

U.S. Military Commitments: Multilateralism and Treaties¹

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Abstract: When the United States reaches international agreements on military matters, the president has a choice of the form that the agreement will take. This paper explores the strategic choice of agreement form, concentrating on the circumstances that lead the president to use formal treaties rather than executive agreements. The evidence supports the view that the form of the agreement serves as a signal of U.S. preferences and reliability to other states. It does not support the view that the president uses executive agreements to evade congressional opposition, nor a purely legal normative perspective. The paper also contrasts multilateral and bilateral agreements, finding that Democratic presidents reached more multilateral agreements than Republican presidents in the 1980s and 1990s.

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Introduction

The United States reaches dozens of agreements with other countries on security issues each year, both multilateral and bilateral. These agreements typically commit the United States to take particular actions, such as limiting the development of certain types of arms, or to provide military assistance to other states and organizations. As such, the credibility of the United States is of intense interest to its bargaining partners. Will the United States actually live up to its commitments? How can other states improve their information about U.S. credibility?

Building on other work on credibility and the form of international agreements, in this paper I focus on the form of military agreements. I make a number of arguments. First, I argue that the form that an agreement takes is a strategic decision of the president. While this may not sound like a controversial statement, it does go against the grain of much legal literature on international agreements, which sees their form as primarily a matter of precedent and normative concerns. Second, I argue that the form of an agreement sends signals to other countries about U.S. reliability, and that the president takes this signaling process into account when deciding on an agreement's form. Again, this may sound obvious, but this claim goes against the substantial body of work on U.S. agreements in the American politics literature, which considers only domestic incentives facing the president. A signaling model gives rise to a number of hypotheses about the conditions under which a president will bear the costs of undergoing the formal (Article II) treaty procedure. These hypotheses are tested, and borne out, on a dataset made up of all U.S. security agreements reached between 1980 and 1999.

The first section of this paper spells out the theoretical framework. It summarizes previous research on agreement form and the legal and domestic arguments. It then specifies my alternative signaling model, taking into account international strategic motivations. The second section of the paper then tests predictions about the form that security agreements take, finding support for the signaling model but not the purely domestic or legal perspectives. The third section turns to contrasting multilateral and bilateral agreements, asking about the conditions under which we see the United States reaching more multilateral or bilateral agreements.

Theoretical Framework

This paper builds on previous work arguing that the choice of an international agreement's form is a strategic one, which takes into account both domestic and international considerations. This choice is of interest because it tells us something about the president's freedom of maneuver in security affairs and the factors that constrain his choices. Most literature on U.S. international agreements has looked only at the domestic considerations that go into the choice of form. I introduce international strategic considerations and argue that the major expectation derived from the purely domestic perspective cannot be sustained in equilibrium. The president does face domestic constraints, but he must also address the concerns that other governments have about the president not living up to the terms of an agreement. A president attempting to advance his policy agenda needs to consider the interaction of both sets of constraints.

The choice between executive agreements and treaties lies with the president, and induces strategic behavior on his part (Moe and Howell 1999a, 164). As specified in the Constitution, treaties must receive the approval of two-thirds of voting Senators to go into effect. Executive agreements are not mentioned in the Constitution, and can be approved through a number of different mechanisms, from a legislative vote to sole executive approval (Millett 1990).² Congress has at times attempted to set binding guidelines for the choice of agreement form, but without success, so this choice remains a strategic decision by the executive branch (Setear 2002, S12). A substantial legal literature has emerged asking whether, in fact, the president is unconstrained in his choice. While some have argued, on legal or normative grounds, that the president should limit reliance on executive agreements so that Congress is not bypassed (Tribe 1995), in practice the “doctrine of full interchangeability” has prevailed (Ackerman and Golove 1995; Yoo 2001, 759).³ This doctrine means that all international agreements have the same standing in domestic courts, regardless of the ratification procedure. New thinking by legal scholars has called into question the longstanding view of their colleagues about the normativity of agreement form, arguing instead for a strategic perspective that sees

² The legal literature draws distinctions among sole executive agreements, congressional-executive agreements, and executive agreements that are subsequent to previous congressional approval. While this more fine-grained distinction may prove important, at this stage I examine only the broad difference between treaties and all forms of executive agreements. This is motivated by data availability (no data are readily accessible differentiating among types of executive agreements) and by the presumption, justified below, that treaties impose higher domestic costs on the president than other forms of agreements.

³ Spiro 2001 disagrees with Ackerman and Golove’s conclusion, arguing that sole executive agreements are constitutionally unacceptable under some conditions. However, this reasoning has found no support in the courts.

agreements as primarily sources of information (Goldsmith and Posner 2005, 90). My argument is consistent with this new turn in legal studies.

The political-science literature on executive agreements sees them as a mechanism by which the president can evade legislative constraints, thus as a way for the president to enhance his dominance over the legislature in foreign affairs. Since executive agreements create binding commitments to other countries (they have the same legal standing as treaties), but do not involve the Senate in its constitutionally-prescribed formal “advise and consent” role, they could be a potent source of executive power. By the 1990s, the president was signing hundreds of these agreements each year, while the number of treaties signed each year is just a couple of dozen (CRS 1993). Nathan and Oliver (1994, 99) summarize the consensus view of American politics scholars about the use of executive agreements: “Presidents ... have developed and employed the executive agreement to circumvent Senate involvement in international agreements almost altogether.”

Legal scholars have long been concerned about the constitutionality and legitimacy of unilateral presidential action, and have seen devices such as executive orders as powerful mechanisms for the president to evade Congress. For example, Fleishman and Aufses (1976, 38) conclude that “executive orders allow the President, not only to evade hardened congressional opposition, but also to preempt potential or growing opposition....” More recently, political scientists have echoed the same theme and elaborated the political logic behind these concerns. Moe and Howell (1999b) argue that the president has substantial powers of unilateral action because the Constitution is an incomplete contract, that the president has incentives to exploit this incompleteness to

enhance the powers of the office, and that Congress and the courts can do little to resist. Statistical analysis by Deering and Maltzman (1999) largely supports this claim, although they also find that a cohesive Congress can sometimes threaten to overturn executive orders and so constrain the president.

William Howell (2003), in an extended and systematic study of executive orders, finds that Congress is in fact quite diffident when it comes to overturning or opposing the use of executive orders. He concludes that such devices allow the president to exercise power unilaterally, without the need to persuade other branches of government to support his efforts. However, his work really cannot be read to directly support the idea that executive orders allow the evasion of congressional opposition. For example, he finds that the president relies more heavily on executive orders during periods of unified than divided government; we would expect the opposite pattern if executive orders were merely evasive devices. Mayer (1999, 460) also finds more use of executive orders under unified government.

The hypothesis that executive agreements allow the president to evade congressional opposition has been labeled the “evasion hypothesis” (Martin 2000). It has at least one implication that can be tested quantitatively: that when the president expects the most congressional opposition to an agreement, he should be the most likely to choose an executive agreement rather than a treaty. Thus, we should expect to see a higher percentage of international agreements taking the form of executive agreements when Congress (or at least the Senate) is in different partisan hands than the presidency, or when the president receives low levels of support in general from Congress.

There are many reasons to question the logic of the evasion hypothesis, as simple and compelling as it may appear initially. One difficulty is that most executive agreements do in fact require some legislative action, such as appropriating funds, and thus are not likely to allow the president complete freedom of maneuver. Few agreements, even formal treaties, are self-executing. They thus require implementing legislation of some sort. Even agreements that do not require explicit implementing legislation can be overturned by congressional action, as legal doctrine provides that the most recent action takes precedence in the courts. Therefore, executive agreements do not allow the president the unfettered freedom to make commitments that many assume. Attempting to evade congressional can backfire, as Congress has many methods it can use to void or refuse to implement executive agreements.

Perhaps even more telling, the evasion hypothesis completely neglects the process of negotiation with other countries. Assume that the hypothesis was correct, and that the president used executive agreements to evade legislative opposition. Other states would then see these agreements as a sign of lack of domestic support for the agreement, and would therefore become more reluctant to sign on to it. Signing a security agreement that the president then reneges on can be highly costly for other states, as they may have changed their force structure or taken other steps that enhance their vulnerability in anticipation of U.S. compliance with the agreement. Thus governments should follow domestic debates about agreements closely, and take them as signals about the likelihood that the president will actually live up to the terms of the agreement. While an agreement's form likely has a number of consequences, one of the most important may be its impact on the beliefs of other parties to it. That is, agreements are signaling

devices. The idea that unilateral presidential actions can send signals to other political actors has been mentioned in the American politics literature (e.g., Mayer and Price 2002), but this insight has not been developed.

The proposition that treaties can serve as signals rests on two crucial assumptions. The first is that there is some uncertainty about whether the president will live up to the terms of the agreement. Empirically, this seems a reasonable assumption. The United States does sometimes renege on its international commitments. Such renegeing rarely takes the form of legal abrogation of a treaty. More often, the president simply does not fully implement the terms of the agreement, or chooses to “reinterpret” the agreement in such a manner that it does not behave as the other parties anticipated it would.

There is little doubt that the United States is sometimes unreliable on security commitments. A well-known example of unreliability regards the Anti-Ballistic Missile (ABM) Treaty with Russia. This treaty constrained the United States and Russia to build no more than two ABM installations, one to protect the capital city and one elsewhere. Beginning under Ronald Reagan, and continuing through recent administrations, these limitations conflicted with the desire to pursue defensive systems that would shoot down incoming missiles, whether from Russia or small attacks from rogue states. Rather than simply stating that the United States was withdrawing from or abrogating the ABM treaty, administrations have engaged in a contorted attempt to “reinterpret” it to allow large-scale development of these anti-missile systems. While debate has ensued regarding the legalities of reinterpretation, there is no doubt that development of ABM systems is a substantial deviation from the behavior expected under the terms of the ABM treaty. Thus, other states can reasonably ask when reaching an agreement with the

United States whether the president will, in practice, live up to the terms of the agreement.

Why renege on international agreements? Typically, the reason lies in domestic politics. While some domestic groups benefit from the terms of agreements, others see these commitments as costly and would prefer to renege. This dynamic is clear, for example, in arms-control agreements. If actors who believe that these commitments are too costly and constraining are in positions of decisionmaking authority, there is an increased chance of reneging. Thus, the chance that the president will live up to the terms of an agreement is a direct function of the levels of domestic support for and opposition to the agreement. A president that has a high probability of being reliable is one who enjoys high domestic support for the agreement and a low level of opposition.

Considering the level of domestic opposition to an agreement leads us to the second crucial assumption of a signaling model: that the signals sent are costly, and the costs vary for different sorts of actors. Here, we are interpreting treaties as a signal of the reliability of the president. They can only serve as such a signal if treaties are more costly to conclude than executive agreements; and if there is a cost differential so that reliable types bear lower costs for treaties than do unreliable types. Both aspects of this assumption are highly plausible (see also Goldsmith and Posner 2005, 93). Consider first whether it is more costly for a president to gain approval of a treaty than an executive agreement. If the agreement is a sole executive agreement, the comparison is obvious: treaties require gaining the support of 2/3 of the Senate, which involves bargaining, arm-twisting, concessions, and sometimes delays. None of this is necessary for a sole executive agreement.

More serious questions may arise when comparing treaties to executive agreements that involve some degree of ex ante legislative participation. Is it always the case that treaties will be more costly? While there may be exceptions, I would argue that the assumption that treaties are more costly for the president is reasonable. Consider what would be the most costly form of a congressional-executive agreement, one that required majority support from both the House and Senate.⁴ Would the president have to pay a higher cost to get this agreement approved than a treaty? No, unless the distribution of preferences in the House diverges substantially from that in the Senate. If the distribution of preferences is similar, then the median voter in the House will be similar to that in the Senate. Satisfying this median voter will be less difficult than satisfying the swing voter when 2/3 of the Senate is required, since this swing voter will be more extreme. There may be occasions when preference outliers in the House are able to hold an agreement hostage and demand high side-payments or concessions from the president. However, these occasions should be rare, and the assumption that the president bears higher costs to gain approval for treaties than for nearly any executive agreement is plausible.

Anecdotal evidence suggests that the image developed here of treaties as signaling devices is one held by governments. If other states believe that treaties signal that the president intends to live up to the terms of an agreement, they should under some conditions demand that an agreement take the form of a treaty rather than an executive agreement. In fact, such demands are easy to find. Negotiations between the United States and Russia on Nuclear Arms Reduction found Russian president Putin working

⁴ I would note that very few executive agreements require this high level of legislative participation.

hard to persuade U.S. president Bush to sign a “full-blown” treaty to provide “certainty” (*San Francisco Chronicle*, 14 May 2002; *New York Times*, 12 April 2002). Bush had preferred a “gentlemen’s agreement” that would avoid high negotiation costs (*Deutsche Presse-Agentur*, 13 May 2002).

The Strategic Arms Limitation Treaty (SALT II) negotiations in 1977-1979 showed a similar dynamic, as the Soviet foreign minister objected that an executive agreement would not require the approval of 2/3 of the Senate and so would have an “inferior” status (*Washington Post*, 11 May 1979). At times, U.S. allies demand that long-standing executive agreements be transformed into formal treaties, explicitly stating that such changes would signal U.S. long-term commitment. This has been the case, for example, in security agreements with Pakistan (*Washington Post*, 18 January 1980; *The Economist*, 26 January 1980) and aid agreements with Turkey. The Turkey case is especially interesting, as it was complaints that Washington had not lived up to the terms of previous executive agreements that led to calls for a treaty (*New York Times*, 21 March 1986).

In previous work (Martin 2005), I have developed a formal signaling model of agreement form. The game considers the interaction between the president, who determines the form any potential agreement will take in the United States, and its negotiating partner.⁵ The first move is by Nature, which determines whether the United States is reliable or not. A reliable United States is one that will live up to the terms of

⁵ It is important to note that the agreement need not take the same form in all states party to it. It is not at all unusual for the same agreement to have to undergo very different ratification procedures in different countries. So the United States may choose to treat some agreement as a formal treaty while others treat it as a purely executive agreement, or vice versa. The model focuses only on the form the agreement takes in the United States.

the agreement as expected, while an unreliable United States will renege on the agreement. The president knows whether the United States is reliable or not, but the negotiating partner has only an estimate of reliability. The president then decides whether to offer his negotiating partner a treaty or an executive agreement. If he offers a treaty, he bears an immediate cost, for the reasons discussed above. This cost is higher for unreliable than reliable types. If the United States is unreliable, that means there is significant domestic opposition to the agreement, which will prevent it from being fully implemented. For the president to offer a treaty in such circumstances means higher political costs than for a reliable president, one facing little domestic opposition to the agreement.

After observing the U.S. offer, the negotiating partner decides whether or not to sign the agreement. If no agreement is signed, all get a payoff of zero, minus the costs of a treaty for the United States, if one was offered. If an agreement is signed, the United States receives a positive payoff, as does the negotiating partner if the United States is reliable. However, if the negotiating partner signs an agreement with an unreliable United States, it receives a payoff of less than zero.

Under some conditions, the negotiating partner can use its observation of the form of the agreement offered to update its beliefs about the U.S. type. This leads to a separating equilibrium, in which reliable and unreliable types are clearly distinguished from one another, and the negotiating partner will sign only treaties with reliable types under these circumstances. This separating equilibrium occurs when the cost of offering a treaty for the United States is in an intermediate range, where a reliable United States is

willing to bear the cost but an unreliable one is not. Separating equilibria are efficient, in the sense that no mutually-beneficial agreements are forgone.

Under other conditions, both unreliable and reliable types will behave in the same manner, and the negotiating partner will not be able to update its beliefs about the U.S. type. In this case, the partner has to rely on its prior beliefs about U.S. reliability when deciding whether to sign the agreement. If it believes that the United States is likely reliable, it will sign; otherwise, it will not. Such pooling equilibria occur when the potential benefits of an agreement for the United States are quite low, so that no types are willing to bear the costs of a treaty. They also occur when the potential benefits are very high and the negotiating partner has a prior belief that the United States is likely reliable. Under these conditions, an unreliable United States has incentives to bluff by bearing the costs of a treaty. If benefits of the agreement to the United States are high but the negotiating partner believes that the United States is likely unreliable, a complex semi-separating equilibrium emerges in which an unreliable United States and its negotiating partner both pursue a randomized strategy, offering treaties and signing agreements with some probability between zero and one.

Both pooling and semi-separating equilibria give rise to some inefficiency, as some agreements that could potentially benefit both sides are not signed. This occurs because a reliable United States cannot fully distinguish itself from an unreliable type. In addition, both types of equilibria create the possibility that an agreement will be reached that the United States then reneges on. This occurs because an unreliable type is sometimes able to bluff its way into an agreement.

This simple model gives rise to a rich set of hypotheses, based on parameters such as the cost the negotiating partner bears if the United States reneges, and the costs to the two types of offering a treaty. The two parameters that I focus on here as promising explanatory variables are the potential benefits of an agreement for the United States and the negotiating partner's prior beliefs that the United States is reliable. The hypotheses I focus on are those that specify the relative frequency of executive agreements and treaties relative to all *completed* agreements. That is, I take into account the potential for selection bias that has plagued other studies of agreement form, which have neglected the fact that some potential agreements are never reached. In the next empirical section, I concentrate on the following two hypotheses:

H1. *The chance that a completed agreement takes the form of a treaty increases as the benefits of the agreement for the United States grow.*

H2. *The chance that a completed agreement takes the form of a treaty decreases as the reliability of the United States grows.* This prediction is in direct contrast to the predictions of a purely domestic perspective.

Previous studies have argued that it is precisely the inability of the president to generate approval from the Senate that gives rise to the use of executive agreements. However, taking signaling considerations into account, we see that such a move would be interpreted as a sign of unreliability.

Understanding the signals that treaties send to other states leads to new insights about the form that particular agreements take. In particular, we should expect the president to be most willing to bear the costs of the treaty process when the potential

benefits of an agreement are particularly high. In addition we should not see a president facing substantial domestic opposition to attempt to evade it by using an executive agreement; such a maneuver would only confirm his unreliability in the eyes of negotiating partners. The next section turns to explore these insights with evidence on U.S. security agreements reached between 1980 and 1999.

Treaties versus Executive Agreements

To examine these propositions, and see whether the evidence tends to support the signaling model or the evasion hypothesis, I turn to a dataset of U.S. international agreements signed between 1980 and 1999 (with a few in 2000). These data were obtained from Ocean, a firm that collects this information for the use of lawyers. This is the most comprehensive list of U.S. agreements available, containing many agreements that do not show up on official State Department lists or in the UN database.

The full database contains information on all issue-areas, and has nearly 5000 observations. The subset of the data I look at here were coded by Oceana being about “defense” or “arms limitation.” This subset includes 798 agreements. Ocean indicates whether the agreement is multilateral; for bilateral agreements, it indicates what country the agreement is with, and its title. It also shows a treaty number for those agreements that are formal treaties. I have supplemented this information with data on domestic politics in the United States, particularly the party of the president and whether he faces divided government – a Congress in the hands of the other party. These data came from Stanley and Niemi (2001).

A first important observation is that the incidence of formal treaties in this subset of the data is very low. For the full dataset, over 4% of the agreements are treaties. This itself may seem a low number. But considering the large number of agreements reached each year, the time necessary to shepherd a treaty through the Article II process, and the relatively inconsequential nature of many of these agreements, the high frequency of executive agreements should not be surprising. In the subset of agreements dealing with security issues, only 1.25% of them – 10 out of 798 – were treaties. This in itself is an interesting observation. Conventional wisdom among legal scholars is that security agreements, especially arms control agreements, tend to take the form of treaties. Instead, we find just the opposite, that these agreements are even more often executive agreements than those in other issue-areas.

The 1980s and 1990s were an active and interesting period for U.S. negotiations and agreements on security issues. In the 1990s, especially, the end of the Cold War created a large number of opportunities and demands for the United States to reach new security accommodations with other states – including new states. For example, a large number of the agreements in this dataset work to resolve security concerns with former Soviet states, specifying their relationship to the United States and their control of stocks of arms. The transformation of NATO during this period also led to many agreements, including with potential new members. In addition, in the earlier years of the dataset, some landmark arms-control agreements were reached with the Soviet Union. The dataset is filled out with the day-to-day stuff of interaction in the security realm, amending earlier agreements, specifying military assistance and arms sales, setting the conditions for U.S. military bases overseas, and so on.

The hypotheses derived from the signaling model focused on two major explanatory variables related to the form of an agreement: the potential benefits to the United States and its reliability. In previous work, I have argued that, on balance, multilateral agreements will be more valuable to the United States than bilateral agreements. This is not to deny that some bilateral agreements – including some in this subset of data – are immensely valuable. However, on average, multilateral agreements, because they are with a number of states, offer greater potential advantages than bilateral agreements.

As a check on whether the multilateral proxy is a plausible measure of agreements' benefits, in previous work I randomly chose 25 multilateral and 75 bilateral agreements. For each, I undertook a search of the *New York Times* for the three months surrounding the signing of the agreement, identifying the number of references to the agreement. Within this subset, the multilateral agreements on average had 4.9 references in the *Times*, while the bilateral agreements had only 0.49 references on average. This figure suggests that the multilateral agreements were, indeed, much more substantial and consequential than the bilateral agreements. However, the figure on multilateral agreements was heavily influenced by one outlier (the START treaty) that received 84 references. Excluding this outlier, the mean number of references to multilateral agreements drops to 1.6. However, this is still triple the number of references to the average bilateral agreement, suggesting a significant difference and supporting the plausibility of this indicator. Figure 1 shows a histogram of the number of references to bilateral and multilateral agreements, excluding the multilateral outlier.

[Figure 1 about here]

So, if multilateral agreements are more consequential than bilateral ones, on average, we should expect them more often to take the form of treaties. Previous work has shown that this insight holds strongly in the larger dataset. Does it hold for security agreements, in particular? A skeptic might argue that multilateral security agreements tend not to be particularly important, that in this issue-area the real work is done in bilateral negotiations.

[Table 1 about here]

Table 1 shows how bilateral and multilateral agreements are sorted into executive agreements and treaties. Just 0.55% of bilateral agreements – 4 out of 728 – take the form of treaties. In contrast, 8.57% of multilateral agreements, 6 out of 70, are treaties. This relationship is highly statistically significant, as indicated by the chi-square statistic. Thus, the general insight that multilateral agreements offer more potential benefits and thus are more likely to take the form of treaties holds for security agreements. The intuition behind this finding, according to the signaling model, is that the president will more often be willing to bear the costs of a treaty as a way to indicate U.S. reliability when the potential benefits of the agreement are high.

The evasion hypothesis predicts that a president facing high domestic opposition should more often turn to executive agreements as a way to evade this opposition. In contrast, the signaling model argues that such a maneuver would send a signal of unreliability to negotiating partners. If anything, higher domestic opposition should force the president more often to use treaties as an attempt to signal reliability. Previous work has used divided government as an indicator of domestic opposition and prior beliefs

about reliability.⁶ While early work suggested that divided government was in fact associated with greater use of executive agreements, Martin (2000, 2005) has shown that in properly specified models, the relationship disappears or even reverses, as the signaling model predicts.

[Table 2 about here]

Table 2 presents a logit analysis that allows us to test the effect of divided government on the probability that an agreement will be a treaty, controlling for whether the agreement is multilateral. Here, I also control for whether the president is in an election year or in his first year in office. Some have suggested that presidents might more often turn to executive agreements during election years as a way to establish their own foreign policy agenda. It is also possible that a new president, who has not yet developed a working relationship with Congress, may be forced to rely more heavily on executive agreements. I also control for the party of the president, allowing for the possibility that ideological commitments might push presidents of one party to favor executive agreements that appear to enhance their autonomy from Congress.

As in the simple bivariate correlation, we find a strong positive relationship between multilateral agreements and treaties. We also find a positive relationship between a Republican president and the use of treaties, although this relationship is not quite statistically significant. This is interesting, because in the larger dataset a significant *negative* relationship appeared between Republican presidents and the use of treaties. This suggested that Republicans favored unilateral presidential action more than

⁶ Other indicators of reliability might be variables such as presidential victories on votes in Congress, or LPPC scores – the legislative potential for policy change. All such measures perform in the same way as divided government.

Democrats, probably consistent with conventional wisdom. However, this relationship does not hold for security agreements, and even appears to reverse. The circumstances that led to this pattern, at least for these decades, may be worth further speculation.

Neither of the year dummies has any effect. This suggests that a purely domestic logic of the president's relationship with Congress does not have a consistent effect on the form of agreements, lending support to a signaling model. Importantly, divided government also has no significant effect on the probability that an agreement is a treaty, undermining the purely domestic logic of the evasion hypothesis. A finding that divided government had a significant positive relationship to the probability that an agreement took the form of a treaty would be strong support for the signaling model. Unfortunately, this finding does not materialize. However, we can conclude that there is no support for the evasion hypothesis, just as work on agreements in other issue-areas has concluded. When it comes to security agreements, the president is not able to evade congressional opposition by turning to executive agreements, as this would send a signal of unreliability.

I have interpreted the positive relationship between multilateral agreements and treaties as supporting the idea that such agreements, on average, have greater value to the United States than bilateral agreements. However, particularly in the security realm, one could certainly argue that some bilateral agreements would be of tremendous value. Thus, a closer look at multilateral and bilateral treaties seems in order here. First, the multilateral treaties in this dataset are indeed consequential agreements; they are not just multilateral agreements that took the form of treaties because of legal precedence or convenience. Most involve NATO, for example planning for accession of new members.

A multilateral land mine protocol is included, as is a multilateral agreement on terrorism. Thus, the assumption that many multilateral agreements are important substantive arrangements finds support in these data.

Looking at the bilateral treaties, a very interesting finding emerges. All four of these treaties are with the same country: the Soviet Union. Three of these are extensions of earlier treaties on nuclear weapons, and one regards the elimination of intermediate and short-range missiles. These are agreements of tremendous importance to the United States, and thus it is entirely consistent with the signaling model that they have taken the form of treaties. Thus, while multilateral agreements may be a decent proxy for the value of an agreement, even the cases that do not fit this rule – the bilateral treaties – support the underlying logic of the argument.

It is also interesting to note that none of the bilateral agreements in this dataset with U.S. allies or with other democracies take the form of treaties. This may argue against some more normative arguments, for example those that predict that democracies would be more “legalistic” in their approach to security agreements. There is no evidence here that democracies will demand the formality of a treaty any more often than non-democracies. It may be interesting, in future work, to explore the impact of levels of military spending or other domestic characteristics of U.S. negotiating partners to determine whether they have an impact on the form of agreements. Unfortunately, given the lack of variation in this dataset – all of the bilateral agreements are with the same country – we cannot address these questions. Research aimed at looking at the impact of other domestic characteristics would have to extend the time frame to include more observations.

Overall, this analysis of agreement form provides moderately strong support for a signaling model, while providing no support for a purely domestic or legalistic model. To the extent that the reliability of the United States can be captured by examining divided government or other aspects of presidential relations with Congress, we do not find that lack of reliability can be overcome by turning to executive agreements. We do not find that the legalistic treaty form is preferred by democracies. Instead, the only consistent pattern we observe is that more valuable agreements more often take the form of treaties, exactly as the signaling model predicts. The next section provides a brief analysis contrasting bilateral and multilateral agreements to one another.

Multilateral versus Bilateral Agreements

In the context of multilateralism and security generally, it would be interesting to see if there are any regular patterns in the degree to which U.S. presidents are willing or able to complete multilateral agreements. The dataset analyzed here allows us to offer some preliminary insights on this question. Of course, any conclusions reached here must be treated as only initial insights. The data cover only twenty years, and there is no guarantee that each president had opportunities to complete about the same percentage of multilateral agreements each year. Nevertheless, this period covers extremely important changes in the U.S. security environment, and offers variation in the party of the president and whether he faced divided government. Thus, it does allow us to undertake some analyses that could be of wider interest.

One intriguing question is whether partisan ideology influences the degree to which presidents complete multilateral versus bilateral agreements. Based on recent practice, with the George W. Bush showing an aversion to multilateral commitments, we might expect that Republican presidents would be more reluctant to conclude multilateral agreements. Thus, we would expect a lower ratio of multilateral to bilateral agreements under Republican presidents. However, a number of other factors would influence this ratio as well, and it is not obvious that partisan ideology has been consistent on the values of multilateralism. For example, in the early Cold War years, presidents of both parties concluded important multilateral security agreements.

[Table 3 about here]

Table 3 presents an initial simple analysis of the relationship between the party of the president and the relative frequency of bilateral and multilateral agreements. We do find the pattern we would expect if Republicans have typically been more skeptical of the values of multilateralism. Under Democratic presidents, about 10.8% of agreements completed were multilateral during this period, while under Republicans only 6.6% were multilateral. Using the chi-square statistic, we can see that this difference is statistically significant at the standard .05 level. Thus, we have suggestive evidence that Republican ideology does support the negotiation of bilateral rather than multilateral agreements.

Of course, we cannot draw too many conclusions from this crude analysis. It does not control for any other factors that might influence a president's incentives or ability to conclude multilateral agreements. While there are a large number of such potential factors, one that we can easily control here is the existence of divided government. Perhaps a president facing a Congress controlled by the other party would find it more

difficult to gain support for complex multilateral agreements that could commit the United States in ways that would prove inconvenient in the future. Thus, we might expect that a president facing divided government would conclude fewer multilateral agreements. On the other hand, the analysis in the previous section of this paper suggested that divided government was not, in fact, a block to concluding agreements. While divided government might raise questions in negotiating partners' minds about the reliability of the United States, a president willing to make a costly signal of intent to live up to the terms of an agreement can overcome this liability.

[Table 4 about here]

In order to control for divided government and to assess its effects, Table 4 shows the results of a logit analysis using multilateral agreement as the dependent variable. That is, this table asks about the odds that any particular agreement will be multilateral rather than bilateral. The two explanatory variables are the president's party and divided government. As in Table 3, we find a significant negative relationship between Republican presidents and multilateral agreements. Thus, this finding does not simply arise because Republicans faced divided government more often than Democrats. Perhaps just as interesting, we find a strongly significant *positive* relationship between divided government and multilateral agreements. This suggests that divided government is not an impediment to negotiating multilateral agreements. However, the positive coefficient on this variable is somewhat surprising and deserves further exploration. Why might we see *more* multilateralism in periods of divided government? Does Congress simply have a preference for multilateral over bilateral agreements?

One further step we can take with these data is to examine the records of individual presidents. Perhaps the fact that Republican presidents concluded fewer multilateral agreements is not due to partisan ideology, but is more idiosyncratic to specific presidents, or the result of the particular era in which they were governing. The data here cover only four different presidents: Carter (1980); Reagan (1981-1988); Bush 1 (1989-1992); and Clinton (1993-1999). Figure 2 presents a bar chart breaking down the data on multilateral and bilateral agreements by year.

[Figure 2 about here]

We can see from this figure some clear differences across presidencies. The one year that we have for Carter, 1980, shows that about 13% of all agreements were multilateral. During the first Reagan administration, this fraction plummeted, with no multilateral agreements in 1983 or 1984. However, in the second Reagan administration, the percent of agreements that are multilateral returns about the same level as observed in 1980. The first year of the Bush 1 administration we see no multilateral agreements, but the numbers return to about their usual levels for the next three years.

The first year of the Clinton administration, 1993, also shows a very low percentage of agreements as multilateral. However, this fraction grows dramatically over the next few years, reaching a maximum of over 30% in 1997. Thus, the finding that Democratic presidents negotiate a higher percentage of their agreements as multilateral seems primarily to be a Clinton effect; while Reagan seemed particularly averse to multilateral agreements, at least during his first term. We would need to have data that cover a longer time span in order to see if the patterns found here could be generalized beyond this small set of presidents.

Figure 3 shows the total number of multilateral agreements negotiated per year, rather than the percentage, to allow us to see if any different patterns emerge. Overall, we see the same picture, exaggerated in some respects. The first Reagan administration shows almost no multilateral agreements being negotiated, but this number grows substantially toward the end of the second Reagan administration. The high point for negotiating multilateral agreements is in 1995-97, when the number negotiated per year averages about ten, well over the number for any other years. Given these data, it is not possible to sort out the precise reasons for this flurry of activity. It could be attributed to a fondness of Clinton for multilateralism in the security realm. Alternatively, it could be part of the post-Cold War aftermath, when opportunities to negotiate multilateral agreements proliferated.

[Figure 3 about here]

Conclusion

When the United States concludes security agreements with other countries, does the form of the agreement send a signal about the reliability of the United States? This question engages the extensive literature on the domestic politics of U.S. agreements, but extends it significantly by considering how the form of the agreement provides information to other countries about the likelihood that the United States will actually live up to its terms. Work on this question from a purely American politics perspective has argued that the president is able to use executive agreements to evade the congressional constraints that a formal treaty would entail. Work by legal scholars has

focused more on precedent and practice, paying little attention to the strategic issues involved in choosing the form of an agreement.

I have argued that the form of the agreement does, in fact, send signals to other countries. This means that presidents cannot simply evade congressional opposition by using executive agreements rather than treaties, as this would send a signal of unreliability. A signaling model of treaties predicts that agreements on consequential issues should more often take the form of a treaty, but that indicators of unreliability, such as divided government, should not reduce the chance that an agreement is a treaty. Analysis of data on nearly 800 U.S. security agreements during the 1980s and 1990s supports the insights of the signaling model, while not providing evidence in support of the evasion perspective or a purely legalistic argument. Multilateral agreements, which on average are more valuable for the United States than bilateral agreements, more often take the form of treaties. Divided government does not have a significant negative relationship with the frequency of treaties. The only bilateral agreements that took the form of treaties were important agreements with the Soviet Union, again providing support for the signaling model.

In addition, these data allowed an initial exploration of the reliance of different presidents on bilateral versus multilateral agreements. Conventional wisdom suggests that Republicans are more skeptical of multilateralism than Democrats, and that hypothesis is borne out in this dataset. We also see the somewhat surprising result that periods of divided government give rise to more multilateral agreements, a finding that deserves further research. Overall, this study of security agreements suggests that they, like agreements in other issue-areas, are the subject of intense strategizing by presidents,

who are aware of the signals that they send to other countries, while also being swayed by partisan ideological commitments.

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Figure 1
Number of References in *New York Times* to Multilateral and Bilateral Agreements

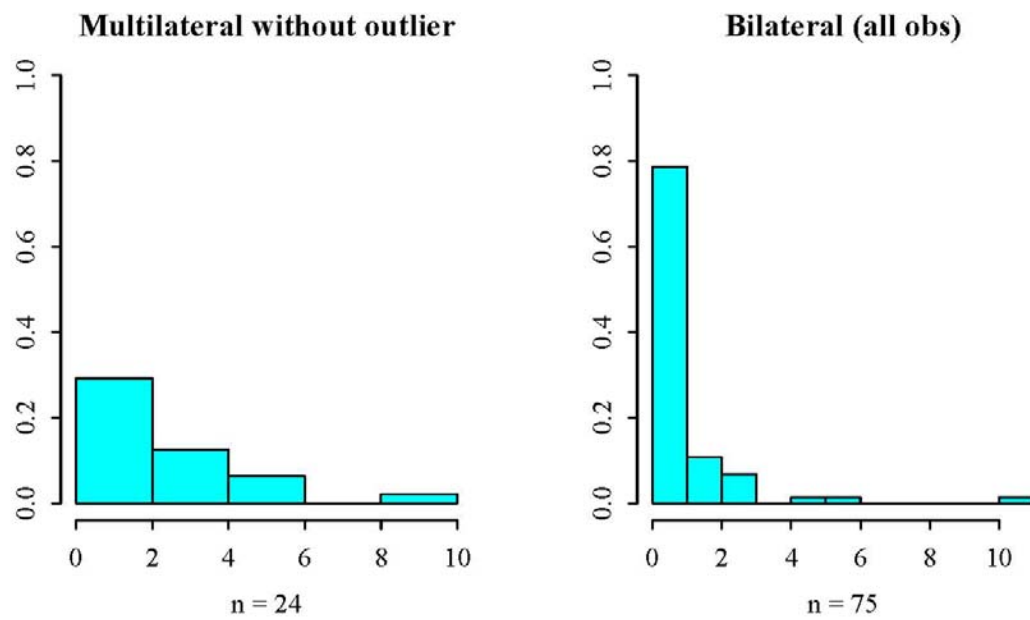


Figure 2

Fraction of All Agreements that are Multilateral by Year

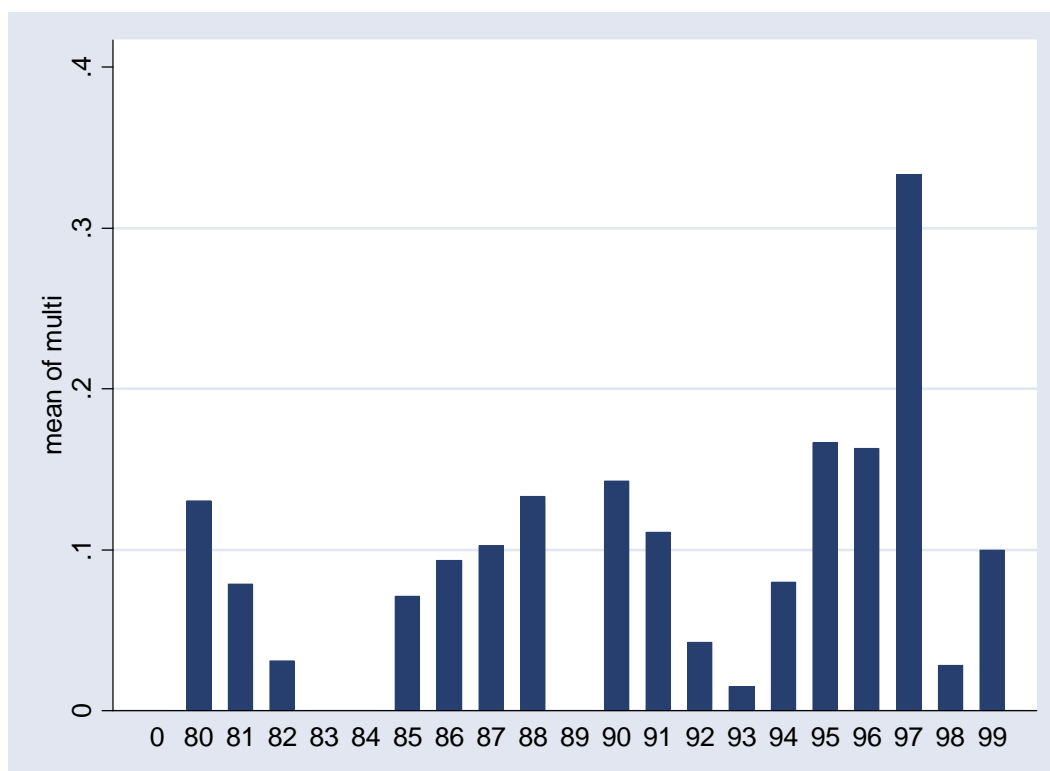


Figure 3

Total Multilateral Agreements by Year

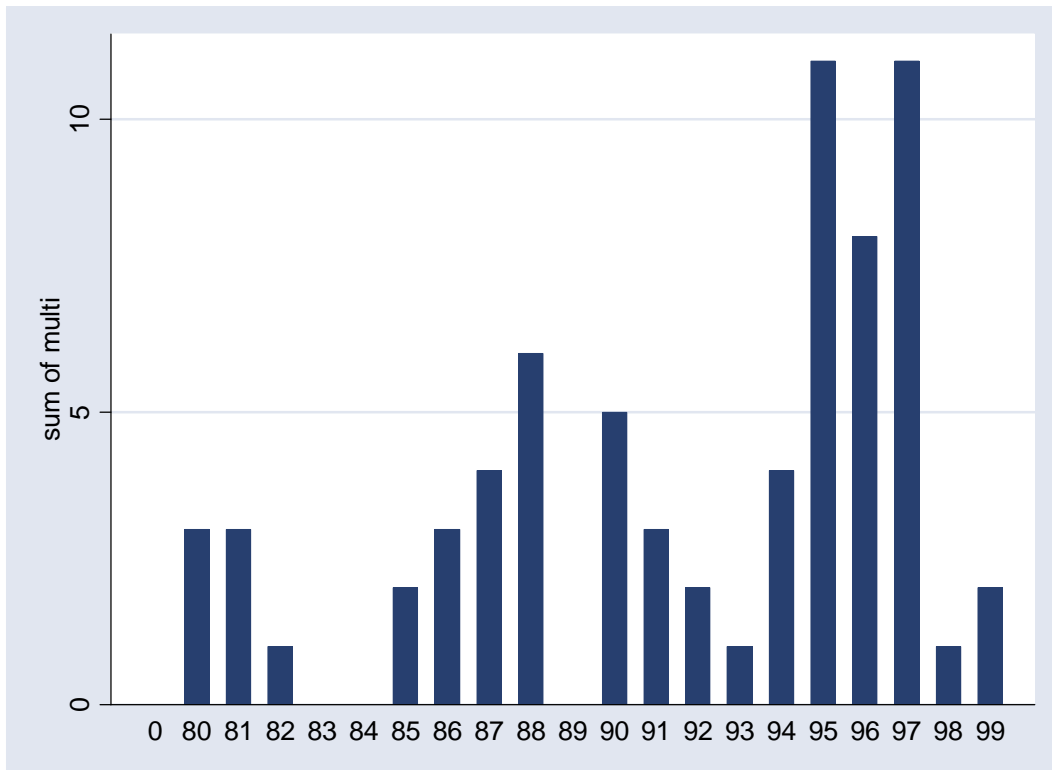


Table 1
Incidence of treaties, bilateral versus multilateral agreements

	Bilateral	Multilateral	Total
Executive agreement	724 99.45%	64 91.43%	788 98.75%
Treaty	4 0.55%	6 8.57%	10 1.25%
Total	728	70	798

Chi-square 33.21, $p < 0.01$

Table 2
Treaties versus Executive Agreements, Logit Analysis

Dependent variable = Treaty	Coefficient	Estimated Standard Error	z
Multilateral	3.034**	0.6917	4.39
Republican president	0.8623	0.6909	1.25
Divided government	-0.4219	0.7042	-0.60
Election year	-0.5621	0.8440	-0.67
First year	-0.3457	0.8667	-0.40
Constant	-5.269**	0.8098	-6.43

Number of observations: 798

Pseudo R-squared: 0.181

** : $p < 0.01$

Table 3
Multilateral Agreements and the President's Party

	Democratic president	Republican president	Total
Bilateral agreements	372 89.21%	356 93.44%	728 91.23%
Multilateral agreements	45 10.79%	25 6.56%	70 8.77%
Total	417	381	798

Chi-square 4.451, $p < 0.05$

Table 4
Multilateral Agreements and the President's Party, Logit Analysis

Dependent variable = multilateral agreement	Coefficient	Estimated standard error	z
Republican president	-0.6733**	0.2643	-2.55
Divided government	1.056**	0.2916	3.62
Constant	-2.749**	0.2592	-10.61

Number of observations: 798

Pseudo R-squared: 0.0409

** : $p < 0.01$

Appendix

Descriptive statistics and data sources

Variable	Mean	Std. Dev.	Minimum	Maximum	Source
Treaty	.0125	.1113	0	1	Oceana
Multilateral	.0877	.2831	0	1	Oceana
Republican president	.4774	.4998	0	1	Stanley and Niemi 2001
Divided government	.5614	.4965	0	1	Stanley and Niemi 2001