suggest that the USA did not consider a country's level of wealth, democracy, or its regime stability in deciding whether to offer an exemption, nor is there any evidence that the USA favored those that had ratified the ICC or those with greater commitments to the rule of law.

Those countries that were ICC states parties and that were not deemed exempt by the USA were at risk of being sanctioned under the rules of ASPA. However, not all the countries that were at risk in this manner actually lost the aid allocations that the State Department had requested for them before the passage of ASPA (just one-third of ASPA-eligible states experienced a complete cut in aid). So, whom did the USA actually sanction? Model 2 in Table III provides the results of our sanction model, which confirm the descriptive statistics provided above. States with high rule of law were less likely to be sanctioned, as were more democratic states. The actual level of aid being received does not appear significant in this model, which in itself is strange, since one might expect a strategic sender to target those states that were most vulnerable to pressure. Yet, because receiving targeted aid made countries more likely to be countries in good standing with the USA in the first place and likely more important allies in the 'War on Terror' (Kelley, 2007), as well as more likely to sign a BIA quickly in the first place, they were also more likely to have bargaining leverage with the USA. As seen in the model on exemptions, targeted aid made states more likely to be exempted from the BIA requirement. Consistent with those findings, we now find that the USA was actually less likely to impose a sanction against those countries most vulnerable to the particular instrument it had chosen. We have offered a partial explanation for why we think the USA made this choice, but a fuller explanation lies beyond the scope of this article and remains an important question for future research.

The other finding of considerable importance that emerges from the sanction imposition model concerns the norms-based

explanation. As we might imagine, countries that had ratified the ICC were more likely to be sanctioned, but less explicable is the finding that countries with a high domestic rule of law that had ratified the ICC were *less likely* to be sanctioned. Why this was so is an important question for future research, especially because of its implication that one reason ICC-ratifying states with high domestic rule of law were less likely to have signed BIAs is that they were less likely to face the economic pressures threatened by the USA. In other words, while it might be that their commitments to international norms marked them as hard cases to the USA and therefore made them less likely to be sanctioned (implying that the USA exempted its NATO allies not because of strategic concerns but because of their domestic commitment to the rule of law), the fact is that it also exposed them to lower material pressure, making it difficult to distinguish between norms-based and material-based explanations of international commitments.

Our analysis has uncovered two avenues by which selection bias originates in sanctions, only one of which has received any attention in the existing literature. First, and already noted by previous scholars, states most likely to find sanctions difficult to resist are more likely to accede to the sender's demands prior to the imposition of the sanction. In our data (see Table II above), we find that poorer non-democratic countries, and those that received more targeted aid from the USA, were likely to sign a BIA sooner and therefore more likely to avoid sanctions. However, a second source of selection effects is also uncovered by this study, namely the sender's decision to offer exemptions to states whose characteristics make them especially vulnerable to pressure. Why would a sender act in such a counterproductive manner? Two explanations strike us as particularly plausible and worthy of further inquiry. One possibility is that senders weigh conflicting foreign policy (and possibly domestic politics) imperatives in deciding whom to sanction. In the case of the ICC, the decision to pursue BIAs was made in the post-September 11th 2001 era, which brought national security concerns to the fore. Accordingly, while the USA might certainly have preferred to have BIAs signed by all states in the system, it was unwilling to jeopardize particularly strategic relationships to obtain them. In this situation, the perceived trade-off worked against the success of the sanctions, most notably because the USA's strategic partners were exactly the ones most likely to receive its aid in the first place. By exempting or granting waivers to these states, the USA excused those against whom it had the strongest leverage given its choice of pressure, leaving only the hardest cases against which to work. Secondly, building on the previous point, we must re-think our understanding of the leverage granted by aid relationships. Rather than conceive of the aid-recipient as dependent on the donor, an alternative perspective suggests that the donor reveals its preferences for recipients by providing aid. States are more likely to give aid to those countries that are strategically important partners. In other words, dependency revealed by aid relationships is a

two-way street, which would also explain the USA's reluctance to sanction the largest recipients of its aid.²⁰

Conclusions

This article contributes to two important strands of research by tackling two inter-related questions: Why do states honor their international commitments? Why do sanctions succeed? These questions have occupied scholars of economic statecraft for some time, but analyses of international commitments and economic sanctions are often undermined by issues of selection bias. Since we only observe cases of commitments that states were willing to make and sanctions that were actually imposed rather than the entire universe of commitments and sanctions that were hypothetically possible, it is impossible to know whether the cases we observe are representative or the result of strategic calculations on the part of sender and/or target that might bias our results. While some attempts have been made to tackle this issue statistically, in this study we utilize a unique opportunity to gain leverage on the question. Specifically, using an original dataset of decisions to sign Bilateral Immunity Agreements with the USA, we analyze the determinants of signing behavior by states, as well as the decisions to offer exemptions, or to impose sanctions, by the USA. Our analysis makes clear that the selection bias perspective is warranted. In the remainder of this conclusion, we consider the limitations of the present study and discuss its implications for continued research on international commitments and economic statecraft.

The principal limitation of this study is its restricted scope, and skeptics might justifiably wonder about the generalizability of findings from an analysis of sanctions where the penalties involved reductions in very particular forms of aid, and where the sender's demand involved signing an agreement to provide an exception to a newly-formed international organization. Can we really apply lessons from this analysis to cases of large-scale trade sanctions in which the sender demands that the target suspend its nuclear program, for instance? These are fair questions. Our main response is that answering them is an empirical issue and requires replicating our analysis in other settings. More importantly, however, even if the eventual answer is that the findings here are not generalizable to larger sanctions, we can still learn much about the dynamics of influence in international politics from such 'low politics'. Indeed, most attempts by states to influence each other do not involve trade embargoes and boycotts or the suspension of all financial relationships; rather, they are conducted via diplomatic offices, leader summits, and focused economic sanctions such as those detailed by the American Servicemembers Protection Act. We therefore stand to miss much about international relations when we focus only on the bigger and flashier events that, while certainly important, represent a small slice of how states interact with each other.

Three lessons from our analysis strike us as especially noteworthy. First, scholars have understood for some time that states do not intervene in all applicable situations; rather they do so strategically, and their targets respond in kind. Therefore, the cases we observe are often unrepresentative of the broader set of hypothetical cases from which they are chosen, which can lead to selection bias in our findings. The dominant strategy in such analyses is to use statistical techniques to produce selection-corrected estimates for the outcome-of-interest. While useful, such techniques often require assumptions about functional form, the validity of instrumental variables, and the existence of appropriate counterfactuals (i.e. data support). To avoid these limitations, in this study we have sought to utilize a better research design and original data collection to offer a direct evaluation of the determinants of sanction imposition and subsequent success. While statistical corrections will continue to be important for much applied work, we encourage other scholars to identify similar opportunities for improved hypothesis testing.

Second, our findings illustrate the importance of accounting for previous moves in the strategic interaction between senders and targets, especially as they consider threats (Morgan & Miers, 1999; Drezner, 2003). When are threats likely to be leveled and against whom? Inversely, why would a sender offer exemptions from its demands to some states rather than others, especially when those exempted are more likely to be susceptible to its pressure? Answering these questions requires developing better theories of trade-offs between foreign policy goals and tools, as well as deepening our understanding of how domestic politics shape sanction behavior, but hold the promise of providing a unified theory of sanction onset and success.

Finally, this article builds on a growing literature analyzing the politics surrounding the International Criminal Court. While our focus has been elsewhere, our findings do speak, at least tangentially, to the likelihood that the Court will succeed in accomplishing the goals that motivated its creation. One troubling observation is that many of the states that signed BIAs with the USA had also signed and ratified the ICC. Why would states that had formally endorsed the Court then undermine its reach and legitimacy by allowing exceptions to its mandate? What does this say about whether the Court will in fact succeed? And, perhaps most interestingly, why and how was the Court established despite the obvious misgivings of the most important state in the system? Scholars would do well to consider these questions about the ICC and thus shed light on how states try to win friends and influence others.

Data replication

Replication materials are available at <http://www.prio.no/jpr/datasets>. Questions and comments should be directed to nooruddin.3@osu.edu.

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