

# INTERNATIONAL DISPUTES, MEDIA COVERAGE, AND SUPPORT FOR ECONOMIC ENGAGEMENT

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ABSTRACT: Bilateral and multilateral trade and investment agreements have expanded to cover most of the world's international economic transactions, yet publics in advanced industrial democracies are increasingly skeptical of the benefits of these agreement. Surprisingly, a long-standing gap exists between political elites' and the public's attitudes toward trade. This paper puts forth a theory explaining this gap by connecting media coverage – specifically the bias in the news media's selection of international economic news – to the persistent skepticism of the public toward increased international economic engagement. To test our theory, we examine both the content and effects of the media's reporting on international disputes, focusing on the increasingly controversial form known as investor-state dispute settlement (ISDS). We find that newspaper outlets in both the United States and Canada have a bias in favor of covering disputes filed against their home country as opposed to those filed by home country firms. Using a survey experiment, we further find that the bias in news story selection has a strong negative effect on attitudes towards ISDS and trade agreements.

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# 1 Introduction

While economists broadly agree that international trade is welfare enhancing, the general public typically expresses anti-trade views (Mayda and Rodrik, 2005). Consequently, scholars and policy makers have taken a keen interest in understanding what drives individuals' attitudes toward international economic policies. What is especially notable about public attitudes toward trade, is that the public is persistently less supportive of international economic engagement than political elites. The contrasting views of the public and elites toward trade policies defies both open-economic politics (OEP) theories, which assume that individual policy preferences reflect economic self-interest (Lake, 2009, 227), and theories of elite cues, where mass public opinion should converge toward elite opinion (Guisinger, 2017, chp 7). As Guisinger (2017, chp 7) notes, "The elite consensus on the benefits of free trade for the United States has been firmly in place for at least the past 30 years. Yet, the public remains very suspicious of trade liberalization..." Given the disjuncture between prominent theories and foundational assumptions about public attitudes toward trade, and the public's continued skepticism toward increased international economic engagement, an expanse of research has sought to examine what factors – such as individuals' economic situation, mobility, education, gender, and national identification – influence the public's attitudes toward trade.<sup>1</sup> While these studies provide significant insights into how individual characteristics influence trade policy preferences, it remains unclear why there is a persistent gap between the public's and elites' attitudes toward trade.

In this paper, we argue that the news media plays a prominent role in shaping public attitudes toward trade, and that the media's bias in the selection of which stories to cover significantly decreases public support for international trade agreements, investment agreements, and the legal frameworks that adjudicate international economic disputes. We put forth a theory of how the content of media coverage shapes individual's beliefs about international economic engagement. Our results show that there is a significant bias in the news media's selection of stories and that the selection bias significantly lowers support for international investor-state dispute settlement (ISDS) provisions and the trade agreements that include them, such as the Trans-Pacific Partnership (TPP). Our findings identify an important role of the news media in shaping public attitudes toward international trade and investment policy, and experimentally show that the effects can be substantively large.

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<sup>1</sup>For examples, see Mayda and Rodrik (2005); Mansfield and Mutz (2009); Margalit (2012); Mutz and Kim (Forthcoming); Scheve and Slaughter (2001).

Our focus on public attitudes toward international economic policy comes at a time when the role of the public is particularly influential in shaping trade policy. For example, in the United States trade and international economic engagement was a focal issue in the 2016 presidential election and a lack of public support contributed the country's failure to ratify the TPP, one of the largest trade deals in history. Public opinion has played a similar role in Japan and Canada, stalling the ratification of the TPP (Tang, 2016). Analysis across time and countries shows that support for free trade and international trade agreements has varied dramatically. Between 1995 and 1997 support for free trade across 41 countries surveyed by the *World Values Survey* ranged from just 8 percent in Uruguay to 77 percent in Japan (Kono, 2008). More recently, among the 12 countries party to the TPP, public support ranges from 38 to 89 percent for the agreement (Poushter, 2015). While trade theories generally argue or assume that individual preferences are shaped by economic self-interest, the evidence is mixed regarding the extent individuals internalize and prioritize self-interest when building their trade preferences (Mansfield and Mutz, 2009; Naoi and Kume, 2011; Scheve and Slaughter, 2001). In contrast to emphasizing self-interest, Mansfield and Mutz (2009) show that in the United States individuals' trade preferences are shaped by anxieties toward out-groups and perceptions of national economic well-being. Furthermore, Naoi and Urata (2013) find that persuasion and policy campaigns on the TPP have played a significant role in shifting Japanese public opinion toward the agreement. While the relevance of public opinion for trade policy has been questioned (Guisinger, 2009), public attitudes toward trade have been shown to play a significant role in shaping trade policy in democracies (Kono, 2008) and at times trade issues have become the priorities of national elections, effectively making the elections referendums on trade policies (Scheve and Slaughter, 2001).<sup>2</sup>

One aspect of international economic engagement that has recently garnered significant attention by both the public and politicians is the use of ISDS. In the public debate over whether to ratify the TPP, one of the most contentious issues has been the inclusion of ISDS provisions. While investor-state dispute settlement under Bilateral Investment Treaties (BITs) has been an element of international investment governance for decades, a substantial growth in the number of claims being filed (Hafner-Burton, Puig, and Victor, 2016) and the push to incorporate investment provisions

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<sup>2</sup>The 1923 British general election has been described as “an election that hinged primarily on the issue of whether Britain should implement new trade barriers” and the 1988 Canadian election was “widely regarded as a national referendum on the Canadian-U.S. Free Trade Agreement (CAFTA) (Scheve and Slaughter, 2001).

within bilateral and multilateral trade liberalization agreements has increased the attention paid to the often secretive ISDS system. Concerns over ISDS focus on whether investor-state dispute settlement infringes upon sovereignty, whether it violates domestic laws, and whether the arbitration panels are too undemocratic. Highlighting the contentiousness of ISDS mechanisms, *The Atlantic* ran an article titled “Is the Trans-Pacific Partnership Constitutional,” which asked whether the ISDS provision violated the U.S. constitution (Morrison, 2015). Such concerns about ISDS provisions are common across countries (Ankersmit, 2016; Hamamoto, 2015), but their resonance with public audiences is largely unknown.

As details about ISDS become more widely known and the debate over its utility intensifies, there is a unique opportunity to study how media coverage of ISDS shapes public opinion toward international investment, trade, and economic engagement. We focus on media coverage of investor-state disputes since this is an increasingly salient form of international dispute settlement, which has garnered growing media attention in recent years. We argue that choices by media organizations regarding which types of disputes to cover has a meaningful effect on attitudes toward international economic engagement by updating individuals’ beliefs about the benefits of investor-state dispute resolution. ISDS provisions grant new rights to firms in both home and foreign countries while exposing the governments of those countries to potential new liabilities. We therefore posit that the interaction between the nationality of the dispute participants and the expected allocation of benefits from the dispute will affect how respondents evaluate this investment governance regime. We predict that media coverage of disputes filed by home country firms (the beneficiaries) will increase support for ISDS and trade liberalization while coverage of disputes filed by foreign firms against a home country government will reduce support.

Using a representative survey experiment conducted on 544 United States residents, we find that this is in fact the case. Respondents exposed to a news article about a Canadian firm filing a suit against the United States were on average 12.7 percentage points less likely to indicate support for ISDS provisions and 10 percentage points less likely to support the TPP compared to those exposed to a news article about a U.S. firm filing a suit against Canada. Combined with our analysis that shows the news media has a significant bias in favor of reporting on disputes where the home country is the defendant, we find strong evidence that the media’s selective coverage of international economic disputes can significantly reduce the public’s support for ISDS provisions and the agreements that include them.

The rest of this paper is laid out as follows. Section 2 presents a theory connecting media coverage of international investor-state disputes to public opinion, arguing that the selection of which disputes are covered shapes beliefs about international economic engagement, especially among those who are especially nationalistic. Section 3 progresses through a series of empirical tests measuring the links between media coverage and public attitudes toward international economic engagement. The section begins with observational data to first illustrate the connection between media consumption and attitudes toward trade, and then measure the degree of bias in major news outlets' reporting of ISDS cases. Our empirical analysis concludes by testing the impact of news media's coverage of international disputes, using a national survey experiment to measure the effect of reporting on disputes where the home country is sued versus reporting on disputes where a home firm sues a foreign country. Our final section concludes with a discussion of the implications for investment governance, trade policy, and public attitudes toward international economic engagement.

## 2 Theory of Media Coverage, Public Opinion and ISDS

The mass media serves as an important conduit through which individuals learn about political events (Graber, 2004). But the news media does not simply provide a stream of consumable information, the mere fact of coverage makes a particular issue more relevant for a viewer or reader (Iyengar and Simon, 1993). Moreover, media coverage “primes” individuals to draw more readily on the issues and topics being presented when forming political opinions and drawing inferences about the world (Iyengar and Kinder, 2010). The media therefore sets the terms for what information individuals will draw on when evaluating events and drawing inferences about the world. What is and is not covered affects what is and is not considered salient information. Importantly, the media does not cover every event. Just as individuals are selective about what news they consume, media outlets are likewise selective about what issues and events they choose to cover. This means when *Buzzfeed* chose to run a 10,000 word series about ISDS provisions entitled “The Court That Rules the World” (Hammy, 2016) and John Oliver chose to have a feature story on ISDS on HBO's *Last Week Tonight* they are raising the salience of ISDS for the public and providing cues that shape public opinion.

The role of the media is especially important in areas of national economic policy, where individuals may seek out information in economic downturns, but at other times learn about economics

through their regular consumption of news (Arts, Takeshita, and Becker, n.d.). For issues such as international economic policy, which falls in the broad arena of public affairs, the media has been shown to have a critical role in shaping the public’s “picture” and perceptions of these issues (McCombs and Shaw, 1972; Mutz, 1992). Building from studies connecting the media to public opinion, we theorize that the media’s selection of international economic coverage has a significant effect on attitudes toward international economic engagement. We further theorize that different types of individuals will be most likely to have their opinions moved by media coverage. Taken together we present a theory of how media’s selection of stories and the public’s consumption of news can lead to persistent skepticism of trade policies, and the long-standing divide between political elites’ and the public’s attitudes toward trade and economic engagement.

In building our theory connecting the media’s selection of international economic news to the public’s attitudes toward international economic engagement, we make three major claims. First, we argue that media coverage provides cues to the public about who wins and loses in international economic interactions, and that coverage of economic disputes are particularly salient, since they emphasize an “us” versus “them” divide. Second, we argue that individuals are more likely to update their opinions when they consume negative media coverage that specifically targets their country. Finally, we theorize that different types of people will respond differently to media coverage, and that those who are more nationalistic and have high perceptions of national superiority will be most likely to be affected by news coverage that reports on their country being sued in international disputes. We discuss each of these points throughout the remainder of this section.

Our theory connecting news coverage to public opinion builds from studies of mass attitudes towards trade policy, which highlight the importance of attitudes towards in-groups and out-groups for how individuals react to international economic phenomena (Mansfield and Mutz, 2009; Mutz and Kim, Forthcoming). We argue that in-group and out-group dynamics are present, and particularly salient, in the context of ISDS. Therefore, the way in which the media covers investor-state disputes, in particular the types of disputes that they select, will have a meaningful effect on public opinion towards trade and investment. Because of their asymmetric structure, investor-state disputes highlight the “us” versus “them” divide that is commonly associated with international trade. We argue that the public uses news coverage about who initiates the dispute and who is the defendant as a cue to who ultimately wins and loses in international trade and investment. When ISDS provisions are used by domestic firms to sue foreign governments, the public will tend to interpret ISDS as a good

thing for the U.S. and the international economic system as working to their advantage. In contrast, when the domestic government is sued by foreign companies, the public will view this negatively and is more likely to oppose ISDS provisions. In this manner, even if the public has only a superficial understanding of the disputes, media coverage of ISDS disputes provide informational cues to the public about who is able to take advantage of international economic law and who's benefiting and who's losing from international trade and investment.

A more nuanced understanding of ISDS also yields a similar conclusion. Since ISDS is an asymmetric institution, where firms bring claims – states are always defendants.<sup>3</sup> When faced with an ISDS claim, a state can, at best, win the case and be reimbursed its legal fees – a return to status quo ante. At worst, the state can lose and be required to pay damages averaging 10 million (Franck, 2007) in addition to millions in legal fees. What then, do countries gain by exposing themselves to the risk of litigation? While emerging economies may see ISDS treaty provisions as a way to make credible commitments to foreign investors not to expropriate, thereby potentially increasing FDI inflows (Neumayer and Spess, 2005), this logic does not hold as well for states with strong domestic property rights protections and independent judiciaries. To the extent that there are domestic benefits to ISDS, they accrue to home country multinational firms who are able to directly pursue legal claims against foreign governments without needing to lobby the state to take action.<sup>4</sup> Given the asymmetry of ISDS cases, in any individual case the potential benefits are heavily weighted in favor of the firm that files the suit. This means that a sophisticated consumer of news who understands these intricacies will update their beliefs about who is likely to benefit based on who is the claimant and who is the defendant. However, even an unsophisticated news consumer can easily interpret the cues that it is bad when their home government is sued and better when a firm from their country sues another country. We thus expect that news coverage of ISDS disputes can have a significant impact on the mass public, regardless of their level of understanding of the specifics of the ISDS process.

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<sup>3</sup>While there have been a few ISDS cases where the claimant is a government (e.g. Government of the Province of East Kalimantan v. PT Kaltim Prima Coal and others, ICSID Case No. ARB/07/3), these cases are extremely rare and typically arise from contractual disputes between firms and state entities. Typical ISDS cases that stem from states' treaty commitments are initiated exclusively by firms.

<sup>4</sup>This is in contrast to dispute settlement in other institutions, such as the WTO, where the government acts as a gatekeeper and firms may need to lobby the government to have disputes initiated (Brutger, 2015).

Hypothesis 1a: *Media coverage of ISDS disputes initiated against the U.S. will decrease domestic support for ISDS provisions and international economic engagement more broadly.*

Hypothesis 1b: *Media coverage of ISDS disputes initiated by U.S. firms, against other countries, will increase domestic support for ISDS provisions and international economic engagement more broadly.*

Although the typical individual, or the company they work for, will not be directly engaged in an investor-state dispute, a growing literature argues that concerns for the national well-being play a prominent role in shaping attitudes toward trade, which suggests that the public will draw inferences from international events even when they are not directly impacted. When a domestic firm sues another country using ISDS provisions, then the public will see that the system is benefiting that firm. Whether due to compatriotism (Mutz and Kim, Forthcoming) or broader sociotropic concerns (Mansfield and Mutz, 2009), we argue that the public will believe the system is benefiting their nation when one of their country's firms uses ISDS to sue another country. Conversely, when a foreign firm sues the domestic government, the public will see the system as working against their country and will have more negative views toward international economic engagement.

Furthermore, when the home government is being directly sued, we expect this to have a more direct impact on concerns for the national well-being, in which case the national government being sued should result in a larger downward shift in approval for international economic engagement than the upward shift in approval when a domestic firm sues another country. We also expect the downward shift in support to be greater when the home country is sued, since this represents a negative news story, which Soroka (2006) finds has a stronger impact on opinion than positive news stories.

Hypothesis 2: *Media coverage of ISDS disputes initiated against the U.S. will have a greater effect on domestic public support for ISDS provisions, and international economic engagement, than media coverage of ISDS disputes initiated by U.S. firms against other countries.*

Lastly, we expect there to be heterogenous effects of media coverage on members of the public. Individuals who are particularly nationalistic, specifically those high in national superiority, should



be most concerned with how U.S. firms and the U.S. as a whole are fairing in the international economic system, whereas those who have low levels of national superiority should be more likely to identify with how international economic engagement affects those in the home and foreign countries. Recent research shows that individuals with high levels of national superiority care more about who wins and loses from trade (Mutz and Kim, Forthcoming), and we suspect that beliefs about national superiority are even more important when countries engage in legal challenges that not only affect who wins and loses, but also challenges ideas about sovereignty and whose laws are right and wrong. As with our earlier prediction, we expect there to be differential effects when a U.S. firm sues another country, versus when the U.S. is sued by a foreign firm. We theorize that an ISDS case against the U.S. will have the greatest negative effect on public opinion among those high in national superiority, since the dispute represents a direct challenge to the national government. In contrast, we expect a domestic firm suing another country to have a positive effect on support for ISDS provisions and economic engagement, but we expect the effect to be smaller since the home government is not directly engaged in the dispute. In sum, we expect those high in national superiority to be most influenced by ISDS disputes, and that the home country being sued in a dispute to be the most important type of suit for the formation of public attitudes toward ISDS provisions, trade agreements, and international trade and investment more broadly.

*Hypothesis 3: Media coverage of ISDS disputes will have a greater effect on individuals high in national superiority than those who are low in national superiority.*

### **3 Media Coverage, Public Opinion, and Selection of Content**

To examine the role of news media in shaping public attitudes toward trade, we conduct three types of analyses that build a strong connection between media coverage and the public's skepticism of international economic policies. First, we begin with a preliminary analysis that identifies strong correlations between media consumption and attitudes toward international economic policy in the United States. This analysis provides a bridge connecting actual media consumption habits to attitudes of the mass public; however, given the limitations of existing public opinion polls, our preliminary analysis cannot directly test our main hypotheses. Our second set of analysis examines

leading news sources, specifically digital and print newspapers in the United States and Canada, to determine whether the news media has a significant bias in selecting which types of international economic stories they cover. Our analysis confirms that in both countries there is a strong bias in favor of reporting on investor-state disputes when the home country is sued, demonstrating that the media plays a significant and biased role in determining what stories are covered. Lastly, and most interestingly, we analyze a national survey experiment that tests whether and how the media's selection of which international investment-disputes to report on impacts public attitudes toward international economic engagement. Taken as a whole, we find that media consumption is linked to attitudes toward trade, that the media exhibits a strong bias in selecting which stories to report on, and in a controlled experiment the selection of news stories has a large impact on support for international investment dispute provisions and trade agreements.

### **3.1 Media Consumption and Trade Attitudes**

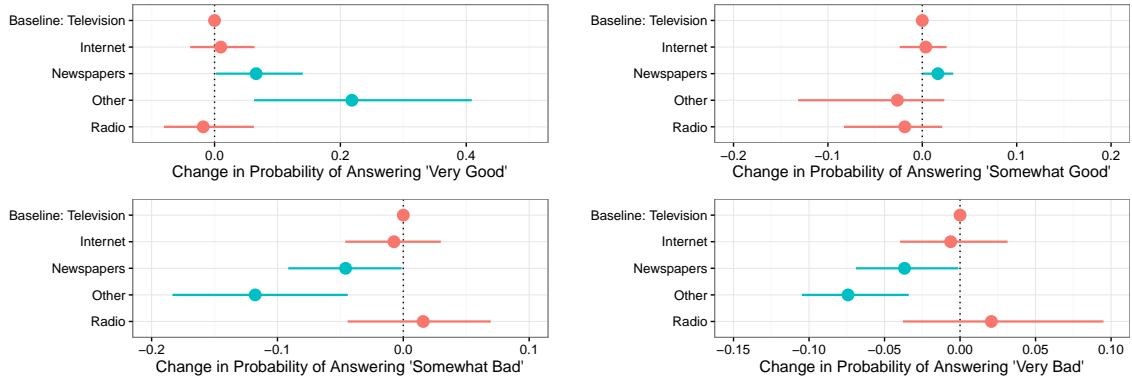
To begin our analysis, we examine the connection between media consumption and attitudes toward international economic policies based on national survey that measures both consumption preferences and attitudes. In practice, variation in media content exists both within a single source and across media outlets. For example, Druckman (2005) finds that, for a fixed political event (a campaign), television news tends to devote less coverage compared to newspapers. Even when the frames and narratives used by television and newspaper news are shared, the magnitude of coverage will affect individuals' exposure to political news. Changes in the content of stories selected by the media and changes in the type of media consumed can alter the information individuals are exposed to and how they shape their opinions.

We are interested in whether differences in exposure to various media sources and within sources have real-world consequences for public opinion toward international economic policies. To examine the first of these issues, we analyze data from Pew Research's 2009 "Global Attitudes Project" survey which asked U.S. respondents questions on both their media consumption habits and their attitudes towards trade. We control for a battery of factors that are believed to drive selection into different media sources: Party ID, political ideology, income, race, age, gender, and education. Even after controlling for these factors, we nevertheless find that respondents who favored newspapers as their primary source of information on national and international issues were on average more likely to believe that international trade ties were good for the United States compared to those who favored

television news.

The Pew study surveyed a nationally representative sample of 1000 U.S. respondents. After dropping respondents with missing outcome and covariate values, our sample consists of 775 individuals. Respondents were asked whether they thought “the growing trade and business ties between [the United States] and other countries” were very good, somewhat good, somewhat bad, or very bad for the country. Our primary independent variable of interest is respondents’ news media preference, that is, the medium that they “most often turn to get news about national and international issues.” Since the outcome is an ordinal scale, we analyze the relationship between media consumption and trade attitudes by fitting an ordered probit regression model. We regressed the four-level outcome on our media consumption variable and our set of controls. Figure 1 plots the estimated expected differences in the probability of selecting each of the four response categories between primary television consumers and primary consumers of other media sources. These probabilities are calculated by averaging over the sample distribution of the other covariates.

Figure 1: Ordered probit regression of opinion of trade’s effect on the country on preferred media - Pew Global Attitudes Project Survey (2009)



$N = 775$ . Probabilities denote averages over the sample distribution of covariates. Lines denote 95% bootstrapped confidence intervals (1000 iterations). Additional controls included in regression: Party ID, political ideology, income, race, Hispanic ID, age, gender, and education.

We find that, on average, respondents who favored newspapers as their primary source of news were about 7 percentage points ( $p < 0.05$ ) more likely to say that trade was “very good” for the country compared to those who favored television outlets. Notably, “Other” news consumers are even more likely to have a favorable opinion of trade, but the magnitude of uncertainty is considerably higher given the small number of respondents that selected this category. While it is

difficult to infer causality from this regression alone, it does suggest that media consumption patterns play an important role in shaping public opinion on trade. The difference between newspaper and television consumers in our regression results cannot be explained by differences in latent political attitudes alone or the set of controls which would commonly be used to predict trade attitudes. This preliminary analysis lends support to the idea that media coverage plays a role in shaping public attitudes toward international economic policy. While this relationship is unsurprising, it is an important step in illustrating the connection between media consumption and attitudes toward trade, which we examine in greater detail in the following sections.

### 3.2 Media Bias and ISDS

Given the connection between media coverage and attitudes toward international economic policies, what type of stories does the news media select? Specifically, we examine how the media covers international ISDS cases? We are particularly interested in whether the news media exhibits a significant bias in coverage across disputes that would benefit home firms versus those that would hurt home governments. To answer this question, we examined the frequency with which major Canadian and U.S. newspapers reported on investor-state disputes under the North American Free Trade Agreement (NAFTA). We focus on this particular comparison as it allows us to fix the overall pool of cases to those filed under a single legal instrument while varying the nationality of the media sources.

We began by collecting data on all disputes filed under NAFTA’s investment chapter (Chapter 11).<sup>5</sup> As of September, 2016, there have been 21 notices of arbitration filed against Canada, 17 against the United States and 14 against Mexico. Of these 52 initiated disputes, 30 have resulted in awards being rendered by the arbitral tribunal – 10 cases with Canada defending, 9 cases with the U.S., and 11 cases with Mexico. U.S. and Canadian firms are the primary users of Chapter 11, filing 34 and 17 disputes respectively.

Given a common set of disputes, we are interested in comparing how coverage in national media sources differs across claimant and respondent nationality between Canadian and U.S. news sources.<sup>6</sup>

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<sup>5</sup>Lists of initiated, pending and completed cases were obtained from the websites of Global Affairs Canada (<http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/disp-diff/nafta.aspx>) and the U.S. Department of State <http://www.state.gov/s/1/c3439.htm> and supplemented with documents compiled by investment attorney Todd Weiler at <http://naftaclaims.com/>.

<sup>6</sup>We do not focus on coverage in the Mexican press as Mexican firms rarely participate as Chapter

To obtain comparable samples of high-readership newspapers in both countries, we consulted two surveys on daily newspaper circulation conducted within roughly the same timeframe: the 2013 Newspapers Canada Daily Newspaper Circulation Report and the 2013 Alliance for Audited Media’s 2013 Snapshot Report. For each list, we sampled the top-25 paid newspapers with the highest average circulation (both print and digital). We then checked whether these newspapers had accessible archives in the LexisNexis database. Eighteen of the twenty-five top Canadian papers had accessible archives along with fourteen of the top United States newspapers.<sup>7</sup> For each dispute, we searched the respective U.S. and Canadian sources to code whether the case was covered by at least one of the sampled papers at the filing stage and/or (if not discontinued or settled) when the tribunal award was rendered.<sup>8</sup>

<b>Dispute Initiation</b>		
Media Source	Canadian Newspapers	U.S. Newspapers
Covered	27	10
Not Covered	25	42
Coverage Rate	51.9%	19.2%

<b>Awards</b>		
Media Source	Canadian Newspapers	U.S. Newspapers
Covered	15	4
Not Covered	15	26
Coverage Rate	50.0%	13.3%

Table 1: Coverage of NAFTA investor-state disputes – Major Canadian and U.S. Newspapers

In general, Canadian newspapers devoted substantially more attention to NAFTA investor-state disputes than United States papers. As table 3.2 shows, about 52% of dispute initiations and 50% of awards were covered by at least one sampled Canadian paper compared to just 19% of initiations and 13% of awards by U.S. newspapers. Americans and Canadians are being exposed to a dramatically different news diet when it comes to ISDS.

However, in both the U.S. and Canada, there is a notable skew in coverage along both nationality and claimants. Only one initiated NAFTA dispute has exclusively Mexican national claimants – *CANACAR v. United States of America*.

<sup>7</sup>Newspapers whose archives could not be found in LexisNexis tended to be smaller regional papers (or, in Canada, Francophone papers) rather than major national publications.

<sup>8</sup>For the purposes of filing-stage coverage, we considered coverage of both the actual notice of arbitration and the notice of intent to file (required at least 90 days prior to a notice of arbitration). We limit “coverage” to include only explicit reporting on an event of a dispute initiation or rendered award and exclude general reporting or commentary on ISDS that mentions a previous or ongoing dispute.

and claimant lines. Table 2 shows that Canadian newspapers were more likely to cover a dispute when Canada was the party being sued compared to when one of the other NAFTA parties was a respondent. Table 3 shows an analogous pattern for the U.S., even though the overall coverage rate is comparatively low. In both cases, we find that each country’s media tended to report on suits filed against their home government rather than suits by domestic firms against other countries.

<b>Dispute Initiation – Canadian Newspapers</b>				
Respondent State	Canada	Mexico	U.S.	Total
Covered	16	1	10	27
Not Covered	5	13	7	25
Coverage Rate	76.2%	7.14%	58.8%	51.9%

<b>Awards – Canadian Newspapers</b>				
Respondent State	Canada	Mexico	U.S.	Total
Covered	9	2	4	15
Not Covered	1	9	5	15
Coverage Rate	90.0%	18.1%	44.4%	50.0%

Table 2: Major Canadian newspaper coverage of NAFTA investor-state disputes – patterns by respondent state.

<b>Dispute Initiation – U.S. Newspapers</b>				
Respondent State	Canada	Mexico	U.S.	Total
Covered	3	1	6	10
Not Covered	18	13	11	42
Coverage Rate	14.3%	7.1%	35.3%	19.2%

<b>Awards – U.S. Newspapers</b>				
Respondent State	Canada	Mexico	U.S.	Total
Covered	1	1	2	4
Not Covered	9	10	7	26
Coverage Rate	10.0%	9.1%	22.2%	13.3%

Table 3: Major United States newspaper coverage of NAFTA investor-state disputes – patterns by respondent state.

Overall, the news media in both the United States and Canada tends to report more often on disputes where their home government has a dispute brought against it rather than when a home firm is a claimant against another country.<sup>9</sup> We argue that this selection process creates a negative

<sup>9</sup>Guisinger (2017, chp7) similarly analyzed television coverage of the U.S. trade balance and found there to be a significant bias in favor of reporting when there was a decline in the balance of trade, as opposed to an improvement in the balance of trade.

image of the effects of ISDS provisions and the treaties that include them. In this manner the news media’s selection bias presents a skewed version of the actual landscape of disputes, which is likely to reduce the public’s support for ISDS provisions, trade agreements and broader economic engagement.

### 3.3 How News Content Affects Support for ISDS and Trade

Does variation in which news stories the media reports on have meaningful consequences for public opinion on issues surrounding trade and investment? To test the effect of media coverage of investor-state disputes on public support for ISDS provisions, the TPP, and international economic engagement, we fielded a survey experiment in the spring of 2016 on a national American sample of 544 U.S. citizens recruited by Survey Sampling International (SSI).<sup>10</sup> We designed an experiment that allows us to isolate the effect of media coverage of ISDS arbitration on public support. In the experiment, each respondent was presented with a news story about an investment dispute. The experiment was based on actual media coverage of investment disputes between Canada and the United States, drawing from a publicized dispute over the Keystone XL pipeline. Since the Keystone XL pipeline was a highly politicized issue, the words “Keystone XL” and “Pipeline” were stripped from the news report. The language for the experimental text was drawn from a Wall Street Journal article (King and Mauldin, 2016). Rather than using a hypothetical experiment, we chose to use language from an actual dispute and media coverage to replicate the real-world environment in which the public learns about international events. This approach enhances the external validity of the study, while providing the benefit of allowing us to randomize key variables of interest, which is not possible when using observational data. In the experiment, respondents were told about the issue being disputed and were presented with one randomly assigned treatment condition. The treatment conditions varied who initiated the ISDS dispute and who was the defendant, which allows us to test the effect of the media’s bias in favor of reporting on disputes against the home country.

The experiment includes three conditions. Our primary quantities of interest are the change in public support for ISDS provisions, the TPP, and economic engagement, based on whether the

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<sup>10</sup>SSI uses an opt-in recruitment method, after which they randomly select panel participants for survey invitations, using population targets rather than quotas to produce nationally representative samples of respondents. See appendix table 4 for sample characteristics. For political science examples of recent experiments fielded using SSI, see Berinsky, Margolis, and Sances (2014); Kertzer and Brutger (2016); Malhotra, Margalit, and Mo (2013).

respondent reads a news story where the U.S. is being sued in a dispute versus a news story where a U.S. firm is suing another country in a dispute. To isolate this effect, the first two treatment conditions vary whether a Canadian firm sues the U.S., or whether a U.S. firm sues Canada. We also include a third condition which has a Canadian firm suing Mexico. The third condition allows us to measure support when respondents read a news report about an international dispute, but their country has no involvement in the dispute.

Respondents in the experiment were first told “You will read a brief news report about an international dispute. After reading the report, you will be asked your reaction to the dispute and related questions.” Respondents then viewed one of the three following reports:

*Condition 1 - Canadian Firm Sues the United States:*

**TransCanada Starts Legal Actions Over Investment Denial**

TransCanada Corp., a company based in Canada, on Wednesday said it was pursuing legal actions against the United States and the Obama administration in response to its refusal to issue a border crossing permit for the company’s project.

TransCanada said in a statement that it would initiate an international arbitration case against the U.S. under the North American Free Trade Agreement (NAFTA). Through a process known as investor-state dispute settlement (ISDS), companies and investors from one country can challenge the acts of a foreign government and receive compensation if they can show they weren’t treated in accordance with international law.

TransCanada said it would attempt to recover more than \$15 billion in costs and damages that the company said it has suffered as a result of the U.S. administration’s breach of its NAFTA obligations.

The Obama administration originally responded by stating it would fight the challenge until the arbitration panel made its decision. A settlement has since been proposed granting TransCanada twenty percent of the value of the suit, and TransCanada and the Obama administration accepted the settlement.

*Condition 2 - American Firm Sues Canada:*

**Bilcon Starts Legal Actions Over Investment Denial**

Bilcon, a company based in the United States, on Wednesday said it was pursuing legal actions against Canada and the Trudeau administration in response to its refusal to issue a border-crossing permit for the company’s project.

Bilcon said in a statement that it would initiate an international arbitration case against Canada under the North American Free Trade Agreement (NAFTA). Through a process known as investor-state dispute settlement (ISDS), companies and investors from one country can challenge the acts of a foreign government and receive compensation if they can show they weren’t treated in accordance with international law.



Bilcon said it would attempt to recover more than \$15 billion in costs and damages that the company said it has suffered as a result of the Canadian administration's breach of its NAFTA obligations.

The Trudeau administration originally responded by stating it would fight the challenge until the arbitration panel made its decision. A settlement has since been proposed granting Bilcon twenty percent of the value of the suit, and Bilcon and the Trudeau administration accepted the settlement.

*Condition 3 - Canadian Firm Sues Mexico:*

**TransCanada Starts Legal Actions Over Investment Denial**

TransCanada, a company based in Canada, on Wednesday said it was pursuing legal actions against Mexico and the Pena Nieto administration in response to its refusal to issue a border-crossing permit for the company's project.

TransCanada said in a statement that it would initiate an international arbitration case against Mexico under the North American Free Trade Agreement (NAFTA). Through a process known as investor-state dispute settlement (ISDS), companies and investors from one country can challenge the acts of a foreign government and receive compensation if they can show they weren't treated in accordance with international law.

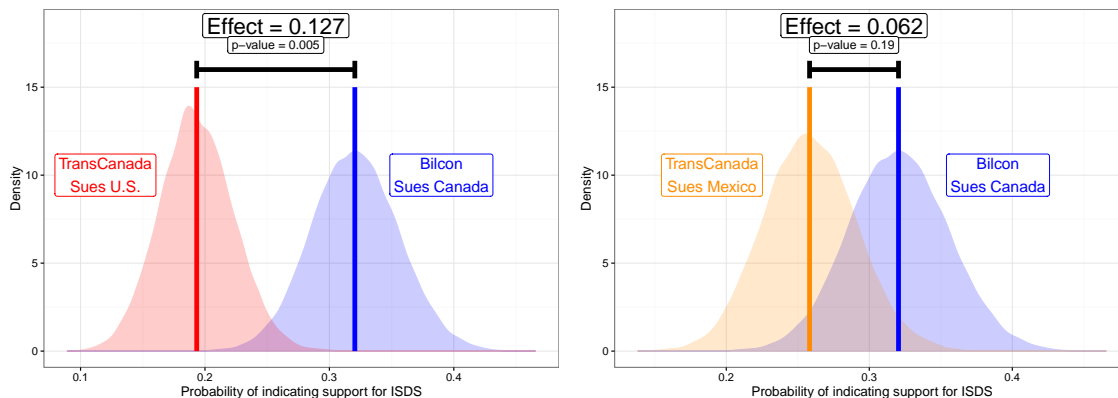
TransCanada said it would attempt to recover more than \$15 billion in costs and damages that the company said it has suffered as a result of the Mexican administration's breach of its NAFTA obligations.

The Pena Nieto administration originally responded by stating it would fight the challenge until the arbitration panel made its decision. A settlement has since been proposed granting TransCanada twenty percent of the value of the suit, and TransCanada and the Pena Nieto administration accepted the settlement.

After reading the full news report, a bulleted summary of the report was displayed and then respondents were asked a series of questions about ISDS, the TPP, and related topics. The primary questions of interest asked the respondents their level of support for the U.S. signing more agreements with investor-state dispute resolution provisions and their support for the U.S. ratifying the TPP. The study also included a set of demographic and individual characteristic questions.

In order to assess support for investor-state dispute settlement mechanisms, we first reminded respondents of the basic definition of ISDS, describing it as a mechanism "whereby investors from one country can sue foreign governments in private arbitration." We also told respondents that, "In recent years, countries have signed numerous agreements containing investor-state dispute settlement provisions." Afterwards, we asked respondents whether they "support or oppose the U.S. signing more agreements with investor-state dispute resolution provisions." Respondents could select from a seven point scale ranging from strongly oppose to strongly support.

Figure 2: Effect of exposure to news coverage on ISDS support



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).  $N = 544$ .

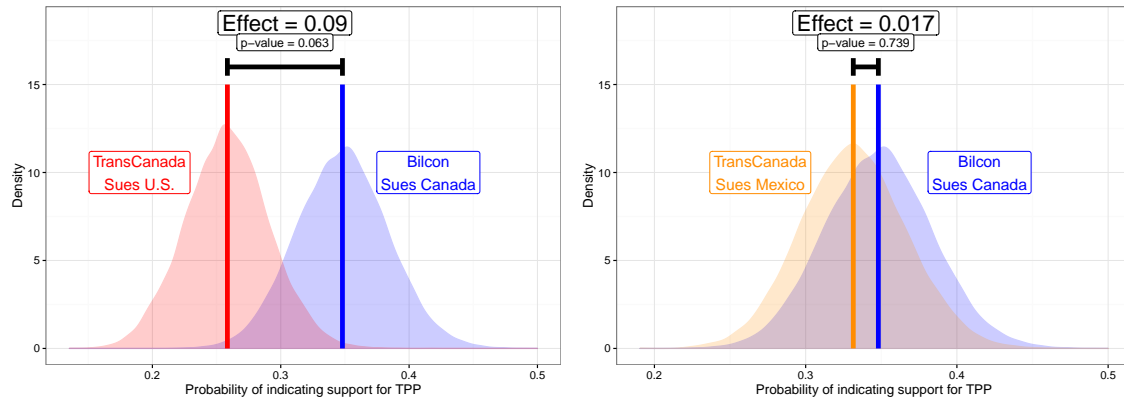
In our analysis our primary quantity of interest is support for for ISDS provisions. Although we measured support on a seven-point scale, we created a simplified measure of support by grouping respondents who selected “slightly support,” “support,” or “strongly support” as being in favor of ISDS being incorporated into future U.S. treaties and the remainder (including the neutral group) as being not in favor of ISDS.<sup>11</sup> Figure 2 plots the shares of respondents that indicated they support ISDS under each of the three treatment levels along with bootstrapped sampling distributions. We calculate two average treatment effects. Our primary concern is the change in support between the news stories where TransCanada sues the U.S. versus Bilcon suing Canada (displayed in the left side of 2). We also include a second treatment effect, which is the change in support between TransCanada sues Mexico and the baseline of Bilcon suing Canada (displayed in the left side of 2). We estimate that respondents who read about TransCanada suing the U.S. were on average 12.7 percentage points less likely to indicate support for ISDS relative to the baseline treatment of Bilcon suing Canada ( $p < 0.01$ ). However, we did not find a statistically significant difference in support between groups receiving the neutral TransCanada sues Mexico treatment and those receiving the BilCon treatment ( $p = 0.19$ ). Overall, the results point to a sizable shift in negative sentiment towards ISDS provisions when respondents were exposed to a story featuring the U.S. as defendant as opposed to a U.S. firm acting as complainant.

While the direct impact of media coverage of investment disputes on ISDS provisions is of

<sup>11</sup>Comprable results are achieved when using the full seven-point scale.

interest on its own, we also examine whether media coverage has further effects on support for trade agreements, specifically the Trans-Pacific Partnership. To measure how the treatment conditions affect support for the TPP, respondents were first told that “The Trans-Pacific Partnership (TPP) is a potential trade deal that includes the U.S. and twelve other countries and also includes an investor-state dispute settlement provision.” They were then asked, “Do you support or oppose the U.S ratifying the TPP?”<sup>12</sup>

Figure 3: Effect of exposure to news coverage on TPP support



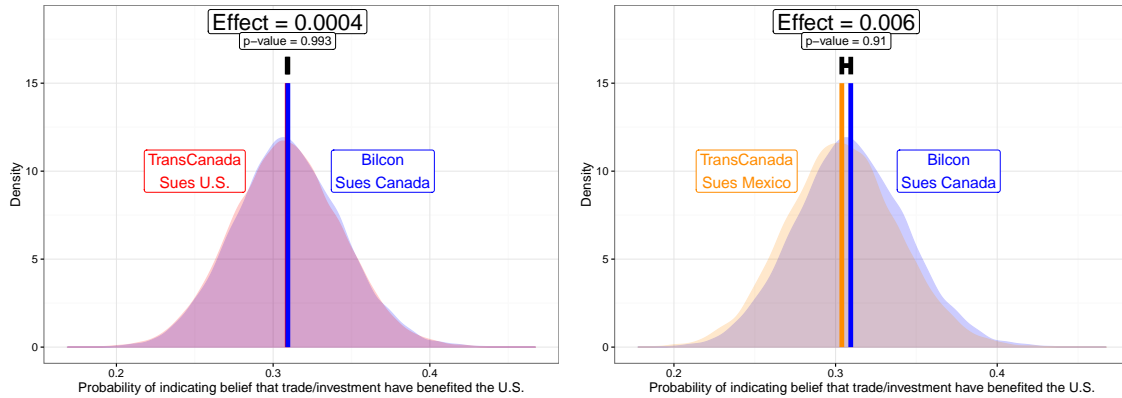
Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).  $N = 540$ .

We find evidence that exposure to a news article where the U.S. is being sued rather than a U.S. firm filing a suit reduces support for the TPP. As shown in the figure 3, respondents in the “TransCanada sues U.S.” condition were about 9 percentage points ( $p = .06$ ) less likely to express support for the TPP relative to the “Bilcon sues Canada” treatment. Again we find no statistically significant difference between the Bilcon treatment and the “TransCanada sues Mexico” conditions. While the magnitude of the effect on TPP support is slightly smaller than the effect on direct ISDS attitudes, the results do suggest that media frames of ISDS also have downstream effects on attitudes towards related trade policies.

However, the extent to which the effect on ISDS attitudes extends to respondents’ general attitudes toward globalization, free trade and international investment is limited. To measure whether the effects of our ISDS treatment conditions extended to free trade and investment, respondents

<sup>12</sup>Respondents could select from a seven point scale, ranging from strongly oppose to strongly support. Respondents are counted as supporting the agreement if they chose slightly support, support, or strongly support.

Figure 4: Effect of exposure to news coverage on general trade attitudes



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).  $N = 540$ .

were also asked whether they believed “that reduced barriers to trade and investment have benefited or hurt the United States?” Given the effects observed for the ISDS and TPP outcomes, we were surprised to find essentially no effect on perceptions of trade’s general impact on the U.S. As Figure 4 shows, the shares of respondents in each treatment condition differ by less than a single percentage point

Although we did not find statistically significant treatment effects on the perceived benefits of being involved in the global economy for the U.S., the responses to the question provide a useful comparison to long-running national polls. This allows us to assess whether our sample is an outlier with respect to trade attitudes or whether respondents’ answers are generally consistent with those of the U.S. population at large. Pew Research and Gallup have previously asked questions on trade that were similar to ours, with Pew also polling respondents in April of 2016, asking whether “U.S. involvement in the global economy” is a good thing or a bad thing (Pew Research Center, 2015). Gallup’s 2016 poll asked about exports and imports and whether they were an opportunity or a threat to the U.S. (Newport, 2016). Of those who selected one of the options in the Pew poll, 47 percent said it was a good thing (Pew Research Center, 2015) and in the Gallup poll 58 percent believed it was an opportunity, not a threat. In comparison, among our respondents who believed that free trade and investment either benefited or hurt the U.S., 52 percent believed it benefited the U.S.<sup>13</sup> Our results fall in the middle of the range of Gallup and Pew polls, giving us greater

<sup>13</sup>To calculate this quantity, we dropped non-responses and those who chose neither to best approximate Pew’s response options.

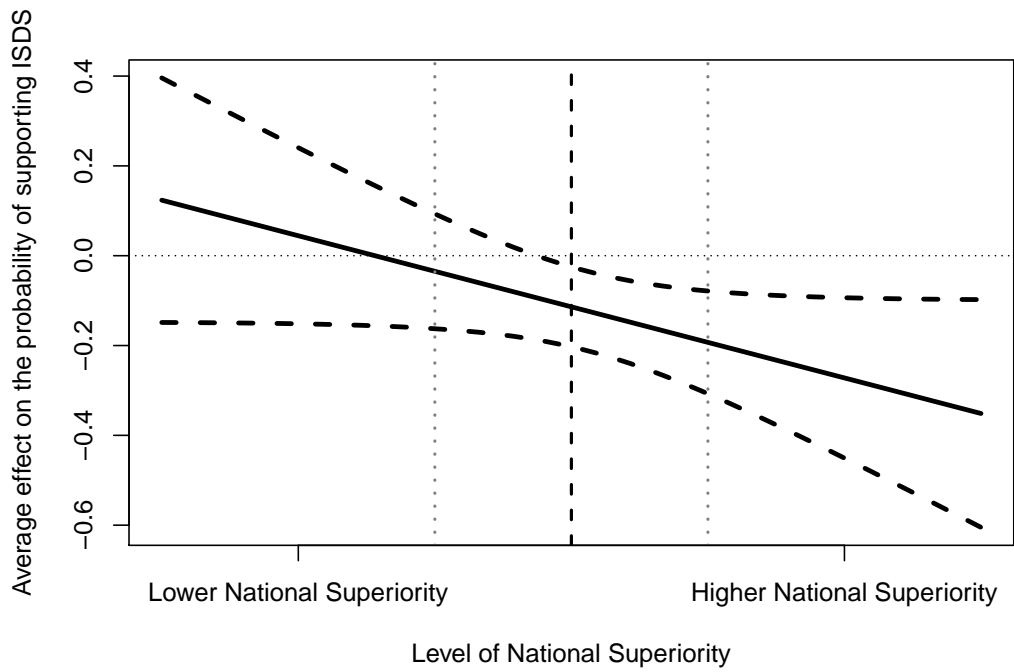
confidence that our sample provides results generalizable to the broader American population.

### **3.4 National Superiority Moderates the Effect of Content**

In addition to providing predictions about how the public processes new information about international investment disputes, our theory also predicts that different groups within the public will respond differently. Coverage that depicts the U.S. as being negatively affected by foreign actors will likely have its strongest effect among those who assign a high value to U.S. dominance in global affairs. Our hypothesis is that those who have strong beliefs about national superiority, are most likely to find the nationalist frames salient. To test this, we construct a measure of national superiority using survey questions drawn from Kertzer and McGraw (2012) and estimate a regression model that allows the effect of treatment to vary across levels of superiority.

We measure national superiority using respondents' answers to two questions: "How superior is the United States compared to other nations?" and "How many things about America make you ashamed?" Each question had a four-level ordered response which we aggregate to yield a 2 to 8 point scale of national superiority with higher values denoting greater national superiority.

Figure 5: Effect of “TransCanada sues U.S.” treatment vs. “Bilcon sues Canada” – Heterogeneity by national superiority attitudes



Note: Lines denote 95% bootstrapped confidence intervals (20000 iterations). N=544.

To retain efficiency in estimation, we assume a linear interaction between both the national attachment and national superiority and estimate a linear probability model to obtain estimates of how the “TransCanada sues U.S.” versus “Bilcon sues Canada” effect varies across levels of the moderator. Figure 5 plots the estimated treatment effects across the different levels of the moderating variables. The vertical dashed line denotes the median value of the moderator while the vertical dotted grey lines denote the 25th and 75th percentiles.

Our results provide support for our theory of heterogenous treatment effects. Consistent with our theory, those with higher levels of national superiority exhibited stronger negative reactions to ISDS when exposed to the news report where the U.S. was being sued compared to the report where a U.S. firm sued the Canadian government ( $p = .06$ ). While we estimate that the effect of the TransCanada-U.S. treatment is still negative and statistically significant for the median level of national superiority in the sample, the magnitude of the effect nearly doubles for those at the highest end of the national superiority scale. Individuals’ attitudes about national superiority clearly play an important role in shaping how respondents interpret the treatments. This is consistent with other findings in the trade literature, particularly Mutz and Kim (Forthcoming) who find that individuals with a greater sense of national superiority tend to favor trade agreements that not only benefit the ingroup but also negatively affect the outgroup such that their own status relative to others is improved.

## 4 Conclusion

Given the increasing media attention and public scrutiny of ISDS arbitration and trade agreements, it is increasingly important that we understand how the public forms opinions about international economic engagement. We argue that media coverage of international disputes plays an important role in shaping perceptions of who wins and loses from international economic agreements. Importantly, the role of the media helps explain the persistent skepticism of the public toward international economic liberalization and the long-standing divide between the public’s and political elites’ views toward trade. Employing a survey experiment on a national sample of Americans, we find that news reports of the U.S. being sued through ISDS significantly decreases support for the inclusion of ISDS provisions in future agreements and decreases support for the Trans-Pacific Partnership agreement. These findings help to connect theories about public attitudes toward international trade and

economic policy to actual events and media coverage of international economic events.

The significance of our findings is heightened due to the selection process of major media outlets when choosing which international disputes to cover. In both the United States and Canada, major newspapers are much more likely to report on ISDS cases when their home government is being sued, as opposed to when a domestic firm is suing another country. This bias in reporting means that members of the public are much more likely to learn about their country being sued by a foreign firm, which drives down support for ISDS provisions and trade agreements such as the TPP that include them, as opposed to learning about domestic firms suing foreign countries, which raises support for international economic agreements including ISDS. The media selection process is so strong in the U.S. that 60 percent of the NAFTA chapter 11 dispute initiations that receive coverage are suits against the U.S. In contrast the U.S. is actually responsible for initiating over 65 percent of these disputes against other countries, highlighting the unrepresentative nature of media coverage of international disputes. In the counterfactual world where the media chose to increase reporting on disputes initiated by domestic firms, or if politicians and free trade advocates could promote reporting on such stories, we would expect a significant rise in support for agreements with ISDS provisions. This suggests that advocates of international market liberalization in the U.S. would be well served to promote more balanced reporting of international economic disputes and raise awareness regarding the patterns of disputes.

Our findings also speak to the importance of factors other than economic interest on trade and economic policy preferences. We present new evidence in favor of the theory that individual characteristics, such as national superiority, play an important role in shaping foreign policy attitudes. While varying the direction of ISDS disputes had a strong main-effect on the public, we also note that news reports of ISDS disputes have a much stronger impact on individuals high in national superiority, suggesting that challenges to U.S. law by foreign entities are particularly off-putting to this segment of the public. For scholars who have examined the importance of in-group versus out-group perceptions in foreign policy, this result may not be surprising; however, for the extensive literature that has primarily focused on the role of economic interests in shaping attitudes toward trade and globalization, these results highlight the importance of psychological characteristics in shaping economic foreign policy preferences.

Overall, we find that public attitudes toward international economic engagement are quite responsive to news reports on international disputes. This suggests that theories of foreign policy



preference formation ought to take into account how individuals gather and process new information about their country's role in the international system, and that media coverage is an important component of that process. Although there was a time when investor-state disputes were generally overlooked by the media and public, they have recently garnered the attention of news outlets, politicians, and the public. This shift in attention has significant implications for public attitudes toward international economic engagement, especially given the selection bias of media outlets in choosing which international disputes to cover.

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## 5 Appendix

Table 4: Sample Characteristics

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<i>AGE</i>	
Percent Age 18-24	11.5
Percent Age 25-44	33.3
Percent Age 45-64	33.3
Percent Age 65+	21.5
<i>INCOME</i>	
Percent \$0-\$50,000	46.9
Percent \$50,000-\$100,000	34.3
Percent \$100,000-\$150,000	11.3
Percent \$150,000-\$200,000	5.2
Percent \$200,000+	2.4
<i>EDUCATION</i>	
Less than High School	2.8
High School / GED	30.8
Some College	11.1
College Degree	38.6
Masters Degree	12.6
PhD / JD / MD	4.2
<i>GENDER</i>	
Female	55.6
Male	44.4

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Not all percentages add to 100 due to rounding.