

When, What, and Why Do States Choose to Delegate? Characteristics of Delegation in a Random Sample of International Agreements

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Introduction

If international agreements are a product of rational design by states, the underlying cooperation problems faced by states should determine the agreement features, including delegation provisions. A state delegates functions to an international body if the expected benefits from delegation outweigh the expected costs. Empirically, we should see the extent and type of delegation vary according to the importance of delegation in solving the particular cooperation problems faced by states. From this perspective, the debate on whether delegation is an important part of international law is misplaced. A more fine-grained theory predicts that delegation is important when the underlying cooperation problem requires it.

The most important cost of delegation is loss of autonomy, to which sovereign states are very sensitive (see Bradley and Kelley 2007). In this paper, however, I focus on the benefits of delegation. The theory of rational design (see Koremenos et al. 2001) predicts that the following features of the underlying cooperation problem should create an incentive to delegate: heterogeneity among participants, a large number of participants, uncertainty about behavior, uncertainty about the state of the world, and enforcement problems. When heterogeneity is high, routine administration and decision-making is complicated among all the participants. Similarly, increasing the number of participants increases the transaction costs of implementing an international agreement. Different types of uncertainty can also be solved through delegation. For example, uncertainty about the behavior of participants can be reduced by developing monitoring systems. Essentially, when cooperation problems are complex, delegation increases the efficiency of the solution. Using data on cooperation problems and the design features of international institutions, I find that delegation, and especially external delegation (defined as delegation to a third party outside of the agreement), increases with these cooperation problems.

In addition to cooperation problems, I analyze the correlation between delegation on one hand, and democracy, withdrawal clauses, finite duration, risk aversion, and voting rules on the other. Of these, only withdrawal clauses and finite duration are correlated with delegation. The positive correlation between withdrawal clauses and delegation suggests that states are minimizing their sovereignty costs by creating an outside option. The negative correlation between finite duration provisions and delegation suggest that delegation can function as a form of flexibility, thereby acting as a substitute for finite duration. Similarly, the fact that risk aversion does not seem to decrease delegation suggests that delegation simultaneously reduces the risk of failing to solve the cooperation problem and increases the risks that a loss of autonomy creates.

The general conclusion that the data suggest is that delegation is a deliberate decision by states facing particular cooperation problems. Future work on the theoretical and empirical aspects of delegation is warranted, and a promising point of departure is the transaction costs approach which posits that institutionalized patterns of cooperation are an attempt to reduce the costs that permanent transactions cause. More specifically, two lines of research should be pursued. First, the theoretical study of delegation would benefit models of delegation that incorporate both the costs and benefit. Second, as more data become available, multivariate and interactive analysis should be used to achieve a greater level of certainty about the relative importance of delegation, in particular which kind, for different cooperation problems.

The Data

Types of Delegation

I am collecting data on the characteristics of a large sample of international agreements drawn from the United Nations Treaty Series.¹ My random sample is conditional on four issue areas: economics, environment, human rights, and security.

A coding instrument records the characteristics of the agreements. Importantly, the coders for this project are extensively trained in order to give them high levels of both competency and consistency, with the majority going through 9-12 months of course-based training that includes both theoretical training and practice coding runs. Two coders independently code each agreement using an online survey instrument. Upon completion, an intercoder reliability report is generated for the 375 questions for which there are “quantitative” answers, e.g., yes/no, multiple choice, a specific number, etc. The average coded agreement is characterized by disagreement on approximately 15 questions, or 4% of the quantitative questions; the range so far has been between 2% and 11%. The inconsistencies are then resolved through a close re-reading of the agreement and supervised discussion involving the original coders, a trained graduate student, and the author.

One of the most extensive sections of the coding instrument is that which addresses the bodies (if any) created by the agreement. These bodies are composed of some kind of representatives of the member states and hence are a form of **internal delegation**. The coders are asked to identify in detail the characteristics of the members of those bodies, their size, the procedures for making decisions, and other details about the functioning, and purpose of these bodies.

There is a shorter section of the coding instrument which addresses tasks delegated to third parties. It asks about the kind of tasks delegated as well as what kind of third party is implicated. This section captures **external delegation**.

¹ The data are gathered as part of a research project supported by the National Science Foundation CAREER Award: “Designing International Agreements: Theoretical Development, Data Collection, and Empirical Analysis” (SES-0094376). The Internet collection at the time the sample was drawn contained over 34,000 international agreements “which have been published in hard copy in over 1,450 volumes, which corresponds to all treaties and subsequent actions registered up to December 1986” (<http://www.un.org/Depts/Treaty/>).

In their concept paper, Bradley and Kelley define delegation as “a grant of authority by a state to an international body or another state to make decisions or take actions” (2). They emphasize the importance of the ‘grant of authority,’ but note that this does not necessarily imply a binding arrangement. Instead, they suggest that the level of delegation determines the constraints of the delegation on states. They include both internal and external delegation in their definition. Within their framework, internal delegation would be delegation to a collective body or subgroup of states within the agreement (what some call a pooling of sovereignty), while external delegation would include delegation to an international body outside of the agreement.

Bradley and Kelley describe delegation along four major characteristics. First, they discuss issue area and note that the type of delegation used may vary based on the substantive issue addressed by the treaty and whether the delegation in this area encroaches on rights or duties typically assumed by states. Second, they discuss the type of delegated authority, which can include administrative functions, implementation, monitoring, agenda setting, regulation, adjudication, and enforcement. Functions like adjudication, police-type monitoring and enforcement are considered to have high levels of delegation, while administrative functions, some implementation functions, and information gathering are classified as having a low level of delegation. The third dimension is legal effect, which encompasses the obligation of the agreement and delegation (is it legally binding domestically and internationally?) and how enforceable it is, since this will affect the constraints delegation places on states. Finally, delegation may vary in terms of the autonomy the delegated body has. As measures of autonomy, Bradley and Kelley consider the oversight and control of the body by member states, the precision or ambiguity of the body’s purpose and jurisdiction, the permanence of the body, and the rules and procedures. A body will have high autonomy if states are given little control over the body’s membership and functioning, if state approval or consensus is not required for the body to act, if the jurisdiction of the body is vague, and if the body is permanent so that states can not withdraw easily. Importantly, although this framework does not map exactly onto that of rational design, there are clearly parallels. Internal and external delegation are likely to vary in systematic ways along these dimensions. Furthermore, by testing for relationships between types of delegation, cooperation problems addressed, and design elements like withdrawal clauses and voting rules, we may be able to probe the Bradley and Kelley conceptual framework empirically.

Descriptive Statistics

Table 1: Types of Delegation

	Number of Agreements (Percent of Agreements)
Cooperation without Delegation	44 (45.4%)
Both Internal and External Delegation	30 (30.9%)
Internal Delegation	40 (41.2%)
External Delegation	43 (44.3%)

N = 97

Pearson chi-squared test for Independence: p=0.000

Agreements are fairly evenly divided in their use of different types of delegation. About the same number use internal and external delegation, though the use of both in a single agreement is

somewhat less common. This is not surprising given there are costs to creating bodies as well as delegating to existing ones; hence states may have an incentive to choose the form of delegation selectively. It is also notable that although external delegation is often cited as having higher ‘sovereignty costs’ or as placing higher constraints on signatory states, at first glance, the data above do not suggest that states are any less likely to use external delegation. This suggests that perhaps external delegation is not viewed by states in such terms, but instead is seen as being the more effective form of delegation in many cases. Of course, any firm conclusions must take into account just what gets delegated internally versus externally. Nonetheless, the table above suggests very strongly that the two types of delegation are not independent.

Table 2: Types of Delegation by Issue Area

Issue-Area	Cooperation without Delegation	Both Internal and External Delegation	Internal Delegation	External Delegation
Economics (n=47)	53.2	36.2	46.8	36.2
Environment (n = 17)	35.3	23.5	47.1	41.2
Human Rights (n=17)	17.6	41.2	41.2	83.2
Security (n=16)	62.5	12.5	18.8	31.3

Cooperation without delegation is most common in the security and economic issue areas. For security agreements, this descriptive statistic seems to confirm the conventional wisdom that states may be less willing to turn issues pertaining national security over to an international body. Cooperation without delegation is least likely in human rights. External delegation is most common in human rights agreements and least common in the security issue area. Moreover, all these third parties are IGOs.

These simple descriptive statistics open up a set of questions regarding the role of the existing international environment, most importantly, existing institutions, in the formation of new agreements and the process of delegation. The formation of new international law is often an iterative process, with states building off of old institutions to adapt to their new needs.

Table 3: Tasks Delegated to Institutions

Tasks Delegated	How Many Agreements Use...	
	Internal Delegation?	External Delegation?
Secretariat/Administrative Duties	4	9
Financial Administration	5	3
Representing the International Organization in its Interactions with Countries or Other Organizations	4	0
Collection of Information	7	8
Analysis of Information	9	1
Dissemination of Information	8	5

Making Rules/Laws in Addition to Those Stipulated in the Agreement	7	0
Amending the Agreement	3	1
Implementing the Agreement's Rules/Law	10	3
Presiding Over, Setting the Agenda for, or Overseeing the Reports of Some Other Body's Meetings	4	1
Monitoring Compliance	5	6
Soft Procedures to Encourage Compliance, like Review Meetings	5	4
Overseeing Complaint(s) and Punishment(s) for Non-Compliance	5	6
Dispute Resolution	25	30
Deciding which New Members May Join	1	1
Other	6	8

N = 97

Dispute resolution is the most commonly delegated function, both internally and externally.² External delegation of dispute resolution usually involves delegating authority to an existing arbitration tribunal or an international court.

With respect to tasks other than dispute resolution, some facet of the implementation of the agreement as well as the analysis and dissemination of information are internally delegated. Tasks related to compliance monitoring and punishment of noncompliers are also at times delegated, implying that delegation may be an important enforcement tool as well. Secretariat and administrative duties, collection of information, compliance monitoring and punishment for noncompliance are the tasks that are most frequently externally delegated. Significantly, the table shows that delegation is used for a wide range of diverse tasks, tasks which are important and in some cases essential to the functioning of agreements. This observation conflicts with Guzman and Landside's assertion in their paper for this conference that "when one looks to the existing practices of states, it turns out that examples of non-trivial international delegations are quite rare"(3). Instead, delegated bodies are involved in the implementation, revision, and monitoring of the agreement and often have the power to settle disputes and enforce compliance. The actions of delegated bodies in these functions will have real effects on signatory states. It seems a mistake, therefore, to suggest that only 'trivial' delegation occurs. (Andrew Guzman and Jennifer Landside, "The Myth of International Delegation," Duke Conference, 2007).

Table 4: Tasks Delegated using Both Internal and External Delegation

Task	Number of Agreements that Delegate Same Task to New and Existing Institutions
Secretariat/Administrative Duties	1

² In her contribution to this volume, Alter elaborates four roles that a judiciary can take: dispute resolution, administrative review, enforcement, and constitutional review. Thus far in my random sample, I have no agreements that actually call for the creation of a free-standing international court. Thus whenever a court, such as the ones Alter analyzes, is mentioned in the agreement, it is called upon to help with dispute resolution between the parties to some other agreement with none of the other functions being mentioned.

Financial Administration	0
Representing the International Organization in its Interactions with Countries or Other Organizations	0
Collection of Information	2
Analysis of Information	0
Dissemination of Information	1
Making Rules/Laws in Addition to Those Stipulated in the Agreement	0
Amending the Agreement	1
Implementing the Agreement's Rules/Law	1
Presiding Over, Setting the Agenda for, or Overseeing the Reports of Some Other Body's Meetings	0
Monitoring Compliance	1
Soft Procedures to Encourage Compliance, like Review Meetings	0
Overseeing Complaint(s) and Punishment(s) for Non-Compliance	1
Dispute Resolution	18
Deciding which New Members May Join	0
Other	1

N = 97

Delegation of the same tasks to new and old institutions is not all that common, except in dispute resolution where it occurs for about 20% of agreements in the sample. It is likely that most of these cases are ones where dispute resolution is first delegated to an internal body and only to an external body if no agreement can be reached at the first stage.

In considering the relationships between *voting rules and delegation*, we are interested in whether states guard their delegation through unanimity voting rules or whether they actually delegate with some kind of majority voting. If the latter, is the voting weighted? In other words, do the rich and powerful control the delegation more? It may be that unanimity voting rules are more common in cases of delegation in specific issue areas, for example security, or when the delegation includes certain types of functions, for example imposing sanctions or revising the treaty. We might also be interested in whether treaties involving superpowers are more likely to have asymmetric voting rules in delegation. If this is the case, it would suggest that powerful countries do carefully protect their autonomy when allowing delegation. Findings that suggest that states do guard their delegation would not necessarily imply that the delegated bodies were weak, but instead would support the argument about rational design. Rational actors use delegation as a tool to advance their interests, but are careful not to let it get out of hand.

Table 5: Determination of Representation for Internal Delegation Bodies

	Number of Agreements
Fixed Number of Representative per State	25
Number of Representatives Proportional to Member-State's Population	0

Number of Representatives Proportional to Member-State's Financial Contribution	0
Number of Representatives Determined by some other Characteristic (e.g geography, dispersion, nuclear status)	0
Other	7
Not Specified	8

N = 40

Table 6: Voting Rules for Internal Delegation

	Number of Agreements
Unanimity Required	4
Simple Majority	18
Super Majority	1
Special Majority	0
Varies Depending on Issue	3
Not Specified	14

N = 40

Table 7: Allocation of Votes for Internal Delegation

	Number of Agreements
One per Member-State	20
Number of Votes Proportional to Member-State's Population	0
Number of Votes Proportional to Member-State's Financial Contribution	1
Number of Votes Determined by some other Characteristic (e.g geography, dispersion, nuclear status)	0
Other	2
Not Specified	13

N = 36

The tables above indicate, first, that the large majority of internally delegated bodies have a fixed number of representatives per nation states and voting rules that allow one vote per member state. This suggests that such bodies are not dominated by certain states (for example large powers) and that at least for internal delegation, states do not guard their delegation with weighted voting. Furthermore, only a small number of treaties require unanimity voting rules or any kind of special majority. Most rely on simple majorities, suggesting again that delegated bodies are not limited in their power by rigid voting rules. This supports the argument that delegated bodies are given the authority to take real action and have real effects on signing states.

Theory and Some Initial Empirical Probes: When is Delegation Most Likely?

Dispute Resolution Delegation and the Complexity of the Cooperation Problem

In Koremenos (2007b), I address the statistic that about one out of every two international agreements taken from my random sample contains a dispute resolution provision. I argue that dispute resolution provisions are much more common in agreements that deal with ‘complex cooperation problems.’ I define complex cooperation problems as including problems related to uncertainty about the state of the world and uncertainty about behavior, time inconsistency or commitment problems, and prisoner’s dilemma (also termed enforcement problem). My explanation for this variation in dispute resolution provisions, based on rational design theory, is that states rationally include dispute resolution provisions only where they expect that such provisions will be needed in the future. In signing agreements with more complex cooperation problems, states are likely to correctly anticipate future disagreements and more likely to see dispute resolution provisions as necessary. This explanation is strongly supported in the statistical analyses presented in the article.

In international relations, the costs that arise when activities like dispute resolution are delegated may best be captured by Milgrom and Roberts (1990) conception of influence costs. They argue that any centralization of authority (public or private) creates the possibility of intervention and thus gives rise to influence costs. Given anarchy, states are particularly sensitive to issues of autonomy. Indeed the “sovereignty costs” of having activities like dispute resolution dictated are probably much more significant to states than are the contracting costs of spelling out such provisions. Thus, we should only find such provisions included when they are likely to be needed. Rational states will not pay these costs if such provisions are unlikely to be used. This is exactly what the empirical results in Koremenos 2007b suggest. It remains to be seen whether this pattern continues to hold up across other kinds of delegation.

Delegation and Precision

In Koremenos 2007a, I draw on an article of Issac Ehrlich and Richard Posner (1974) entitled, “An Economic Analysis of Legal Rulemaking,” and argue that delegation of dispute resolution authority in an international agreement should be inversely related to the degree of precision accorded to the agreement’s substantive goals. (Incidentally, this challenges the Legalization special issue, *Legalization and World Politics* (Goldstein et al. 2000) which does not suggest in the least that these two design dimensions are substitutes.) Essentially, international agreements are one type of contract. Hence according to law and economics logic, the more imprecise or incomplete the international agreement, the larger the role for a court or another dispute resolution mechanism, like an arbitrator, to fill in the details. In the law and economics literature, empirical work can focus on how often courts are used and the decisions rendered. Such empirical work is impossible with a random sample of agreements. However, we can go one step back and realize that, at the international level, there is not a set of long-lived judicial institutions whose existence can be taken as exogenous to any particular decision to use them. Quite the contrary, *simply to create and/or delegate* to a court to fill in incomplete agreements entails *costs*. If international law follows law and economics logic, we should see a positive correlation between dispute resolution provisions and agreements that are characterized by standards and a

negative correlation between dispute resolution provisions and agreements characterized by precise rules. Using a bivariate probit model, I find that there is indeed a statistically significant inverse relationship between these two design variables. Consistent with Koremenos 2007b, the variable complex cooperation problem has a positive and significant effect on dispute resolution delegation provisions and a negative and significant effect on precision.

Delegation and Number and Heterogeneity of Parties

Rational Design theory (Koremenos et. al 2001) predicts that delegation of both forms will increase with the heterogeneity of the parties. The argument is that delegation can be used to solve disputes and deal with potentially conflicting preferences of diverse states on issues of compliance and administration. The result is larger and more significant for external delegation. This is in keeping with the explanation above. Because external bodies may be more objective and neutral, they may be better equipped to deal with more complicated or contentious disagreements or to come up with solutions that are acceptable to heterogeneous treaty members. The theory also predicts that delegation will increase as the number of parties increases. This corresponds to the conjecture, Centralization increases with Number (Koremenos et al 2001, 788), which is essentially a transactions cost argument.

Tables 8 and 9 show some simple probit results, looking at the relationship between the heterogeneity of members and delegation. For heterogeneity, I use Gartzke and Jo's "Affinity of Nations Index," which measures the similarity in states' preferences based on voting preferences in the United Nations General Assembly (Gartzke and Jo 2002).

Table 8: Results of Probit Analysis of Heterogeneity of Members and Delegation

Independent Variable	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Heterogeneity	1.342*** (0.310)	0.424* (0.253)

N=91 (Affinity data are not available for all agreements.)

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

As Table 8 illustrates, there does seem to be a positive relationship between heterogeneity and both kinds of delegation, with the effect on external delegation being larger and more significant.

Table 9: Marginal Effect of Heterogeneity

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change of Heterogeneity from 0 to 1	0.463	0.161

Table 9 allows us to better interpret the effect of heterogeneity on delegation. Substantively, a change in the heterogeneity of parties from a middle level of 0 to a high level of 1 increases the probability of external delegation by nearly 50%. The same change in heterogeneity only increases the probability of internal delegation by 16%.

Tables 10 and 11 show similar results, using a probit regression, for the number of participants at the original negotiation of the agreement.

Table 10: Results of Probit Analysis of Number of Parties and Delegation

Independent Variable	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Number of Parties (logged)	0.541*** (0.128)	0.093 (0.107)

N=97

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Table 10 illustrates a positive and significant relationship between number and external delegation only.

Table 11: Marginal Effect of the Number of Parties

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change of Number of Parties from 2 to 3	0.080	0.014

With respect to marginal effects, as the number of parties changes from 2 to 3, the probability of external delegation increases by 8%, while the probability of internal delegation only increases by 1.4%. (I selected 2 since 64 of the treaties are bilateral and hence a one unit increase is standard. Then, I took the natural log of 2 & 3 to do the calculations.)

When we include both heterogeneity and number of parties in the probit analysis as in Table 12, we see that the significance of both of these variables for external delegation remains high. This implies that both heterogeneity and number of parties have independent effects on the use of external delegation.

Table 12: Results of Probit Analysis of Heterogeneity and Number of Parties and Delegation

Independent Variables	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Heterogeneity	0.902** (0.372)	0.436 (0.329)
Number of Parties	0.405**	-0.009

	(0.177)	(0.151)
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N=91

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Considering marginal effects as in Table 13, when controlling for the number of parties, the effect of a change in the heterogeneity of members from 0 to 1 on the probability of external delegation decreases slightly to 33.7%, while it leaves the marginal effect of heterogeneity on the probability of internal delegation nearly unchanged.

Controlling for heterogeneity slightly reduces the effect of the number of parties on the probability of external delegation to 6.2%. These results suggest that the number of parties, controlling for heterogeneity, does not effect the probability of internal delegation. The results for the change of parties is not surprising, however, given that 64 of the 97 cases are bilateral agreements.

Table 13: Marginal Effects of Heterogeneity and Number of Parties

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change of Heterogeneity from 0 to 1	0.337	0.165
Change of Number of Parties from 2 to 3	0.062	-0.001

Note: Marginal effect of heterogeneity is calculating holding number of parties (logged) at its mean (1.437) and the marginal effect of the number of parties is found holding heterogeneity at its mean (-0.309).

Delegation and Complexity of Cooperation Problem

As I mentioned above, Koremenos 2007b looks at the relationship between complex cooperation problems and delegation of dispute resolution. When we broaden the delegation to include all forms, as Table 14 indicates, we find that both kinds of delegation are more common when there are complex cooperation problems -- cooperation problems dealing with uncertainty, enforcement, or commitment problems. This follows from the logic of rational design. When states are forced to overcome these types of complex cooperation problems, they use delegation as a tool to accomplish this challenge. Delegation can allow them to deal with compliance monitoring, dispute resolution, and even the sanctioning defecting states, addressing the enforcement problem. It can also be used to address the commitment problem by increasing the formality of the agreement and to increase the extent to which the agreement ‘ties the hands’ of signing states. The effect is larger for external delegation, perhaps because the objectivity and neutrality of such external organizations may increase their effectiveness in overcoming cooperation problems.

The marginal effects illustrated in Table 15 show that the presence of a complex problem increases the probability of external delegation by nearly 40% and internal delegation by 21%.

Table 14: Results of Probit Analysis of Complexity and Delegation

Independent Variable	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Complex Problem	1.14*** (0.334)	0.683** (0.310)

N= 97

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Note: Complex Problem is defined as Uncertainty about Behavior or the State of World, Enforcement Problem, or Commitment Problem

Table 15: Marginal Effect of Complexity

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change of Complex Problem from 0 to 1	0.394	0.214

Other Possible Explanatory Variables

Although there is no theoretical reason to expect this, both forms of delegation are slightly less common when the parties are *democracies* than when they are not – see Table 16. Democracy is measured by the mean Polity score of treaty signatories. This may relate to the findings on heterogeneity. It may be that when more signing states are democracies, they are also more homogeneous, with similar preferences and similar interests. It may also be that democracies are more able to use informal mechanisms in their cooperation.

Table 16: Results of Probit Analysis of Democracy and Delegation

Independent Variable	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Democracy (POLITY Score)	-0.100*** (0.032)	-0.066** (0.031)

N= 97

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

More concretely, Table 17 illustrates that, as the average level of democracy among parties to an agreement changes from 0 (representing a relatively heterogeneous group of members) to 10 (representing an agreement where all the members are democracies), the probability of external delegation decreases by 37% and the probability of internal delegation decreases by nearly a quarter.

Table 17: Marginal Effect of Democracy

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change in the Mean Democracy from 0 to 10	-0.039	-0.025

Note: The average value for the mean democracy variable was 4.

Next I consider whether the presence of a superpower among the signatories affects the probability of having external or internal delegation. A superpower may be reluctant to delegate authority and reduce its autonomy. The superpower variable is dichotomous and equals 1 if either the United States or the Soviet Union is a signatory to the agreement and otherwise is zero.

Table 18: Results of Probit Analysis of Superpower and Delegation

Independent Variable	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Superpower	0.052 (0.257)	-0.230 (0.259)

N= 97

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Tables 18 above suggests that a superpower signatory does not significantly change the probability of either type of delegation.

Table 19: Marginal Effect of Superpower

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change in Superpower from 0 to 1	0.021	-0.089

In addition to being statistically insignificant, the marginal effects in Table 19 show that the substantive effect of a superpower signatory is very small for both external and internal delegation. Having the U.S. or Soviet Union as a signatory increases the probability of external delegation by 2 %, while it reduces the probability of internal delegation by 9%.

Anarchy could make *risk averse states* cautious about delegating, especially important tasks such as monitoring, implementation, and dispute resolution. As early as James Madison, those writing about delegation have been well aware that delegated power can be used against the principal delegating it. Of course, the development of delegation theory has focused on how contracts can be structured to minimize risks like agency slippage. The bottom line, however, is that tradeoffs are inherently involved.³ Abbott and Snidal (2000: 437) summarizing the traditional view state:

³ See Alchian and Demsetz 1972 and Fama 1980 for classic statements.

“The potential for inferior outcomes, loss of authority, and diminution of sovereignty makes states reluctant to accept hard legalization—especially when it includes significant levels of delegation.” Thus states facing enforcement problems are less likely to include delegated dispute resolution provisions in their international agreements. Likewise, Steinberg 2000, citing Krasner (1983) and Morgenthau (1940, 1978), states: “Realists have long argued that—empirically—powerful countries permit majoritarianism only in organizations that are legally competent to produce only soft law, which poses little risk that powerful states would be bound by legal undertakings they might disfavor.” Moreover, since external delegation may be harder for states to control and so imply more risk, this effect is likely to be larger for external delegation than internal delegation.

In the analyses below, I use Bueno de Mesquita’s (1985) risk attitude measure, which uses a state’s alliance portfolio to determine its level of risk aversion. Specifically, the closer a state is to having an alliance portfolio that maximizes its security, the more risk-averse it is presumed to be. In *EUGene*, this risk attitude variable ranges from –1 (very risk-averse) to +1 (very risk acceptant) and is based on region (Bennett and Stam 2000). To measure risk attitudes in bilateral treaties, I calculate each signatory’s risk attitude towards the other’s region. For multilateral treaties, I find the mean of each signatory’s regional risk scores. I use a “weakest link” assumption and measure the agreement as a function of the of the risk attitude of the *most* risk-averse signatory. Finally, I invert the scale to create a measure of risk-aversion with –1 being the least risk-averse and +1 being the most risk-averse.

Table 20: Results of Probit Analysis of Risk Aversion and Delegation

	External Delegation	Internal Delegation
Risk Aversion	-0.059 (0.275)	-0.394 (0.277)

N=96

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Table 21: Results of Probit Analysis of Risk Aversion and Delegation of Implementation

	External Delegation	Internal Delegation
Risk Aversion	-0.101 (0.560)	0.095 (0.380)

N=96

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Table 22: Results of Probit Analysis of Risk Aversion and Delegation of Monitoring

	External Delegation	Internal Delegation
Risk Aversion	0.447 (0.523)	0.222 (0.518)

N=96

Standard Errors are in Parentheses

* p<0.1
 ** p<0.05
 *** p<0.01

Table 23: Results of Probit Analysis of Risk Aversion and Delegation of Dispute Resolution

	External Delegation	Internal Delegation
Risk Aversion	-0.041 (0.291)	-0.467 (0.294)

N=96

Standard Errors are in Parentheses

* p<0.1
 ** p<0.05
 *** p<0.01

Tables 20-23 suggest that risk aversion and delegation are not significantly related, hinting that the benefits states derive from delegation are sought despite the risks involved. In other words, states are not single-mindedly avoided risk as many Realists would predict; rather, they make tradeoffs based on cost-benefit calculations.

Relationship between Delegation and Other Design Provisions

In addition to my discussion of precision and delegation above, it is interesting to look at the relationship between a couple of other pairs of design variables.

Delegation and Withdrawal clauses

There are several hypotheses for why the use of delegation may be associated with the use of withdrawal clauses. In their concept paper, Bradley and Kelley capture the notion of withdrawal clauses by considering the permanence of the delegated body and whether it is easy or difficult for states to remove themselves from the jurisdiction of the delegated body and/or the associated agreement. They suggest that even the existence of withdrawal clauses may not remove the practical difficulty of removing oneself from an agreement or part of an agreement, especially if one agreement is embedded within others as is the case for the ECHR and the Council of Europe. In this case, even the existence of withdrawal clauses may not protect states from the authority of the delegated body. (Curtis Bradley and Judith Kelley, Concept of International Delegation, Duke Conference, 2007)

On the other hand, in her paper for this conference, "International Delegation and Domestic Authority," Hathaway (2007) argues that withdrawal clauses may serve to protect states against time inconsistent preferences, that is, cases where state preferences change over time. Such clauses allow states to remove themselves from forms of delegation that they find increasingly counter to their revised interests. In this sense, withdrawal clauses play a role similar to that of provisions that allow states to revoke authority from a delegated body or remove themselves from its jurisdiction. They provide flexibility and preserve a degree of state independence. As a result, we would expect to see withdrawal clauses in treaties that also include delegation, particularly external delegation.

Table 24: Correlation Between Withdrawal Clause and Delegation

	External Delegation	Internal Delegation
Withdrawal Clause	0.4112***	0.1933*

N=97

* p<0.1

** p<0.05

*** p<0.01

As Table 18 illustrates, there is a significant and positive correlation between delegation provisions and withdrawal clauses.

Delegation and Finite Duration Provisions

In a similar argument, Koremenos (2005) suggests that duration provisions provide a form of insurance against shocks that may influence how an agreement affects state interests. Because external delegation may give some real power to an external body, states may perceive a higher degree of uncertainty regarding the possible outcomes of such an agreement that includes delegation. As a result, signing parties may be more interested in including a finite duration clause as protection against a shock due to some unexpected action by the delegated body. While this may be true of internal delegation to some extent, it is more likely with external delegation. On the other hand, bodies, whether external or internal, may be able to provide the kind of flexibility desired by states when faces with such uncertainty. They can adjust the terms of cooperation in response to shocks.

Table 25: Correlation Between Finite Duration and Delegation

	External Delegation	Internal Delegation
Finite Duration	-0.174*	-0.007

N=97

* p<0.1

** p<0.05

*** p<0.01

The results above suggest that agreements that include external delegation are less likely to have finite duration, supporting the latter argument that these bodies actually provide some desired flexibility. The correlation between internal delegation and finite duration is nearly zero and statistically insignificant, leading to the conclusion that there is no relationship between the two.

Multivariate Analysis

In the multivariate regression, all the variables explaining external delegation remain correctly signed, and only heterogeneity loses statistical significance across both dependent variables. This is not surprising since the sample size is relatively small. Controlling for heterogeneity, complexity, and democracy, the number of parties still predicts more external delegation. Substantively, a change from 2 to 3 parties increases the probability of external delegation by 6%. This lends additional support to the argument that parties use delegation to reduce transaction costs, giving much more confidence to the Rational Design conjecture that

Centralization increases with Number. The effect of the number of parties on internal delegation, although negative, is very small and statistically insignificant, *ceteris paribus*. If the underlying cooperation problem is complex, the probability of external delegation increases by 37% and the probability of internal delegation increases by 20%, holding everything else constant. This result is very strong with respect to external delegation, lending strong support to the hypothesis that complexity increases the incentives for parties to delegate authority. The change in democracy lowers the probability of both external and internal delegation by about 30%, holding everything else constant.

Table 26: Multivariate Analysis

Independent Variable	Dependent Variable 1	Dependent Variable 2
	External Delegation	Internal Delegation
Heterogeneity	0.590 (0.413)	0.207 (0.351)
Number of Parties (logged)	0.397** (0.194)	-0.067 (0.158)
Complex Problem	1.048*** (0.400)	0.565* (0.330)
Democracy (POLITY Score)	-0.085* (0.039)	-0.081** (0.035)

N=91

Standard Errors are in Parentheses

* p<0.1

** p<0.05

*** p<0.01

Table 27: Marginal Effects: Multivariate Results

	Change in Probability of External Delegation	Change in Probability of Internal Delegation
Change of Heterogeneity from 0 to 1	0.232	0.082
Change of Number of Parties from 2 to 3	0.064	-0.011
Change in Complex Problem from 0 to 1	0.369	0.207
Change in the Mean Democracy from 0 to 10	-0.329	-0.309

Note: For each marginal effect, the other variables were held at either their mean or mode for binary variables (e.g. complex problem).

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