

# Exploiting Treaty Ambiguity: Public Health Exceptions in the WTO TRIPS Agreement

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## Escape clauses vs. Constructive ambiguity

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- Treaty flexibility: measured by presence of exceptions in an agreement.
- We also have theories of when escape clause use is more likely...

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## Research question

**Question:** When and how are countries more likely to exploit constructive ambiguity in international agreements?

**Claim:** Countries adopt domestic laws that more precisely define ambiguous treaty terms in order to meet domestic interests.

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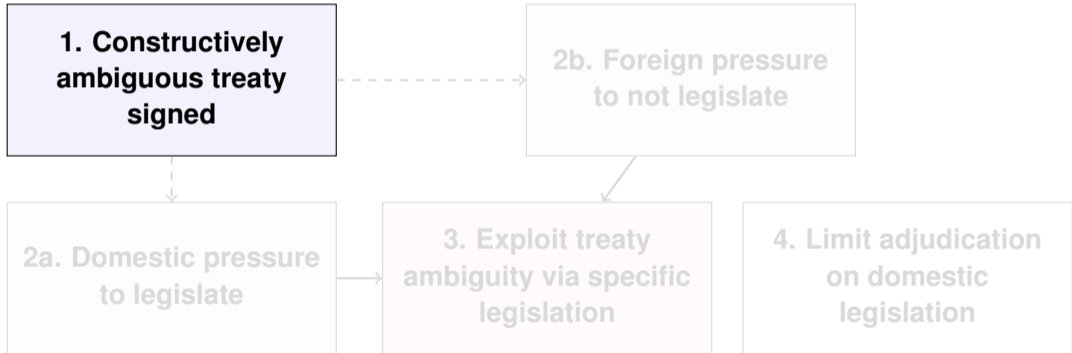
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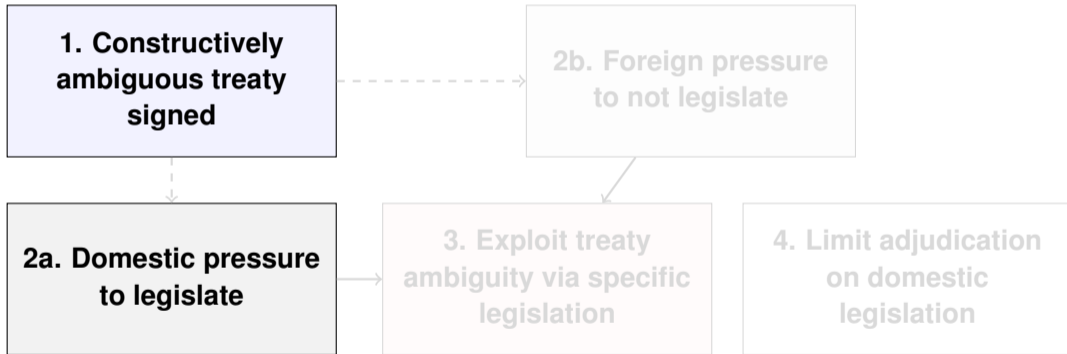
Disputes over applications of treaty terms can be resolved in numerous ways:

- 1 Negotiation
- 2 Dispute
- 3 **Exploit treaty ambiguity in domestic legislation.**

# The argument

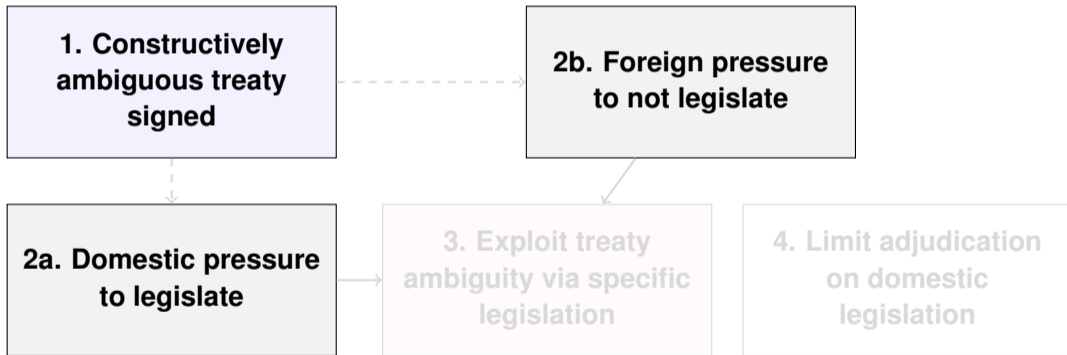


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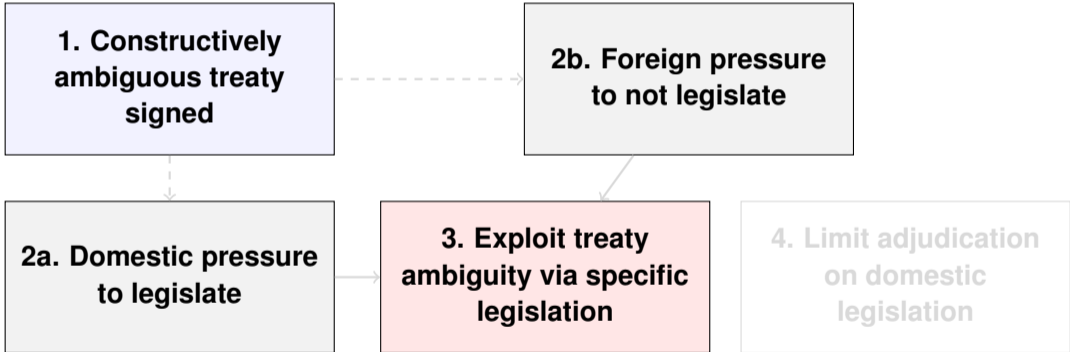




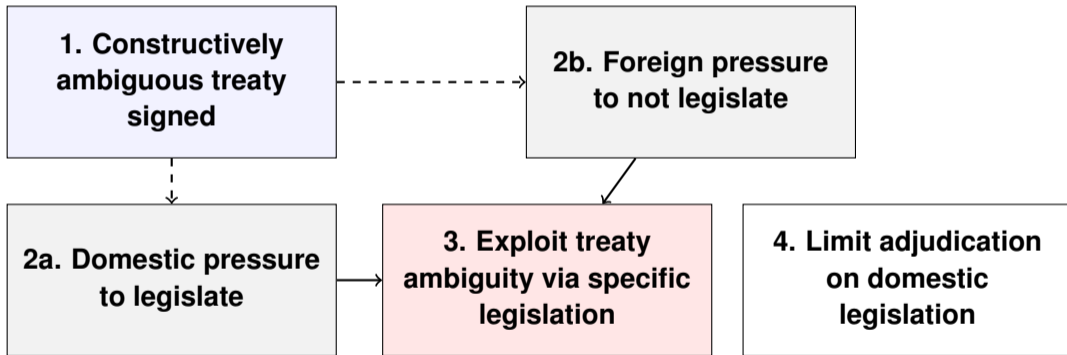
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# Hypotheses

- 1 **H1: Democracies** are quicker to exploit ambiguous treaty terms when domestic demand for legislation is higher.
- 2 **H2: Developing democracies** are especially likely to exploit treaty ambiguity when **foreign firms** have vested interests in their domestic market.
- 3 **Scope conditions:** constructive ambiguity in a treaty must exist; negotiation and adjudication **are not** available.

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We test our theory in the context of:

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## Why TRIPS? Ambiguity on compulsory licensing

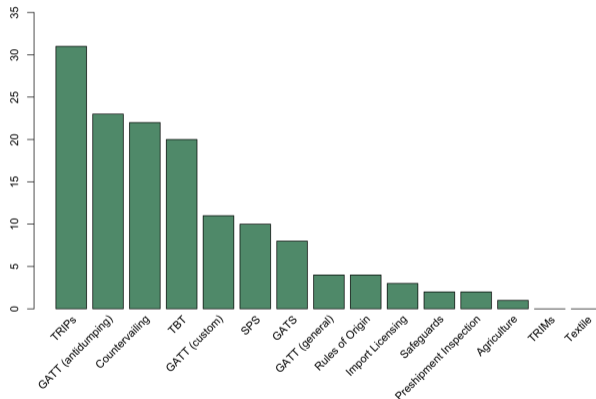


Figure: Count of word 'reasonable' in WTO agreements

# Measurement

## DV: time to treaty exploitation

- *When* compulsory licensing is legislated domestically
- *How* compulsory licensing is legislated domestically

## (H1) IV: democracy \* demand for public health legislation

- Polity IV or Boix-Miller-Rosato (BMR) measure
- # of HIV/AIDS therapy recipients

## (H2) IV: democracy \* MNC presence

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# Empirical Approach

**Survival analysis:** cox proportional hazards model

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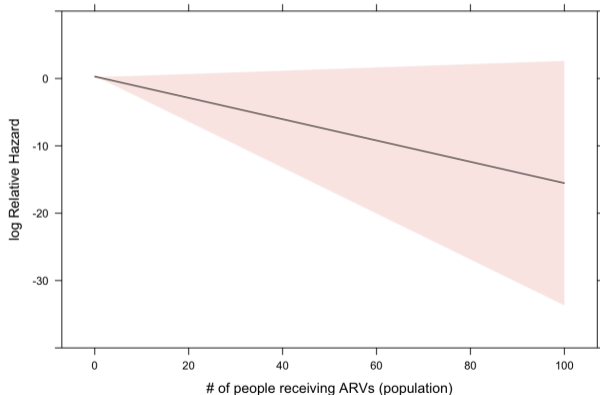
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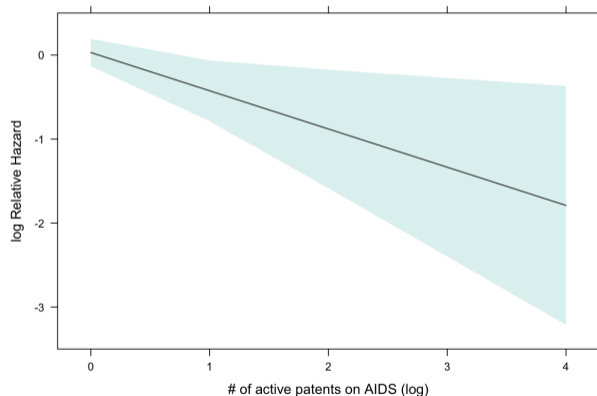
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## Takeaways

When are countries more likely to exploit treaty ambiguity?

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- 2 This is especially likely in such countries where foreign MNCs have a local presence and private interests.
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# We look forward to your questions!

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