



Bargaining Practice and Negotiation Failure in Russia-Ukraine Gas Relations

EPRG Working Paper 1509

Cambridge Working Paper in Economics CWPE-1504

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Keywords gas ; bargaining ; Russia ; Ukraine

JEL Classification F5, F51

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Publication April 2015
Financial Support EPRG

BARGAINING PRACTICE AND NEGOTIATION FAILURE IN RUSSIA-UKRAINE GAS RELATIONS

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March 30, 2015

Abstract

What causes ‘gas wars’ between Russia and Ukraine? In this paper I argue that contract disputes in the eastern European gas sector are specific instances of a broader set of phenomena: bargains over strategically important resource issues outside of any international framework to facilitate cooperation. Non-cooperative game theory helps to shed light on the reasons we see crises emerge despite the fact that both parties would be better off reaching an agreement short of conflict. I develop a framework for crisis bargaining that departs from canonical games in one important dimension: it explicitly considers impact of bargaining practices and strategies on the negotiation process and the probability of failure. While bargaining practices are endogenous to both the preferences of the players and the structure of the game, they intervene in the causal process in substantively important ways by modifying the effect of both preferences and structure. Critically, practices embedded in earlier rounds affect practices and outcomes later on independent of the preferences of each player or the structure of the game. I use this practice-theoretic bargaining framework to develop an in-depth case study of 2008 negotiations between Russia and Ukraine. This framework helps produce a nuanced understanding of bargaining breakdown that led to the most damaging of the ‘gas wars’; the resulting explanation outperforms the standard bargaining model as well as a number of competing arguments.

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1 INTRODUCTION

In certain contexts, the production and sale of natural resources is important enough to attract considerable state attention. Political actors will take an active role in managing extraction, setting prices, and coordinating trade when their own interests over these resources are at stake. The combination of political and economic importance, coupled with both an uneven geographical distribution of endowments and needs as well as a regionally segmented market, means that these areas of the economy can be internationally volatile. The natural gas sector in eastern Europe and Eurasia illustrates these dynamics regularly, and often explosively. The sale and transit of gas is critically important to Russia, Ukraine, Belarus, and many of the European states that rely on gas for heating and infrastructure needs: the sector is the site of regularly contentious negotiations and frequent disturbances. It isn't surprising that highly political negotiations over a strategically important natural resource are contentious. At the same time, however, the regular instability of these political-economic relationships are puzzling when we consider that all parties involved would be better off finding solutions short of conflict: crises that result in a breakdown in transit or supply are inefficient. This research is motivated by the puzzle of the inefficiency in these regional gas relationships: why do 'gas wars' occur?

Non-cooperative game theory gives us substantial leverage over this question. Gas wars are specific instances of a broader set of phenomena in which two states are directly involved in contract negotiations. States bargain with each other over the supply of strategic resources, and uncertainty is a common feature of this bargaining environment especially when there exists no supranational institution designed to coordinate cooperation between the negotiating parties. Bargaining theory helps us make sense of gas wars: all contract negotiations involve the possibility of failure, and in certain rounds deficits in terms of information and credibility make it harder for negotiating parties to reach an agreement short of conflict; often, crisis is a way to make credible signals that help locate a point of

agreement.

At the same time, however, standard bargaining models account for only some of the sources of failure that make strategic contract negotiations unstable. The *ways* states bargain matter as well: bargaining practices deployed strategically in one round can have unintended consequences once they become a regularized component of the negotiation process. Bargaining practices are sedimented through iterated rounds, and become a feature of the bargaining space that inform both states' preferences over outcomes, probability calculations, and action choices. Importantly, these bargaining practices can work against an efficient outcome even as negotiating parties continue to employ them, confident that these practices are the way bargaining should be done. Bargaining failure is a function not only of the information available to negotiating parties, but also of the interaction between informational conditions and bargaining practices. In order to make this argument, I develop a new theory of crisis bargaining in a political-economic context that draws on standard bargaining models in non-cooperative game theory and a very different set of concepts and arguments, focused on tacit knowledge and meaningful actions, found in contemporary IR applications of practice theory.¹

I examine the logic of a practice-theoretic bargaining framework in the negotiation round Russia and Ukraine conducted concerning natural gas supply, pricing, and debt in late 2008. Drawing on a detailed case study of the negotiation process I show how bargaining practices, distinct from the preferences over outcomes held by the negotiating parties and the informational constraints on their interaction, damaged any chance Russia and Ukraine had for concluding their negotiations successfully. While neither party wanted a complete breakdown in their relationship, this outcome was all but assured by the fact that their means for bargaining — the bargaining practices they had come to rely on — inhibited their ability to adjust to changing circumstances and negotiate effectively.

This paper proceeds in the following manner. First, I discuss non-cooperative bargain-

¹ Pouliot 2008, Adler and Pouliot 2011.

ing theory as it applies to this context. Second, I introduce practice theory as a fertile intellectual basis for considering the ways in which specific bargaining repertoires matter for outcomes. I combine insights drawn from practice theory with standard bargaining models to produce a revised framework that incorporates practice-based frictions. This practice-theoretic bargaining framework yields a number of observable implications: I consider these in the context of the 2008 bargaining round between Russia and Ukraine that preceded one of the most costly ‘gas wars’ in recent memory. A practice-theoretic bargaining model provides a nuanced account of the negotiation breakdown, one that improves up existing explanations and survives challenges from a number of alternative arguments. I conclude by discussing some of the extensions and limitations of a practice-theoretic approach for political-economic phenomena.

2 THEORY

Bargaining theory is foundational to contemporary international political economy, in that political economists are directly concerned with exchange situations in which conflicting interests over the distribution of gains need to be mediated in order to realize mutual gains.² The bulk of work in IPE, however, has examined the institutional dynamics that secure cooperation given bargaining incentives;³ in fact, advances in political science that focus on non-cooperative game theory outside the shadow of supranational institutions is found security and conflict studies.⁴

Despite this fact, there are important political-economic scenarios that reflect bargain-

² The foundation of this literature is in economics. Canonical interventions include Schelling 1980; Kreps and Wilson 1982; Fudenberg and Tirole 1983; Rubinstein 1985, 1986; Osborne and Rubinstein 1990. Political scientists have also contributed to this literature; see Axelrod 1984; Oye 1986; Banks 1990.

³ Examples of IPE work that builds directly upon non-cooperative game theory include Mo 1995; Milner and Rosendorff 1997; Gawande and Hansen 1999; Simmons 2000; Koremenos et al. 2001; Koremenos 2005; Kucik and Reinhardt 2008; Davis 2009; Kerner 2009; Pelc 2010; Pelc and Davis 2011. For an overview, see Gilligan and Johns 2012.

⁴ This takes place in two overlapping literatures organized around bargaining models of war and audience costs. Notable interventions include Fearon 1994, Fearon 1995, Powell 1996, Schultz 1998, Powell 2002, Slantchev 2003b, Slantchev 2003a, Tomz 2007, Slantchev and Tarar 2011, Fey and Ramsay 2011 .

ing under anarchy rather than bargaining within institutional frameworks designed to facilitate cooperation. One of these is the energy sector: because of the strategic importance of resource endowments and supplies, states intervene in project development as well as pricing and contract negotiations. Often these negotiations fall outside of the purview of the GATT/WTO: states intervene in contractual negotiations without recourse to the frameworks for arbitration, litigation, and precedent that international institutions provide.

In these scenarios, bargaining theory is a useful tool for making sense of the dynamics of negotiation. In this section I develop the basic logic of standard bargaining models as they might apply to state-to-state negotiations over energy supply contracting. I then offer a theoretical modification to that standard account that focuses our attention on the specific strategies states employ within negotiations, and argue that these strategies, especially in multi-round negotiations, can influence the outcome of negotiations *distinct from* preferences over outcomes, quality of information, and the characteristics of the interaction.

2.1 A STANDARD BARGAINING FRAMEWORK

In standard bargaining theory, the outcome of a negotiation (Y) is a function of two kinds of inputs: negotiator-level inputs (indexed by X) and environment-level inputs (indexed by Z). X refers to those factors that exist at the level of each negotiator: information related to their levels of belligerence, resolve, preferences over outcomes, commitment to settling, and commitment to conflict. Importantly, X is mostly *private* information. On the other hand, Z is *public* information: it indexes those factors that are common knowledge or known elements of the structure of the interaction. These include common knowledge about the probability of either side winning and the cost of conflict.. Z also includes information the sequence of moves, the number of past or future rounds (the shadow of the future), commonly known histories of interaction, linked issues that affect

the interaction in some way, and inside or outside options. Common or structural factors, captured in Z , can impact both the negotiator level private factors (X) and the negotiation outcome (Y): negotiators can base their own preferences based on some element within Z . Z and X together produce Y , the outcome of the negotiation (Figure 1).⁵

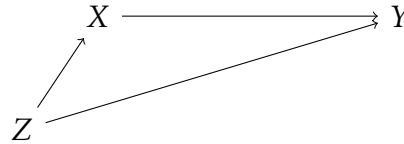


Figure 1: Standard Bargaining Framework

2.2 A PRACTICE-THEORETIC BARGAINING FRAMEWORK

A practice-theoretic account adds a set of negotiation practices (indexed by p) to this framework. X and Z continue to be the primary inputs in the framework, but instead of directly feeding into the outcome, they produce a set of action choices or strategies employed in the negotiation, p . Negotiation practices can include commitment strategies (a common component in most bargaining theories) but are not limited to only those strategies that express commitment through costly signaling. Negotiation practices include convenience actions, taken to facilitate communication by reducing friction or transaction costs; they also include power actions, made to express or establish a power relationship between the two negotiators. Negotiation practices are a function of both X and Z ; that is, they are actions taken by negotiators in light of both private and public information about the interaction. These practices themselves impact the negotiation outcome Y : X and Z don't have an impact on the outcome except through their articulation in specific actions and decisions made during the negotiation (Figure 2).

What are negotiation practices? In specific terms, they are any of the actions negotiators

⁵ In all of the following Directed Acyclic Graphs (DAGs), the following conventions obtain: variables are spaced sequentially from left to right (earlier to later); an arrow indicates direction of causality; and a solid line indicates a causal relationship. On the use of DAGs in social science, see Pearl 2000 and Morgan and Winship 2007.

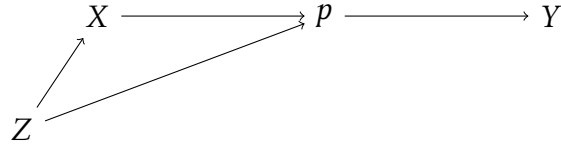


Figure 2: Practice-Theoretic Bargaining Framework

can take to move the ball down the field: offers, counter-offers, meetings, public statements. In more general terms, practices are actions patterned within a socially-organized context: they draw from and are embedded within a broader context of meaning, itself a tangled web of the behaviors, actions, and practices that produce, reinforce, and perhaps subtly change it (Adler and Pouliot 2011, 5). Practices are at the core of a recent research program in international relations that draws on the work of Pierre Bourdieu.⁶ While the approach is seeing increasing use in international security and conflict studies, applications within IPE are to date limited.⁷ In fact, however, a political-economic context is perhaps more fertile ground for investigating the substantive and theoretical importance of practices, given the importance of regularized patterns in producing and reinforcing practical logics. Economic interactions occur more regularly, and with far more standard operating procedures, than in a security environment. The importance of iteration is incorporated explicitly in the practice-theoretic repeated-play bargaining model outlined in the following subsection.

2.3 PRACTICES IN A REPEATED-PLAY BARGAINING FRAMEWORK

In a single-shot game, the a practice-theoretic account of the bargaining process adds, at most, a technical clarification to standard bargaining models. Preferences, assessments of probability, and institutional conditions or constraints only matter to the negotiation outcome insofar as they motivate, enable, or limit the specific actions and strategies of the negotiators on the ground. And in discussing commitment strategies, standard models

⁶ Bourdieu 1976, 1990. For applications in IR, see Williams 2007; Pouliot 2008, 2010; Mattern 2012; Schmidt 2014.

⁷ One exception is Eagleton-Pierce 2013.

already are at least implicitly recognizing the importance of specific actions in the process (tying hands, for instance, or sinking costs). A practice-theoretic account focuses explicitly on these negotiation practices, and broadens the range of “strategies” to include more than just commitment devices, but need not otherwise depart from standard models. This is especially true if a weak form of practice theory is employed, where practices remain meaningful actions taken by instrumental actors. A stronger form of practice theory holds that practices themselves express both the intentionality or instrumentality of the actor engaging in the practice *and* a practical logic or disposition distinct from instrumental action. In a single-shot game, the weak form of practice theory isn’t committed to this non-representational, non-rationalist element: p remain endogenous to Z and X , there are no other inputs in the model.

The substantive importance of the practice-theoretic framework becomes apparent when negotiations are iterated. In the standard bargaining model, Y_2 is a function of the outcome in the first round (Y_1) as it affects private (X_2) and public (Z_2) factors in round two (Figure 3).

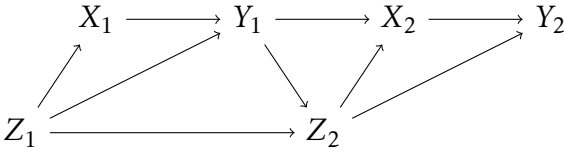


Figure 3: Standard Repeated-Play Bargaining Framework

In a practice-theoretic framework, negotiation practices (p_1, p_2) operate in both rounds to filter X and Z . Crucially, practices deployed in the first round (p_1) also affect round two negotiator-level factors (X_2) and round two negotiation practices (p_2) directly — that is, independent of the outcome of the first round (Y_1) and of the structural conditions of the second round (Z_2) (Figure 4). Over time, negotiation practices within an iterated context will come to feature as more and more regular — and less and less reflected upon — features of the bargaining framework than as instrumental actions. Negotiation practices in round two (which is to say, in a simplified manner, negotiation practices that persist

into this new, more structural state of being through iterated rounds) are taken for granted by the negotiating parties: they are deployed as ‘right’ or ‘correct’ negotiation practices because they have been before (p_1), and not because of specific choices made in the current round (X_2) or because of the outcome of the previous round (Y_1). In fact, sufficiently embedded negotiation practices can actually condition the preferences and assessments of probabilities held and made by negotiators themselves (X_2). It is important to note here that this acceptance of a negotiation practice isn’t normative, but practical: embedded practices make sense to use because they have made sense in the past and are part of a repertoire of available options, not because they are appropriate (for a more complete discussion of the difference between the logic of appropriateness and the logic of practice, see Pouliot 2010).

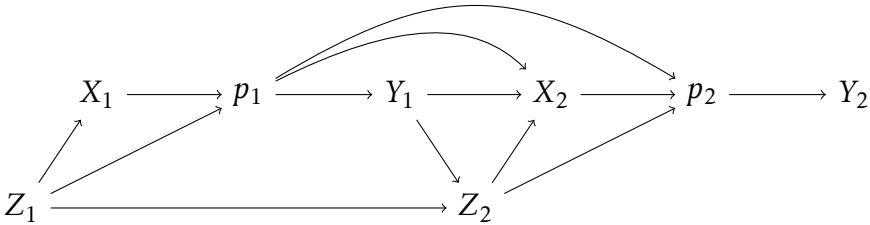


Figure 4: Practice-Theoretic Repeated-Play Bargaining Framework

The implication of this framework is that in a context where a negotiation is one within a pattern of regularized interaction and repetition, the outcome (Y_2) is a product negotiation practices (p_2); the negotiation practices themselves are a function of negotiator-level factors (X_2), environment-level factors (Z_2), and a history of practical actions embedded in the bargaining context (p_1). In order to understand a negotiation outcome, then, it is crucial to account not only for public and private information, preferences over outcomes, probabilities of victory, and the value each negotiator places on the prize; one must also account for nature and importance of the negotiation practices themselves, which express all of these factors *and* a practical logic of negotiation established in previous rounds.

2.4 OBSERVABLE IMPLICATIONS

The pair of frameworks introduced above yield a set of observable implications that can be leveraged through process tracing and applied to relevant empirical cases.⁸ I argue that both a standard approach and a practice-theoretic approach provide us with useful ways of thinking about events and causal mechanisms in applied case study research.

Recall the specific context for empirical investigation: we are interested in leveraging these models to understand reasons for bargaining failure in contract negotiations between state actors over strategic resources. In many scenarios, these negotiations take place outside of an institutional framework specifically designed to facilitate cooperation. We are also primarily interested in contract negotiations that take place following the initial investment or agreement. Negotiations that lead up to a specific relationship — planning a major pipeline, for instance, or establishing the first set of contracts for supply and transit — are less interesting in that negotiation failure is quite common: the universe of possible pipelines or supply agreements is much larger than the set of negotiations that actually produce a pipeline or agreement. Once those initial agreements have been signed and costs have been sunk, however, many of these scenarios exhibit regular renegotiation in response to changing supply or demand conditions, prices, or political leadership. We are interested in identifying reasons for bargaining failure in these contexts, ones that already exhibit substantial material commitments, specific and detailed agreements, and a history of cooperation.

Within a standard bargaining framework, causes of failure are found in changes to values captured in X or Z . Bargaining failure increases in the presence of asymmetric information, the viability of outside options available to either negotiating party, and the expected benefits of conflict; the probability of bargaining failure decreases in the size of common interest, the risk aversion of each negotiator, and the credibility of commitment

⁸ Observable implications are identifiable pieces of evidence that substantiate a causal chain or sequence of mechanisms derived from theory. See George and Bennett 2005, 179-180. On process tracing, see Mahoney 2010.

mechanisms (thought commitment mechanisms, given the framework above, are actually better understood as specific practices rather than preferences over outcomes or features of the game). We should also expect that the probability of bargaining failure decreases in the presence of previous successes in earlier bargaining rounds, in the relative balance of public to private information (as information shifts from being private to being common knowledge, negotiators should be more likely to locate a mutually acceptable agreement short of conflict), and in a lengthening shadow of the future.

Observable implications are the things we can look for as evidence of the model working the way it says it works. In the case of the standard bargaining framework, this would mean that we see the things indexed in X and Z operating the way they should. First, the negotiation outcome will depend on the amount and content of common knowledge held by both participants: the more common knowledge there is, generally speaking, the more likely negotiators will be able to locate an agreement short of conflict. Second, the negotiation outcome will depend on each negotiators' preference over the set of outcomes available. A scenario in which both parties place a high value on an outcome at or near their ideal point will face more obstacles to efficient conclusion than a scenario when both parties are open to solutions that sit between their ideal points. Third, the negotiation outcome will depend on how risk averse each party is. The negotiation is more likely to end in failure if both parties are highly risk acceptant. Fourth, more inside or outside options will increase the likelihood of failure. Fifth, the quality of signals made — that is, the degree to which they reveal credible information — will affect the likelihood of bargaining failure. Finally, time matters: a longer shadow of the future and a history of past success will both make conflict less likely. All of these are observable implications of a standard bargaining approach: we would expect to see these factors operate given the model.

Observable implications for the practice-theoretic framework include both evidence that p are an important part of the process as mediators of X and Z , and that p affect

outcomes independent of X and Z . In terms of observing the presence of practices, a practice-theoretic framework suggests that we look first to the regularity or consistency of action, second to the fact that practices are deployed without needing to be justified and without being challenged, and third that practices are employed for more than just credible signaling. A second set of observable implications emerges from the practice-theoretic framework: evidence that practices affect the outcome of negotiations in a way that is analytically and empirically distinguishable from both X and Z . First, practices may enforce or reinforce a power dynamic between negotiators. Second, practices have the capacity to reduce costs; that is, they are employed for specific reasons by the negotiators. Third, practices may jar with expected utilities, especially when the practice is designed to fulfill a task that, given X and Z , may not be necessary or desired. Finally, practices may contribute to outcomes that are unintended, in that they express or enact specific steps that are at odds with the broader goals or aims of the negotiator. Practices are driven forward by their embeddedness, but this might not mesh with the specific demands of X and Z at a given moment. A summary of these implications, as well as those derived from the standard bargaining model, is captured in Table 1.

Framework	Observable Implication
Standard	<i>Common Knowledge</i> : amount of public information. <i>Interests</i> : preferences over outcomes. <i>Risk Aversion</i> : tolerance for bargaining failure. <i>Options</i> : availability of internal or external options. <i>Shadow of the Future</i> : likelihood of future interaction. <i>Credibility</i> : effectiveness of signaling. <i>History</i> : prior outcomes.
Practice	<i>Consistency</i> : regularized component of the interaction. <i>Acceptability</i> : deployed without justification or challenge. <i>Diversity</i> : more than credible signaling. <i>Power</i> : enforce/reinforce power relationship. <i>Efficiency</i> : reduce costs. <i>Adequacy</i> : meet intentions of negotiators. <i>Friction</i> : have unintended consequences.

Table 1: Observable Implications of Each Framework

3 METHODOLOGY

The standard and practice-theoretic frameworks introduced in the previous section produce sets of observable implications we can consider empirically with two ends in mind: first, to substantiate the theoretical logic of each framework, and second, to improve our understanding of the causal process of the case investigated. I consider these frameworks in the context of one negotiation round in particular: the negotiations that took place between Russia and Ukraine in the last few months of 2008 over a new contract for 2009.

Case study research of this nature employs within-case observations of highlighted mechanisms and theoretical implications. The logic of single case qualitative research differs from many applications of case study work in social science in that it proceeds without a high-level comparative research design. Instead, causal process observations (Mahoney 2010, 127) and process tracing. Inferences are drawn from these within-case observations.

Several features of the theoretical frameworks applied and investigated here complicate a case study approach. First, the 2008 negotiations are fairly recent in academic terms: there is relatively little secondary literature on the subject, and not enough to develop a detailed historical case study. Second, the highly political nature of Russia-Ukraine interactions in the gas sector mean that unbiased data is difficult to come by: very little of the academic, historical, or journalistic work on the subject manages to avoid interpreting events within the bargaining space atheoretically. Third, a practice-theoretic approach raises specific methodological issues related to the nature of practices themselves. Practices are deeply embedded in the negotiation process and involve strong tacit or non-representational dimensions; this makes it difficult, if not impossible, to perfectly recover their causal role through the representational reflections of participants or observers.

These complications inform the methodology for developing the case study in this paper. The raw data of this case study are newswires produced by eastern European and

Russian news agencies. Wires have a number of characteristics that make them excellent candidates for case study research. First, they are filed by reporters on the ground within hours of an event's occurrence. Second, they almost entirely avoid editorial content in favor of strictly factual reporting. Third, they are often re-released with minor clarifications or updates, improving our confidence in the validity of the content.

The wires employed in this case study are sourced through the World News Connection (WNC),⁹ an online database of translated journalistic material from around the world provided by the United States Government. The WNC is produced by the Director of National Intelligence Open Source Center, which is tasked with providing analysis of worldwide open source documents to various facets of the U.S. Government. The Open Source Center distributes original-language and translated versions of a huge range of print and online news sources through the National Technical Information Service (NTIS).¹⁰ The WNC is the tool it distributes these documents through. What it provides is an extensive archive of recent reports regarding events at a very local level, sourced from institutions or news firms close to the arena they report on. In this particular case, the WNC captures a variety of central and eastern European newswire services relevant to this project, including ITAR-TASS, Interfax, RIA-Novosti, and Interfax-Ukraine, among others. An archive of approximately 350 relevant wires, resulting from a careful search and cleaning process, forms the raw data for the case study developed below.¹¹

⁹ <http://wnc.fedworld.gov/sources.html>.

¹⁰ <http://www.ntis.gov>.

¹¹ Several steps went into producing a case study narrative from the material available through the WNC. First, I used a series of searches based on generic terms related to the focus of this project — 'Ukraine,' 'Russia,' 'Gazprom,' 'Naftogaz,' 'natural gas' — within a specific date range, November 2007 to January 2009, to produce a list of thousands of documents culled from the WNC database. Second, I eliminated obvious duplicates from the list by selecting out articles on the basis of their title and leads: often a story would be reproduced and carried, with almost identical contents, by a variety of news services and outlets. Third, I eliminated those articles that failed to meet the criteria of strict reporting: editorials, commentary, analysis from a political or business perspective, or predictive documents were excluded from the list. Fourth, I identified those articles remaining that were produced as close to the date of occurrence for the material they covered, and compared them with other articles covering the same set of material; if the less immediately-produced articles failed to add any information, I eliminated them from the list. These steps produced a list of approximately 350 articles that met criteria I feel is incredibly important for constructing a case study narrative: they were produced as closely as possible to the events they covered and they were as factual as possible in their reporting style. Almost all of these remaining documents were produced by

4 EMPIRICAL ANALYSIS

The best way to examine the iterated nature of the observable implications for the theoretical frameworks introduced above would be to examine several negotiation rounds. Space constraints preclude this as an option. To partially solve this issue, I use negotiations in late 2007/early 2008 as a “test case” to identify bargaining practices generally speaking. While an abbreviated examination of the process of negotiation in these earlier rounds isn’t sufficient to identify or adequately consider the causal mechanisms within each process, I employ this test case to extract information about regularly occurring components of the negotiation process that reflect bargaining practices. This analysis identifies a set of bargaining practices present in earlier rounds that can be considered more carefully in the detailed case study.¹²

newswire services, documents that form the basis for most other types of journalism. Almost all of them were originally written in Russian or Ukrainian, and translated by the OSC through the WNC, and almost all of them were written within 6 hours of the events they covered. Once the raw data was collected in the manner described above I began using it to construct a detailed narrative of the events that comprised the 2008 negotiation process. I used the remaining newswires to construct a timeline of events. For every element of the timeline I endeavored to find at least two or three distinct documents that contained the same information, without being carbon copies of each other (i.e. exactly the same text run multiple times in a day. The search engine would regularly turn up articles like this). This method of ‘triangulation’ reduced the risk that incorrect or mistaken elements would be incorporated into the narrative. The final narratives are footnoted with a selective list of citations to newswire documents. For reasons of space and time the list of directly cited newswire documents is a non-random selection of the total population of newswire documents: I have made every effort to ensure that the documents directly cited in the case study sections are representative of the contents in the broader range of material the narrative is based on. An archive of full-text copies of these documents can be found at the following link: bit.ly/cited_file. An archive of full-text copies of the complete list of used but un-cited documents can be found at the following link: bit.ly/uncited. My hope is to have produced a detailed, coherent narrative of the events that make up the 2008 negotiation process, one that provides a solid foundation for theoretical application and investigation. The method described above was chosen to allow for the production of a narrative that was as honest with regard to the actual historical occurrences as possible, and also as neutral with regard to the theoretical explanations as possible.

¹² A more fully-developed case study narrative for this earlier period can be found at the following link: bit.ly/earlyround.

4.1 BARGAINING PRACTICES PRESENT IN EARLIER ROUNDS

Russia and Ukraine were able to successfully negotiate a supply contract in December 2007 for the 2008 calendar year; subsequently, they engaged in an acrimonious but ultimately successful negotiation round over debts and intermediaries in Spring 2008.¹³ The politicians and executives on either side of the table employed a diverse repertoire of practices throughout the negotiation process: a summary of bargaining practices observed in the Spring 2008 negotiations can be found in Table 2. These practices establish the public face of the negotiation: they are all behaviors captured in the press record, actions that make sense in the context of Russia-Ukraine relations. They play a role in both the escalation of the negotiation into near-crisis territory and in the resolution of the crisis ending in the signing of a new supply contract.

¹³ For a set of complicated reasons, previous agreements had set up intermediary companies to connect the nationally-owned gas firms Russia and Ukraine (Naftogaz and Gazprom). By 2008 this arrangement proved unsatisfactory, and Ukrainian authorities worked hard in the spring round of negotiations to remove them from the relationship and re-establish direct, bilateral contractual arrangements. While not necessarily opposed to direct relations, Russia used the negotiations to push for one of their own key interests: a resolution of unpaid debts for gas supplies accrued previously.

Practice	Actor	Description
Ultimatum	Russia	Setting a deadline for action or response. <i>Occurs:</i> Feb 1; Feb 26.
Meeting	Both	Usually a face-to-face summit, exclusively in Moscow. Can involve SOE executives or political leadership. <i>Occurs:</i> Feb 8; Feb 10; Feb 11; Feb 13; Feb 20; Feb 28; Mar 11.
Linkage	Both	Explicit tie between two or more issues (debt, intermediaries, supply contracts, transit fees). <i>Occurs:</i> Feb 1; Feb 9; Mar 4.
Postponement	Russia	Moving or canceling a previously established deadline. <i>Occurs:</i> Feb 10.
Press Release	Both	Public unilateral statement. <i>Occurs:</i> Feb 1; Feb 8; Feb 28; Mar 1; Mar 4; Mar 5.
Roadmap	Both	Resolution document that outlines next steps. <i>Occurs:</i> Feb 11; Mar 11.
Reductions	Both	Threat of or actual reduction in supply/transit of gas. <i>Occurs:</i> Mar 3; Mar 4.
Siphoning	Ukraine	Threat of or actual usage of gas meant for transit only. <i>Occurs:</i> Mar 4.
Payment	Ukraine	Transfer of capital. <i>Occurs:</i> Feb 13; Feb 20.
Intervention	Both	High level participation in process (as a development of the negotiation, rather than as a regular component). <i>Occurs:</i> Feb 11; Feb 26; Mar 4.
Emphasis	Both	Strategic hyperbole (or silence) concerning key issues. <i>Occurs:</i> Feb 9, Feb 28; Mar 11.

Table 2: Bargaining Practices, early 2008

4.2 PRE-CRISIS NEGOTIATIONS, SEPTEMBER & OCTOBER 2008

On September 4th, 2008 a delegation of Naftogaz executives travelled to Moscow to begin a discussion of gas supply and transit for the 2009 calendar year: this marked the first important step in a negotiating process that would extend until the end of the year, and one that would eventually degenerate into one of the worst crises in diplomatic relations experienced by Russia and Ukraine.¹⁴ On Wednesday, September 24th Prime Minister Tymoshenko held a press conference to announce the signing of an agreement on Russian supplies to Ukraine for 2009. This came, the Prime Minister said, despite the lack of Presidential instructions regarding gas talks. Tymoshenko emphasized the importance of engaging with Gazprom directly, and said her plans to visit Moscow in the near future were

¹⁴ “Naftogaz Ukrainy Delegates Go To Moscow For Talks With Gazprom.” ITAR-TASS. September 4, 2008 Retrieved: April 11, 2011.

predicated upon signed agreements between Naftogaz and Gazprom. That constructive, agreement-oriented tone continued the following day in New York City at a meeting of Russia and Ukraine's foreign ministers: Ukrainian minister Vladimir Ogryzko informed his counterpart Sergei Lavrov that Ukraine intended to pay its existing debt of \$1.3 billion in a lump sum (all prices in US dollars). Prodan echoed this commitment the day after his announcement in New York. Neither Ogryzko nor Prodan indicated where, exactly, the debt emerged from; nor, for their part, did any member of the Russian political or economic elite publicly signal that this amount is a pressing problem.¹⁵

Tymoshenko's September 24th announcement explicitly mentioned that she had come to an acceptable place in bilateral gas relations with Russia without directives from President Viktor Yushchenko. The next day, while in New York, Prodan said that Tymoshenko had ordered the Foreign Ministry to look at Yushchenko's proposals regarding early gas payment. The complicated domestic nature of Ukraine's early-fall efforts at negotiating a 2009 relationship continued when Tymoshenko announced on Friday, September 26th that a long term agreement on gas was expected to be signed before the end of October. The Ukrainian President didn't seem to be satisfied with the proceedings: his staff publicly discussed the risks inherent in proceeding without a Presidential directive.

Despite the domestic political rumblings, Tymoshenko announced soon after her September 24th speech that Presidential directives had been approved and gas talks were scheduled for Thursday, October 2nd. Tymoshenko and Oleg Dubyna, Naftogaz chairman, flew to Moscow for negotiations. While they left with approved directives apparently in hand, her departure became something of a public incident. The delegation's departure to Moscow was delayed after the plane they had planned to use was re-allotted to Yushchenko; his aircraft landed at the same airport due to technical difficulties, and he had continued his trip with the Moscow delegation's plane. This left the Prime Minister scrambling for

¹⁵ "Tymoshenko Intends To Visit RF To Sign Agreement On Gas Supplies." ITAR-TASS. September 24, 2008 Retrieved: April 11, 2011. "Tymoshenko Denies Claims Her Planned Visit To Russia Has 'Dual' Purpose." Interfax. September 24, 2008 Retrieved: April 11, 2011. "Tymoshenko Orders Ministry To Work On Early Debt Repayment Bid ." ITAR-TASS. September 25, 2008 Retrieved: April 11, 2011.

transport to the negotiations, something her retinue eventually secured in the form of a Cessna belonging to the Challenge Aero Airline. Tymoshenko, Dubyna, and advisor Vitaly Haiduk flew in the Cessna; Prodan, Minister of Industrial Policy Vladimir Novytsky and a coterie of journalists were forced to wait for another flight. Tymoshenko's staff publicly criticized the President for what they characterized as deliberate efforts to derail the talks.¹⁶

It is important to note that there were mixed signals being sent here by the Ukrainians. The obvious political tensions between the Presidency and the Prime Minister's office seemed to be impinging upon the negotiation process. Interestingly, these signals didn't follow the pattern we might suspect given our prior knowledge about personal and political relationships. The Prime Minister was the one securing agreements with Russia, whereas the President was the one holding back talks. In any case, the public, high-level nature of the dialogue was continued. While this wasn't yet a crisis, crisis bargaining practices were on full display.

Despite the air transport difficulties the three-hour gas talks made quick headway. Putin updated the media on the proceedings halfway through the day: he said that the talks were 'substantial' and would produce an intergovernmental memorandum on cooperation, one that would form the basis for an agreement between Gazprom and Naftogaz. By the end of the day that memorandum was signed and its details made public. The Putin-Tymoshenko agreement recognized that a three year transition to 'real-market economically grounded prices' were in the interest of both parties. Tymoshenko

¹⁶ "Ukrainian Govt Expects To Sign Gas Agreement With Russia By November (Part 2)." Interfax. September 26, 2008 Retrieved: April 11, 2011. "Tymoshenko Says Naftogaz Ukrainy Is Solvent." Interfax. September 26, 2008 Retrieved: April 11, 2011. "Ukrainian Govt Okays Directives On Gas Talks With Russia - Tymoshenko." Interfax. October 1, 2008 Retrieved: April 11, 2011. "Ukraine' s Timoshenko Flying To Moscow For Gas Talks." ITAR-TASS. October 2, 2008 Retrieved: April 11, 2011. "Ukrainian Govt Delegation Deprived Of Plane To Fly To Moscow." Interfax. October 2, 2008 Retrieved: April 11, 2011. "Plane Incident Aimed To Foil Gas Talks - Timoshenko' s Team." ITAR-TASS. October 2, 2008 Retrieved: April 11, 2011. "Ukrainian PM Tymoshenko Has Left For Moscow - Source (Part 2)." Interfax. October 2, 2008 Retrieved: April 11, 2011. "Political Problems Have No Impact On Economic Cooperation - Putin." ITAR-TASS. October 2, 2008 Retrieved: April 11, 2011. "RF-Ukrainian Gas Memo Is Basis For Gazprom-Naftogaz Deal - Putin." ITAR-TASS. October 2, 2008 Retrieved: April 11, 2011. "Russian, Ukrainian Premiers Sign Memorandum On Gas Supplies." ITAR-TASS. October 2, 2008 Retrieved: April 11, 2011.

announced that long-term contracts between the gas utilities would extend for a period of 10 years, and that the meetings had involved successful negotiations over ‘every single article’ of supply and transit contracts. A private source present at the negotiations told Interfax that the agreements included a move towards direct relations as opposed to the use of intermediaries. The newspaper *Ukrayinska Pravda* printed a photocopy of the memorandum on Saturday, October 4th. According to the document, Ukraine and Russia agreed to implement and initiate long term direct relations on January 1st, 2009, but neither party mentioned prices as Gazprom had yet to agree on purchase agreements with its Central Asian producers.¹⁷

October continued relatively quietly until Thursday the 23rd, when Yushchenko stated to the Ukrainian BBC service that the gas utilities were about to sign an agreement. Tymoshenko mentioned she was confident agreements would be signed in November. A Gazprom spokesman seconded that sentiment, but for the first time mentioned that all outstanding debts would have to be settled before any agreements could be made. The first public steps towards formal agreements were made on Monday, November 10th by Dubyna, who announced his intention to travel to Moscow for negotiations on November 11th and affirmed his interest in signing contracts that would last until 2019. Those meetings were relatively successful: both Naftogaz and Gazprom agreed that direct relations between the two companies should begin on January 1st 2009, and both agreed to a transition to market prices over a three year period. Putin and Tymoshenko followed up with each other on November 14th and it seemed as though the implementation of the October memorandum was continuing fairly smoothly.

A standard bargaining framework emphasizes the importance of information, resolve, interests, and experience for negotiation outcomes. These are useful concepts for un-

¹⁷ “Gazprom, Naftogaz Switching To Direct Relations Due To Debt Payoff.” Interfax. October 3, 2008 Retrieved: April 11, 2011. “Naftogaz Ukrainy, Gazprom To Sign Ten-year Contracts In Weeks.” ITAR-TASS. October 3, 2008 Retrieved: April 11, 2011. “Text of Russian-Ukrainian gas memorandum.” *Ukrayinska Pravda*. October 4, 2008 Retrieved: April 11, 2011. “Naftogaz Ukrainy, Gazprom To Soon Sign Gas Contracts - Tymoshenko (Part 2).” Interfax. October 3, 2008 Retrieved: April 11, 2011.

derstanding the cooperative nature of the Fall negotiations. The public statements of agreement over previously contentious issues like the role of intermediaries, outstanding debt, and market prices indicate that Russia and Ukraine held in common a substantial amount of *public information* about the stakes in the negotiation and the relative importance of components of the negotiation. Moreover, these common statements seem to demonstrate that Russia and Ukraine's *preferences* over these issues overlap to an important degree: high-level members of government and industry make parallel statements as to the necessity of removing intermediaries in the supply chain, the importance of moving towards market prices for both supply and transit, and the importance of signing multi-year contracts to ensure stability in the relationship (this last common interest points to the importance of the *shadow of the future* as well: both Russia and Ukraine are aware and of and seem to be conditioning their behavior on an expectation of future rounds). The public spats between Ukraine's President and Prime Minister suggest that the two-level nature of the negotiation is important, and that domestic ratification and coalition-building might be a barrier to cooperation, but Russia and Ukraine are able to sign an important memorandum by the end of this period despite these domestic issues. While it is difficult to draw inferences on the levels of *risk aversion* both actors have, the absence of any escalatory activity is notable. Finally, the public nature of actions such as the late-October memorandum suggest that both actors have an interest in making *credible commitments* to future policy and cooperation. In sum, the observable implications a standard bargaining framework yields seem to be substantiated in the empirical record of this early period; the role they play indicate that conditions were amenable to a cooperative process. A summary of observable implications and evidence in favor of them is captured in Table 3.

Implication	Description, Occurrence
Domestic Winset	Ukraine's behavior at the beginning of this period demonstrates a significant divide between the President and the Prime Minister over policy. This could indicate that domestic ratification might pose a problem for negotiations.
Common Knowledge	Both Russia and Ukraine agree on a transition to market prices, removal of intermediaries.
Preferences	Description: Both Russia and Ukraine publicly declare their joint interest for market prices, direct relations, and debt resolution. Relative preferences over these outcomes is unknown.
Shadow of Future	Both Russia and Ukraine recognize the importance of the long-run for their relationship, and both signal that they are interested in signing contracts that would stabilize the relationship in the future.
Credibility	Public statements, especially the October 2 memorandum, are used as credible commitments to future cooperation.
History	A successful negotiation in early 2008, as well as the explicit discussion of debt and intermediaries, suggests that past rounds inform these negotiations.

Table 3: Standard Bargaining Framework, Early Fall

A practice-theoretic bargaining framework focuses our attention on the actions taken, and the meanings of those actions, for insight into the process of negotiation and the probability of an inefficient outcome. Notably, this early-Fall period demonstrates many of the bargaining practices identified in earlier rounds. Meetings, press releases, memorandums or road-maps, interventions, linkage, and strategic emphasis are all employed between September and November as practices that substantiate the negotiation process. How do these bargaining practices relate to the observable implications of the practice-theoretic model? First, the *consistency* with which these practices are applied and the *acceptability* that seem to adhere to their use indicate that we are in fact observing regularized components of the negotiation process rather than one-off strategies or tools. Russia and Ukraine go through the motions of negotiating their supply and pricing contracts using a familiar set of practices — face-to-face meetings, press releases, roadmaps for action — that are rarely justified or questioned. Second, the bargaining practices employed substantiate the *diversity* argument: practices do more than reveal information about resolve. Bargaining practices seem to be used by both actors for a range of other ends, many of them related to reducing transaction costs in the back-and-forth (which is also evidence in favor of the *efficiency* argument).

Implication	Practice, Description, Occurrence
Consistency	Description: several bargaining practices are familiar from earlier rounds, and are regularly repeated in this early period. The consistency of practices lends credence to the regular place they have in the negotiation proces..
Acceptability	Description: Most of the practices engaged are done so without eliciting any surprise; most are also enacted without any justification or explanation. This lends credence to the fact that negotiation practices, if not taken for granted, are at least well understood by both actors as parts of the interaction.
Diversity	Practice: Press release, meeting, Occurs: Sept. 4; Sept. 24; Oct. 2;
Power	Practice: Meeting Description: Face-to-face meetings in Moscow are an important part of asymmetric power dynamic
Efficiency	Practice: Press release, meeting, roadmap, emphasis. Description: Several bargaining practices employed during this period are aimed at facilitating cooperation. Notable among these is Russia's silence on debt issues until Oct. 23.
Adequacy	Practice: For the most part, the actions Russia and Ukraine take help them cooperate during this period.
Friction	Practice: Most of the inefficiency in negotiation practices during this period come as a result of the internal politics and division within Ukraine, rather than as a result of bilateral negotiation practices.

Table 4: Practice-Theoretic Bargaining Framework, Early Fall

4.3 CRISIS NEGOTIATIONS, NOVEMBER & DECEMBER 2008

Thursday, November 20th, 2008 marked the beginning of a turn towards crisis. Russian President Dimitri Medvedev and Gazprom Chairman Alexei Miller held a press conference after a government-industry meeting that outlined some significant barriers to a long-term deal with Ukraine. The most important of these issues was a \$2.4 billion dollar debt Naftogaz had incurred and thus far left unpaid. This figure was fleshed out over the next few days: according to Gazprom Naftogaz owed around \$1 billion for October gas, \$250 million in fines, and \$1.27 billion for winter 2007-2008 gas supplies. The tone at the Russian conference was significantly different from the statements released just a week prior: now, Miller explicitly suggested that gas prices might rise above \$400/mcm.¹⁸ The response from Ukraine was immediate. Minister of Industrial Policy Vladimir Novitsky criticized the cost of gas figure as being outrageously high, and Naftogaz responded to

¹⁸ "Medvedev Orders Gazprom To Recover Gas Debt From Ukraine." ITAR-TASS. November 20, 2008 Retrieved: April 15, 2011. "Kiev Displeased With Growth Of Russian Gas Price For Ukraine." ITAR-TASS. November 21, 2008 Retrieved: April 15, 2011. "Naftogaz Ukrainy Says It Has No Debts To Gazprom." ITAR-TASS. November 21, 2008 Retrieved: April 15, 2011. "Ukrainian president tells premier to pay gas debt to Russia." Interfax-Ukraine. November 21, 2008 Retrieved: April 15, 2011.

the debt allegation by quoting a \$1.267 billion debt to RosUkrEnergo, but no overdue payments to Gazprom itself. The President directed the Prime Minister to resolve the situation within five days, and Tymoshenko blamed the situation on the RosUkrEnergo. She maintained that she still expected a gradual transition to market prices.¹⁹

What changed? The empirical record doesn't help much in answering this question. The Russians offer little in the way of an explanation of the sudden chill in their relations. While domestic political issues continued to roil within Ukraine this hadn't affected the gas relationship at earlier stages of the negotiation. Ukraine's attempts to link itself closer to NATO were mostly in the rearview mirror (and unsuccessful); new developments on that front wouldn't arise until mid-December, well into the gas crisis devolution. The most plausible reason for Russia's newfound interest in securing debt-payments might have been its growing appreciation for the seriousness of its financial crisis. While the Russian stock market began a steady decline in the later summer and early fall, it is reasonable that the seriousness of this downturn might have only become apparent in Moscow in October and November. The effect of the financial crisis was also likely compounded by a general decline in oil prices, which had a negative impact from the Russian perspective on both the value of gas produced domestically and on the financial relationships with the producers in Eurasia it sourced much of its gas for transit from.

This new Russian resolve proved to be a significant obstacle in the way of gas cooperation. Evidence suggests that Russia now had a much stronger, more firmly fixed stake in retrieving income in the gas sphere; this marks a dramatic shift in their strategic endgame. Whereas prior rounds of negotiation demonstrated the interest of both parties in locating politically expedient, flexibly determined solutions, Russia was now more resolute on its position in the bargaining space. The shock of the deepening financial crisis shifted the

¹⁹ "Kiev Displeased With Growth Of Russian Gas Price For Ukraine." ITAR-TASS. November 21, 2008 Retrieved: April 15, 2011. "Naftogaz Ukrainy Says It Has No Debts To Gazprom." ITAR-TASS. November 21, 2008 Retrieved: April 15, 2011. "Ukrainian president tells premier to pay gas debt to Russia." Interfax-Ukraine. November 21, 2008 Retrieved: April 15, 2011. "Gas Debt Is Liability Of 'Shadow' Companies - Ukrainian Premier." ITAR-TASS. November 21, 2008 Retrieved: April 15, 2011. "Ukrainian premier expects price of Russian gas to go up gradually." Interfax-Ukraine. November 21, 2008 Retrieved: April 15, 2011.

ends Russia had in mind when engaging in negotiations around gas contracts. Critically, however, the practices employed to conduct the negotiations remained unchanged. Both Russia and Ukraine continued to deploy the same crisis bargaining practices evident at earlier stages of the process. This disassociation between means and ends in the negotiation process is at the core of its failure. The gas shutoff, an event that was both individually and collectively suboptimal, occurred as a result of the skilled deployment of a repertoire of practices that no longer fitted the bargaining goals of each set of negotiators or the structure of the interaction.

Gazprom spokesman Sergei Kupriyanov made the terms of resolution, and the consequences of a failure, very clear on November 22nd. If the debt wasn't paid then contracts could not be signed, and Gazprom would cease deliveries of gas to Ukraine as soon as contracts ran out. In addition, non-payment of the debt could force Gazprom to transition to market prices immediately. A further clarification of the debt also was released on November 22nd. Naftogaz owed approximately \$400 million to RosUkrEnergo after having paid only \$285 million for September gas. The bill for October gas added another \$798.6 million, and left-over debts and penalties from the beginning of the year were valued at \$250 million.

The two parties continued a communication of terse public statements on Monday, November 24th. Medvedev spoke about using both administrative and legal measures to extract payments from Naftogaz, while Prodan responded that Ukraine hadn't received any formal documents that would indicate a lawsuit. Speaking later that day, Foreign Ministry Press Secretary Vasyl Kyrylych said "gas is an absolutely and utterly economic category for us. I would not want gas to become a political category, that is, a tool for exerting political pressure on another state."²⁰

²⁰ "Medvedev Hopes Problem On Gas Supply To Ukraine Not To Recur(adds)." ITAR-TASS. November 24, 2008 Retrieved: April 15, 2011. "Ukraine says no documents received from Russia on Gazprom's possible lawsuit." Interfax-Ukraine. November 24, 2008 Retrieved: April 15, 2011. "Ukraine warns Russia against using gas for political pressure." Interfax-Ukraine. November 24, 2008 Retrieved: April 15, 2011. "Ukraine Asks For Delay In Payment For Imported Gas Delivered In October." ITAR-TASS. November 24, 2008 Retrieved: April 15, 2011. "Timoshenko Guarantees Unhindered Transit Of Russian Gas To Europe."

Tymoshenko advanced the negotiations with a Monday announcement that Ukraine had asked for a delay in payment for October gas. The Prime Minister made a great effort in her speech to assert Ukraine's reputation as a reliable business partner: Ukraine had every intention to fulfill all transit responsibilities, and its underground reserves meant that it could be counted on by both the Russians and the Europeans for regular and punctual transportation services. She explicitly drew on the precedent of former agreements that deferred payments for gas until used, and said that a delegation had travelled to Moscow to talk about the issue in person.²¹

Gazprom and Naftogaz officials met again on Wednesday, December 24th but the talks were ineffectual. Late in the day Medvedev publicly exhorted the Ukrainians to pay, and emphasized that Russia was just interested in getting paid. Kupriyanov made it clear that the outstanding fees would reach \$2.118 million by the end of the year.²²

On December 27th Miller delivered letters to European customers warning that a supply disruption might be coming. The Chairman of the Verkhovna Rada of Ukraine, Vladimir Litvin, visited Moscow over the weekend of December 27th, 28th and 29th: he met with Putin and Medvedev, but their discussions did nothing to improve the situation. Neither did an hour-long phone conversation between Putin and Yushchenko on Monday, December 29th. Miller met a Naftogaz delegation and informed them that gas prices could rise to \$218/mcm as of January 1st, which would be a direct shift to market prices. Kupriyanov stated that a market price might be implemented if debts aren't settled. At the same time, Naftogaz continued to reject offers from the Russians to pay for gas transit in advance.²³

ITAR-TASS. November 24, 2008 Retrieved: April 15, 2011.

²¹ "Ukraine Asks For Delay In Payment For Imported Gas Delivered In October." ITAR-TASS. November 24, 2008 Retrieved: April 15, 2011. "Timoshenko Guarantees Unhindered Transit Of Russian Gas To Europe." ITAR-TASS. November 24, 2008 Retrieved: April 15, 2011.

²² "Gazprom May Discuss Use Of Gas Reserves In Ukraine For Debts." ITAR-TASS. December 24, 2008 Retrieved: April 21, 2011. "Russia To Use All Possibilities To Collect Debts From Ukraine – Medvedev." ITAR-TASS. December 24, 2008 Retrieved: April 21, 2011. "Ukraine Can't Pay Gas Debt To Russia – Gazprom." ITAR-TASS. December 24, 2008 Retrieved: April 20, 2011.

²³ "Ukraine Unlikely To Settle Gas Debt Before Yearend: Gazprom (Adds)." ITAR-TASS. December 27, 2008 Retrieved: April 21, 2011. "Ukraine Parliament Speaker To Moscow To Develop Relations." ITAR-TASS.

Substantial movement was initiated on the Ukrainian side midway through Tuesday, December 30th. Naftogaz informed *Agence France Presse* that they intended to transfer around \$1.5 billion, and the government announced that the loans from Oshchadbank and Urkeximbank worth approximately \$2 billion had been authorized. Yushchenko followed this news up with a public statement that indicated his belief that Ukraine had satisfied all of its debts and his confidence that an agreement on 2009 supplies could be signed. The payment didn't cover outstanding penalties, Zemlyansky clarified, but those should be left until a new contract is signed. Tymoshenko also took action on December 30th: according to her press secretary she held a phone conversation with Gazprom CEO Miller, though the outcome was left undiscussed.²⁴

Wednesday, December 31st began with mixed signals. Tymoshenko announced that she planned to visit Moscow for the day, but almost immediately cancelled the trip. Itar-Tass cited sources that say she was discouraged from going by Yushchenko. Naftogaz reportedly sent a message to Gazprom that suggested Naftogaz would have no reason to continue transit services to Europe if there weren't any 2009 contracts in place: Kupriyanov reacted negatively to the message, though its validity was publicly questioned by Prodan. Gazprom announced that the price for gas for 2009 would be \$250/mcm, to which Yushchenko's representative, Bohdan Sokolovsky, responded by saying it was too high if the price of transit remained \$1.7/mcm/100km. Initial reports indicated that Dubyna was called back

December 27, 2008 Retrieved: April 21, 2011. "Medvedev expresses concern over Russian-Ukrainian gas problem." Interfax. December 29, 2008 Retrieved: April 21, 2011. "Putin Says His One-hour Gas Debt Talk With Yushchenko Was Fruitless." ITAR-TASS. December 29, 2008 Retrieved: April 21, 2011. "Russia's Gazprom warns Ukraine of steep gas price hike if deal not reached." Interfax. December 29, 2008 Retrieved: April 21, 2011. "Russia May Set Price Of Gas For Ukraine At 418 Dlr - Gazprom." ITAR-TASS. December 30, 2008 Retrieved: April 21, 2011. "No Chance Ukraine May Pay For Gas With Future Transit Services." ITAR-TASS. December 30, 2008 Retrieved: April 21, 2011. "Ukraine counts on positive outcome of gas talks with Russia." Interfax-Ukraine. December 30, 2008 Retrieved: April 21, 2011.

²⁴ "Ukraine May Pay For Gas Within Two Or Three Hours - AFP" ITAR-TASS. December 30, 2008 Retrieved: April 21, 2011. "Govt Permits Neftegaz Ukrainy To Borrow \$2 Billion For Repaying Gas Supply-2." ITAR-TASS. December 30, 2008 Retrieved: April 21, 2011. "Ukraine pays in full for Russian gas - presidential secretariat." Interfax-Ukraine. December 30, 2008 Retrieved: April 21, 2011. "Naftogaz Transfers \$1." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Ukraine's PM, Gazprom's CEO Negotiate Gas Supplies Over Telephone." ITAR-TASS. December 30, 2008 Retrieved: April 21, 2011.

to Kyiv earlier than expected by Yushchenko, but later reports undermined this data.²⁵

The Russian leadership had the last public word on the issue late in the afternoon on Wednesday, December 31st. At a press conference in Moscow Putin explained Russia's reasoning on the gas price: the price was lower than the market rate because of a 'humanitarian' interest in Ukraine's well-being and fiscal health, while also recognizing that the price had to be reasonable enough that payment could be expected. He also recognized that domestic political rifts were hurting Ukraine's ability to deal with a large price increase. Finally, Putin indicated that Ukraine was contractually bound to deliver gas to Europe until December 31st, 2010. Alexei Miller also spoke: the negotiations of the last two days had been unsuccessful and Gazprom has not received the promised transfer of money. He placed the blame for the failure to find a solution squarely on the Ukrainians: according to him, forces inside of the country were interested in fomenting a crisis. He announced that deliveries of gas to Ukraine would be cut off at 10am on Thursday, January 1st, 2009.²⁶

We are best able to understand this slide into conflict by utilizing both bargaining frameworks discussed above. A key reason for the inefficient outcome reached on January 1 lies in the ineffectiveness of credible signaling during this period. Neither Russia nor Ukraine are able to convince the other party that their preferences over outcomes have

²⁵ "Ukrainian embassy confirms premier to visit Moscow for gas talks." Interfax-Ukraine. December 31, 2008 Retrieved: April 21, 2011. "Ukraine Crudely Blackmails Russia, Europe - Gazprom's Spokesman." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Gazprom Sees 30/70 Chances Gas Agt With Ukraine To Be Signed Today." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Ukrainian energy minister suggests letter with threats to Gazprom fake." Interfax-Ukraine. December 31, 2008 Retrieved: April 21, 2011. "Gazprom Offers Ukraine To Buy Gas At \$250 Per 1,000 Cu M-source." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Ukrainian premier cancels New Year's trip to Moscow." Interfax-Ukraine. December 31, 2008 Retrieved: April 21, 2011. "Ukraine PM Trip To Moscow Prevented By Yushchenko -Source." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011.

²⁶ "Ukraine's Chief Delegate At Gas Talks With RF To Return To Kiev." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Ukrainian president orders gas delegation to break off Moscow talks - source." Interfax-Ukraine. December 31, 2008 Retrieved: April 21, 2011. "Ukrainian Delegation Is Continuing Gas Talks In Moscow." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Ukrainian presidential aide says Russia's proposed gas price too high." Interfax-Ukraine. December 31, 2008 Retrieved: April 21, 2011. "Russian President Hurries Kiev To Make Reasonable Decision Over Gas." ITAR-TASS. December 31, 2008 Retrieved: April 21, 2011. "Russia's Gazprom: Gas Supplies To Ukraine To Stop 1 January." Vesti TV. December 31, 2008 Retrieved: April 21, 2011.

shifted from earlier rounds; Russia in particular is unable to forcefully demand debt payment, and Ukraine continues to negotiate as if Russia will settle on a more mutually-acceptable point of agreement. This inability to credibly signal comes, however, from the bargaining practices both actors continue to deploy in the negotiation. All of the (at this point) familiar bargaining practice are utilized, but ineffectively. These practices make sense in the negotiation for a number of reasons: they allow Russia and Ukraine to maintain political control, to regularize their interactions, and to incorporate political interests into contractual issues. However, they are not primarily designed to accomplish a key task: credibly signal resolve. Conditionality, high-level meetings, ultimatums, requests for or offers of postponement, late-hour interventions from the top, of selective emphasis/de-emphasis are all engaged without question, but also not ideally suited to locate an efficient outcome given new preferences over extracting immediate value from the relationship.

Implication	Description, Occurrence
Domestic Winset	While earlier in the Fall negotiations Ukraine seemed divided, all elements of the Ukrainian leadership worked together to resolve their contract dispute as the negotiations went on.
Common Knowledge	Russia and Ukraine seem unable to effectively communicate the value they place on outcomes of interest. Changing circumstances limit the degree to which key issues are understood by both actors.
Preferences	Both Russia and Ukraine continue to prefer locating an agreement to engaging in a 'gas war', Russia is unable to effectively signal its resolve concerning debt payment.
Shadow of Future	During this period both actors shift from discussing multi-year contractual arrangements to threatening immediate changes to the pricing structure and supply guarantees.
Credibility	Neither Russia nor Ukraine signal credibly.
History	Earlier-round successes seem to be mostly forgotten, or discounted.

Table 5: Standard Bargaining Framework, Late Fall

<i>Implication</i>	<i>Practice, Description, Occurrence</i>
Consistency	Bargaining practices deployed in earlier rounds are prominent features in this period as well.
Acceptability	Despite the increasingly contentious tone of negotiations, neither Russia nor Ukraine express any surprise at the tools of negotiation being employed.
Diversity	Practices are still being employed for a number of ends: facilitation, ensuring flexibility, and escalation. This is despite the fact that one end in particular, credible signaling, becomes overwhelmingly important to locating an efficient outcome.
Efficiency	Several bargaining practices employed during this period are aimed at facilitating cooperation. Notable among these is Russia's silence on debt issues until Oct. 23.
Adequacy	The bargaining practices employed during this period are inadequate for satisfying the negotiation interests each actor hold. In particular, standard practices don't let either Russia or Ukraine signal their resolve over key issues effectively.

Table 6: Practice-Theoretic Bargaining Framework, Late Fall

In the end a strange mix of highly strategic action and unintended consequences marked the negotiation process. Russia and Ukraine were perhaps behaving as quintessential rational actors: each move was indicative of strategic interaction where both actors were trying to maximize their utility. At the same time, however, these calculated and strategic actions were practices in the context of a tacit approach to how to engage in gas relations that didn't fit with the conscious goals being sought. Both Russia and Ukraine continued to engage in practices that 'made sense' against the backdrop of a certain understanding of how to 'do' gas politics. This understanding privileged flexibility and political control over fixed interests. As a disposition towards the right or appropriate way to engage, this sensibility was the product of sedimented interactions over decades, each reinforcing the necessity of political intervention and the expedience of creative flexibility. The argument here is not that it can't or doesn't change; actors like Russia and Ukraine are potentially able to learn from mistakes and reconsider patterns of action and interaction. Rather, evidence in this case suggests that the background understanding that informs practice doesn't necessarily move in lockstep with preferences or rational interests. A set of practices continued to 'make sense' to both actors through the course of this process, despite the fact that they ill-suited to attaining a cooperative solution given the preferences each party — Russia in particular — had over the outcome. This case suggests that political actors can willingly and consciously make choices and deploy

practices that won't and can't bring about the ends they have in mind. Here, both actors had an interest in working out a contractual agreement, but weren't equipped to locate one given the repertoire of practices they continued to think was appropriate.

More broadly, this analytic narrative demonstrates that behavior — a set of negotiation practices, in this case — come to matter as independent parts of a negotiation process if they are engaged over time, consistently, and effectively. Russia and Ukraine continue to use the tools of bargaining they know how to use. Practices that are stable, accepted, or based on tacit assumptions can be useful, especially if the practitioner is able to apply them to familiar problems. Crucially, however, their stability makes them difficult to update or modify in the face of changing circumstances. Bargaining practices that make sense in certain contexts can produce inefficient outcomes when applied to a different set of circumstances.

4.4 ALTERNATIVE EXPLANATIONS

The analytic narrative developed above makes the following point: Russia and Ukraine wound up in a gas war as a result of practices intentionally deployed to misidentified ends. More generally, bargaining practices implemented to smooth frictions, facilitate interaction, and maintain political control and flexibility can have unintended consequences when key conditions change: practices that make sense in some contexts work against efficiency in others.

This argument draws on both theoretical frameworks introduced in section 2 of this paper. A standard bargaining framework and a practice-theoretic framework both yield insights into the negotiation process, and both help us make sense of an inefficient outcome. The former gives us a set of concepts that make sense of the escalatory behavior observed, and rightly emphasize the importance of credible information (or the lack thereof) in the road towards suboptimal equilibria. The latter turns our attention to the stuff that actually happens, negotiation practices, and gives us a theory to make sense of how they seem at

once to make sense to the practitioners and also work at odds to their ultimate goals.

There are at least two strong alternative explanations that merit direct discussion. The first comes from the perspective of a strict rationalist, unimpressed with the practice-based frictions and the role they play in this paper's favored argument. The second comes from the perspective of a cynic — perhaps a realist — who sees a process going according to plan where I see inefficient outcomes. I develop, engage, and ultimately dismiss both of these alternative explanations in turn.

First, practices don't matter in and of themselves: they matter only insofar as the express the preferences and are limited by the constraints of the practitioners. This argument is closest to the standard bargaining framework, and holds that all we need to know about why the negotiations failed is captured in the winsets and signaling strategies of each actor. As indicated in the analytic narrative above, however, signaling strategies depend to an important extent not only on the preferences being signaled, but also on the strategy employed. While Russia and Ukraine both had the preferential basis to conclude their contract and debt negotiations efficiently (that is, short of conflict), the negotiation strategies they employed limited their ability to translate preferences into outcomes.

A second alternative explanation looks at bargaining failure and sees a desired outcome, not something unintended or unwanted. From this perspective, Russia wanted the gas war: it let them send a message to Ukraine (about the dangers of its political waywardness), to Europe (about the unreliability of the transit options they currently have), and to a domestic constituency (perhaps delighted to see political leaders assert dominance). This alternative accords with much of the popular press, in which we commonly see gas supplies referred to as a 'weapon.'

This perspective over-simplifies the bargaining dynamic at the heart of Russia-Ukraine gas relations; it is also undermined by at least two empirical facts. In terms of problematic over-simplification, such an approach misses the reality of the bargaining dynamic: Russia and Ukraine are both interested in and have the means to use their gas interaction

strategically and instrumentally. As a powerful supplier, it isn't surprising that Russia uses its resources to attempt to extract concessions or rents out of their arrangement with Ukraine (or, for that matter, the rest of Europe). Ukraine also leverages the relationship instrumentally, however: as a key transit state and choke point in between a supplier and the market it relies on for an important part of its revenue from gas, Ukraine negotiates strategically as much as Russia does. This isn't to say that their relationship is symmetric; it isn't (and recent changes in the market and supply conditions have important implications for the asymmetry involved).

Empirically, this popular argument neglects two important facts, both of which appear in the case study developed above. The first is that Russia declined a more appropriate opportunity to send these sorts of messages in the winter of 2007. If Russia was primarily interested in punishing Ukraine or sending a message, it would have done so before internal divisions within the Ukrainian leadership were already undermining its tilt towards Europe, and before declines in gas prices gave Ukraine leverage vis-a-vis Russia. Second, the punishment perspective ignores the incrementally cooperative relations that made up much of Russia-Ukraine negotiations throughout 2008. The cooperative outcomes, agreements, plans of action, — even the offers to flexibly structure repayment made in the twilight days of the Fall 2008 negotiation round — all undermine the perspective that sees Russia as ultimately vengeful, willing to interrupt a key supply chain and lose millions of dollars in revenue.

5 CONCLUSION

The argument developed in this paper integrates two very different theoretical frameworks. On one hand, the bargaining theory is a key touchstone for understanding the Russia-Ukraine interaction. It helps us identify the situation as one of incomplete information where both parties have at the same time an interest in a cooperative outcome as well

as incentives to misrepresent that interest and their willingness to engage in conflict. The logic of the bargaining model is unsatisfying, however, when we look closely at the specific actions taken by Russia and Ukraine in the course of their negotiations. They seem to be engaging in practices designed to meet very different ends than communicating costly signals. In order to establish a firm theoretical ground for understanding the basis on which practices are engaged, I turn to practice theory. Practices make sense for the practitioner against a background understanding that is tacit and most often not reflected upon: the things done make sense, but in terms of a logic that underlies the specific choices made in a way that isn't articulated or strategic in nature. This alternative theoretical basis provides me with the conceptual apparatus to makes sense of the way Russia and Ukraine conduct their gas affairs. They have, over time, developed a repertoire of bargaining practices that make sense against a very specific but tacit set of logics: the bargaining practices Russia and Ukraine employ allow them to maintain political control over the interaction and flexibility over a range of possible outcomes.

Bringing bargaining theory together with practice theory allows me to offer a compelling explanation of the variation at the heart of the 2008 case. Russia and Ukraine were able to use the repertoire of bargaining practices at hand successfully in the spring round because these fit with the broader, tacit logic of the gas trade: high-level political intervention, face-to-face meetings, and creative solutions allowed them to locate and secure a mutually acceptable interest that satisfied, first and foremost, their broad interest in maintaining political control over the process and flexibility over a range of outcomes. What changed in the fall negotiations? Russia's background understanding of the nature of the gas trade was replaced by an interest in extracting immediate value from the interaction. The bargaining practices that it continued to deploy, however, made sense within a very different logic. At the same time, Ukraine continued to use a repertoire of practices that weren't suited to determining how to meet Russia's demands because the Ukrainian leaders continued until the end to believe that Russia still had flexibility

and political control as the primary logics of the interaction. Both states used a set of bargaining practices that continued to ‘make sense’ in the context of their gas relationship, but that were ill-suited to the change in interests that emerged in the latter half of 2008.

This argument has a few implications worth mentioning. First, the evidence presented in this paper suggests that actors can and do shift their preferences in strategic interaction. This might be fairly commonsensical, but it isn’t a type of variation captured well in existing analytic approaches. The bargaining framework applied in this paper analyzes interaction given a set of preferences over the dispute; it doesn’t leave much analytical space for changes to those preferences. In the case at hand, however, that matters: evidence suggests that Russia shifted what it wanted to get out of the interaction in the middle of the negotiation process.

Second, bargaining practices can be useful for more than credibly revealing information about resolve; they are employed for a range of ends. Public disputes are about revealing information and creating costs, but they can have other dimensions. Here, evidence suggests that the goal of making the bargaining process public by employing certain crisis bargaining practices was initially and normally aimed at maintaining political control and flexibility over outcomes rather than revealing information primarily about their fixed interests at stake.

Third, the argument made here recommends that as researchers we think about the relationship between means and ends rather than assuming a strict or logical continuity between them. Again, this isn’t that radical a claim: social actors regularly employ counterproductive means towards perceived or intended ends. At the same time, however, we rarely think about or leave space for this kind of inconsistency in our theoretical models. The evidence presented here suggests that this sort of inconsistency can happen, and can have important effects on the political and social outcomes we are interested in.

Fourth, the argument presented here relies on elements of both the ‘rationalist’ bargaining model of war and ‘constructivist’ practice theory. There are analytic gains to be

made, I believe, in thinking about intersections rather than treating these frameworks as wholly different, offering only competing explanations. In this case, we can't make much sense of the path towards full crisis without considering the strategic and highly rational choices made by actors on both sides of the negotiation table. At the same time, focusing only on these strategic choices leaves us no way to think about the background understandings that constrain those choices, make them seem appropriate where they are not, allow them to be deployed unquestioningly towards ends they don't effectively satisfy.

Finally, this research moves the practice-theoretic literature forward by integrating it with mainstream theoretical and methodological approaches, by applying its logic to a political-economic phenomena, and by considering the 'dark side' of practices, the ways in which they can limit cooperation and produce inefficient or suboptimal outcomes. While the bulk of practice-theoretic work has focused on the ways in which regularized interactions can facilitate community-building and cooperation, practices can and do produce problematic outcomes. The agreed-upon, tacit, accepted 'ways of doing things' can inhibit or prevent cooperation just as much as they produce or sustain it.

This research has several clear limitations. The focus on a narrow slice of time maintained here might give us some provisional purchase on how the relevant processes and mechanisms work in relation to the theories we have about them, but it cannot offer strong predictions for other cases of this relationship or other relationships constituted around the trade of strategic resources. While the structure of this argument proposes that the background understanding of 'how to do' gas politics within the Russia-Ukraine context might affect other instances of their interaction, this is a claim that needs to be substantiated by other casework. And while other relationships structured around strategic resources in different contexts might also be affected by the understandings that inform practices, there isn't any reason to think these other relationships aren't conditioned by different backgrounds and involve the deployment of different practices.

The line of inquiry, however, suggests a few important research questions that could

build on the initial findings suggested in this empirical work. First, under what conditions do causally important background logics create a substantial constraint on political action and choice? Are there some contexts where these constraints are stronger than others? Second, how do background understandings and the practices they inform change over time? Is their development or modification a process of conscious reconsidering in light of suboptimal outcomes, where actors take specific steps to reconsider their conceptions of 'what makes sense' and update their repertoire of practices accordingly? Or is it an organic, sedimentary process, one that unfolds over time beneath or behind the rational reflection of the agents who sustain it and are constrained by it? The 'practice turn' is one still being made, and it remains to be seen how it is developed and refined over time and through research. This research makes the 'practice turn', not as a competing or wholly different investigative effort but as one that can be integrated and applied together with some of the standard and canonical approaches in the field.

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