Judicialization of the Sea: Bargaining under the UNCLOS Regime[1]

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Abstract

When two states agree on a judicialized dispute settlement process, does their bargaining behavior change in the court's shadow? We propose an affirmative answer. Judicial bodies generally reduce uncertainty about bargaining outcomes, reveal courts' decisions and reasoning, and threaten court involvement. States that agree on a court's acceptability know which court will hear their case, as well as how that court reasons and rules. Armed with this information—and incentivized to minimize the costs of litigation or retain control of their dispute's management and outcome (i.e., flexibility)—states substitute other strategies (e.g., negotiation or mediation). We test this argument by focusing on the law of the sea regime. Maritime claims data provides the full set of maritime claims that could go to court, while the United Nations Convention on the Law of the Sea (UNCLOS) offers us a highly judicialized context in which (i) compulsory, judicial settlement exists as a method of last resort, and (ii) states can vary their judicial commitments. Our empirical results consistently support the theoretical argument's predictions. After separating the effects of legalization from judicialization, we find that states bargain differently—and largely without adjudication—in the courts' shadows.

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International courts are increasingly major players in world politics, with their number, scope, and influence rising dramatically in recent decades.[2] Over sixty quasi-judicial or dispute settlement bodies operate today at the global and regional levels, including the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and the European Court of Justice (ECJ).[3] It seems natural, therefore, to ask whether and how the increased involvement of international courts in global affairs transforms international relations—or stated differently, the extent to which the judicialization of world politics matters. In particular, does the operation of an international court alter out-of-court bargaining between states whose disputed issue potentially or actively falls under the court's jurisdiction?[4] Much like in domestic politics—where potential litigants reach agreement outside the courtroom when they understand how the court operates and typically rules (Mnookin and Kornhauser 1979)—we propose that international courts cast a shadow under which (potential) litigants' bargaining changes markedly.

Our argument follows a straightforward logic. Rational (potential) litigants seek the best outcome possible for themselves and consider various dispute resolution mechanisms to achieve that goal. A judicial process offers one such mechanism. Yet if the litigants know the court that will hear their case, the court's rules and procedures, and the court's case law, they predict—with some uncertainty—how the court will rule. This encourages out-of-court bargaining through other conflict management mechanisms (e.g., negotiation or mediation). As a result, states not only avoid the costs of litigation, but also can obtain a more favorable outcome than the one they

[2] International courts are judicial bodies that have compulsory jurisdiction over some issues, a permanent set of judges, and procedures and rules that govern their decision making (Posner and Yoo 2005, 9).
[3] For a list, see the Project on International Courts and Tribunals at http://www.pict-pcti.org/publications/synoptic_chart/synop_c4.pdf.
[4] We use "court" to refer both to standing adjudicative bodies and more institutionalized forms of arbitration (e.g., the Permanent Court of Arbitration (PCA)).

expect from the court. Because such incentives exist *before* and *after* cases are filed, the court's shadow prevents the filing of some cases and the management of others.

To develop and evaluate the merits of this general argument, we focus on judicialization within the law of the sea—that is, the regime embodied within the United Nations Convention on the Law of the Sea (UNCLOS).[5] UNCLOS creates elaborate conflict management procedures to address contentious maritime issues. Through it, states agree to eschew the use of military force (Article 279) and may choose among numerous peaceful techniques to settle their maritime disputes (Article 280), including bilateral negotiations and conciliation (Merrills 2005, 183). Should these strategies fail, Article 287 identifies four compulsory and legally binding conflict management options (Klein 2005): (i) ITLOS, (ii) the ICJ, (iii) arbitration under Annex VII of UNCLOS, or (iv) arbitration under Annex VIII[6] of UNCLOS (Articles 281 and 286). More uniquely, UNCLOS allows signatory states *a priori* to specify the acceptability of these four compulsory options and rank their preferred order for using them to manage future disputes. Signatories therefore make not only general commitments to peaceful dispute settlement procedures, but also can issue specific, optional declarations in support of particular courts.

Article 287 declarations originate from a minority of states. Indeed, as of 2016, 179 of 194 countries signed the UNCLOS treaty (92.3%), 164 states ratified the treaty (91.6% of signatories), and 44 of the ratifying countries (26.8%) submitted Article 287 declarations recognizing the jurisdiction of ITLOS (n=35), the ICJ (n=18), or arbitration procedures (n=28) for compulsory dispute settlement.[7] Despite such small numbers, they fundamentally change

[5] UNCLOS opened for signature in 1982. It entered into force in November 1994.
[6] This involves an ad hoc arbitration procedure to handle disputes specifically over fisheries, environmental protection, scientific research, or navigation.
[7] States can prefer multiple compulsory mechanisms. We compile these data from the United Nations, http://www.un.org/depts/los/settlement_of_disputes/choice_procedure.htm. The list of states derives from the Correlates of War Project, http://www.correlatesofwar.org/data-sets/folder_listing.

bargaining behavior between states that make them. When two states' declarations align (e.g., both prefer ITLOS), the threat to go to court gains credibility. Moreover, because they know which court will hear their case, disputing states understand the case law and reasoning that will apply, and therefore what the likely outcome will be—albeit with some uncertainty. This alters their out-of-court bargaining. As a measure of last resort, the courts reduce the use of military force. Simultaneously, they discourage maritime claims and encourage non-binding conflict management (e.g., negotiation and mediation) to manage any arising claims—mainly to avoid the costs of litigation (e.g., losing control over their dispute's management and outcome) and obtain a more favorable outcome.

Using maritime issues and UNCLOS to study the shadow effects of judicialization offers four key advantages over other issue areas. First, states advance many competitive claims to maritime areas. Second, the likelihood that these claims militarize remains high, as recent tensions near the Spratly Islands or Senkaku/Diaoyu Islands illustrate.[8] Third, maritime claims concern sovereignty over spaces that states find valuable because of boundary issues, access to resources, and strategic chokepoints. Maritime claims therefore constitute a "hard test" for those advocating that judicialization changes state behavior outside the courtroom. Finally, understanding the judicialization features that interest us (i.e., shadow effects) requires that we investigate cases that never go to court. These cases are often difficult to locate; however, data on maritime claims—that is, public statements in which official state representatives contest sovereignty over maritime space—provide us with these potential cases (Hensel et al. 2008).

[8] There are 143 dyadic maritime claims in the Western Hemisphere and Europe from 1900-2001; 90 militarized disputes directly relate to these claims. Of the 143 dyadic ICOW maritime claims coded from 1900-2001, 115 (80.4%) begin in or after 1945. See Hensel et al. (2008).

Our study offers three main theoretical and empirical contributions. First, it extends a domestic legal argument to the international level and finds support for its operation (Mnookin and Kornhauser 1979). When (potential) litigants know which court will hear their case, they can predict how a court will decide its case, using the court's known case law, procedures, judges, and reasoning; this alters their bargaining behavior. Many analysts overlook this possibility; they focus on cases that come before courts, thereby missing significant out-of-court effects on interstate bargaining. In addition, our study exploits the issue-based approach to world politics (Hensel et al. 2008) to capture the cases that *never* appear in court. This not only offers a true test of courts' shadow effects, but also demonstrates the wider applicability of the issue-based approach to studies of international law. And finally, the study employs a specific, international judicial commitment (Article 287 declarations) to investigate judicialization's effect. The subset of declaring states indeed bargains differently, and a review of this subset reveals no obvious alternative that accounts for both their declarations and their out-of-court behavior. We therefore conclude that, through judicialization, international courts cast a shadow that fundamentally changes how states bargain outside the courtroom.

The Judicialization of International Relations: The Role of International Courts

The expanding number and scope of international courts reflects a broader trend towards greater institutionalization in world politics. States have formed hundreds of international organizations (IGOs) since the Napoleonic wars and signed thousands of treaties that create organizational structures.[9] Many recently created courts lie embedded within such treaties—an integral part of the regional or global organizations they establish.[10] The presence of these courts not only

[9] For example, preferential trade agreements, bilateral investment treaties, and military alliances.
[10] For example, ICJ-United Nations, ECJ-European Union, and ITLOS-UN Law of the Sea Convention.

mirrors and promotes greater *legalization*—that is, the growth of international legal constraints—but also deepens *judicialization*—that is, the proliferation of international courts, their enhanced jurisdictional purview, and therefore, the increasingly prominent role that they play (Alter et al. 2018). Through both dimensions, dispute resolution procedures feature widely in international treaties and organizations (Romano 1998-99).

A specific focus on deepening judicialization garnered attention only recently. Scholars therefore continue to debate its merits, with particular interest in when and why states delegate authority to international courts. Optimists in the debate assert that recognizing the jurisdiction of international courts carries key benefits. Independent courts and tribunals can influence states' foreign policy behavior directly (e.g., resolving a disputed issue) and indirectly (our argument).[11] Moreover, states have strong incentives to recognize such courts; doing so enhances the credibility of their commitments, promotes cooperation within multilateral settings, mobilizes compliance constituencies, and helps detect and sanction noncompliance (Alter 2003; Helfer 2006). Delegating authority to international courts also neutralizes power asymmetries (occasionally even giving standing to non-state actors), facilitates domestically unpopular agreements, and solves coordination problems that involve factual or conventional ambiguities (e.g., border disputes)—with the adjudicator's judgment serving as "cheap talk" that clarifies existing conventions (Ginsburg and McAdams 2004).

The debate's pessimists, in contrast, conclude that international courts are epiphenomenal for four reasons. First, powerful states reluctantly cede authority to international courts, preferring bilateral negotiations and tribunals that give them more decision-making control instead (e.g. arbitration). Second, states deliberately restrict courts' jurisdiction. They prefer not

[11] See Busch and Reinhardt (2000)-World Trade Organization (WTO); Ginsburg and McAdams (2004)-ICJ; and Mitchell and Powell (2011)-ICJ and ICC.

to endorse optional compulsory jurisdiction clauses[12] or place reservations on such clauses to preclude courts from hearing cases over salient issues. Third, courts handle a small caseload, and these cases cost much to prosecute (Posner and Yoo 2005). Finally, a multitude of courts with overlapping jurisdiction creates forum shopping behavior and inconsistent legal decisions; states simply seek the best forum for winning their contested issues (Pauwelyn and Salles 2009).

Regardless of one's position, this debate suffers from a central problem: it evaluates the efficacy and effects of international courts by focusing almost exclusively on the courts' *direct* actions. Potential selection effects are sidelined, despite being well-known. Posner and Yoo (2005:28), for example, note that "states might settle their disputes in the shadow of an effective court because they can anticipate its judgment and compliance by the loser." Courts, in other words, also exert *indirect* effects. To fully comprehend judicialization, we therefore must consider the shadow that courts cast and how this shadow alters interstate bargaining. This is best done via a detailed study of one issue area—in our case, the law of the sea. If, as we argue, the legal commitments that states make under UNCLOS generally—or under Article 287 specifically—alter how states theoretically bargain over maritime issues, then we must theorize about how these legal commitments and the courts they reference influence the bargaining process. This demands that we consider the various alternatives available to states, including bilateral negotiations and non-binding third-party processes (e.g., mediation), *alongside* judicial ones (e.g., arbitration or adjudication). The analysis of shadow effects operating around other international courts demonstrates the value of such an approach (see Busch and Reinhardt 2000; Mitchell and Powell 2011; Appel 2018).

[12] Only 37% of UN members recognize the ICJ's optional clause for compulsory jurisdiction. Less than 25% of UNCLOS members recognize ITLOS's jurisdiction under Article 287.

Theoretical Argument: UNCLOS Commitments and Interstate Bargaining

The customary law principle of 'freedom of the seas' historically competed with norms concerning the territorial ownership of maritime space. First enshrined via the canon shot rule that land force projection into maritime space determined ownership (Goldsmith and Posner 2005, 59), states in the 20th century asserted claims to broader territorial sea limits—most notably, President Truman's 1945 proclamation extending US claims to include the continental shelf. The proliferation of and divergence in[13] states' claims to territorial sea areas prompted the International Law Commission to draft articles for the law of the sea in the 1950s. Multilateral conferences in 1958 and 1960 negotiated a uniform standard for territorial seas (Pratt and Schofield 2000). These negotiations ultimately culminated in the 1982 UNCLOS treaty that creates standards for territorial (12nm) and contiguous sea (24nm) limits, exclusive economic zones (EEZ) (200nm), seabed usage, and dispute settlement. UNCLOS also establishes one of the most comprehensive dispute settlement procedures ever negotiated—a unique design that allows any UNCLOS member to invoke the treaty's provisions unilaterally (Rothwell and Stephens 2010, 439).

Part XV of the UNCLOS treaty covers dispute settlement procedures. Article 279 reaffirms states' obligations to resolve disputes peacefully. Article 280 permits flexibility in the procedures used for peaceful settlement, while Article 281 notes that compulsory dispute settlement becomes necessary only if other methods of peaceful settlement fail. Articles 281-282 recognize that compulsory settlement may arise through member states' obligations in other treaties, which can take precedence over UNCLOS obligations. Article 284 discusses the use of

[13] Although the three-mile limit was customary law, Scandinavia, Spain and Portugal, and Russia pursued a four-, six- and up to 100-mile limit respectively (Goldsmith and Posner 2005, 60).

conciliation as a conflict management tool, and Articles 285- 286 outline the compulsory procedures to be adopted if other settlement methods fail (Rothwell and Stephens 2010, 445-6).

Article 287 constitutes the heart of the compulsory dispute settlement procedure. It provides states with the option to specify one (or more) of four binding settlement options for future disputes: (i) ITLOS[14], (ii) ICJ, (iii) Annex VII arbitration, or (iv) Annex VIII arbitration. If a state party makes a declaration under Article 287 *a priori*, it can indicate which compulsory forums it finds acceptable for future dispute settlement and rank order its preferences over the acceptable forums it chooses.[15] If it does not make a declaration under Article 287, the compulsory dispute settlement procedure defaults to arbitration under Annex VII of the treaty. The compulsory forums gain jurisdiction in three ways. First, through UNCLOS itself:

> The ICJ, ITLOS, and Annex VII tribunals are all given broad jurisdiction under Article 288 to address (1) any dispute concerning the application or interpretation of the LOSC [Law of the Sea Convention] submitted consistently with Part XV and (2) any dispute concerning the interpretation or application of an international agreement related to the purposes of the LOSC submitted consistent with that agreement…The jurisdiction of Annex VII Special Arbitration… [deals] with disputes relating to (1) fisheries, (2) the protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping (Rothwell and Stephens 2010, 449).

Second, several additional treaties have compromissory clauses that recognize the jurisdiction of ITLOS and the compulsory procedures in Part XV of the UNCLOS treaty, including the 1995 Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage (Tuerk 2009, 255-256). Finally, ITLOS and the ICJ can obtain jurisdiction *forum prorogatum* by special agreement of the disputing states (Caminos 2006, 19).

[14] Twenty-one judges comprise ITLOS, which has broader *ratione personae* jurisdiction than the ICJ because it recognizes the standing of international organizations (Caminos 2006).
[15] States can prefer more than one forum for each rank order (e.g. ranking both ITLOS and the ICJ as #1).

Two important exceptions to UNCLOS' compulsory jurisdiction procedures appear in Article 298, signed by 34 countries (McDorman 2002). The first allows states to exclude maritime boundary cases from UNCLOS jurisdiction—e.g., the delimitation of the territorial sea, EEZ, or continental shelf. Because these delimitation disagreements frequently arise and, like territorial disputes, states cede decision-making control over them reluctantly, this constitutes a noteworthy exclusion. The second concerns disputes that involve military activities. China uses this exemption to argue that UNCLOS has no jurisdiction over its South China Sea disputes. In these situations—where a dispute is exempt from compulsory jurisdiction—UNCLOS encourages states to employ conciliation, although Article 298 establishes a *ratione temporis* limitation to disputes that arise after the UNCLOS comes into force (Sheehan 2005, 183).

Maritime Bargaining without International Courts

How would countries negotiate competing maritime claims in the absence of UNCLOS and its related international courts? We envision a dyadic bargaining situation, in which two states consider challenging the status quo distribution of sovereignty over a given maritime space. The competing jurisdictional claims of Canada and the United States (US) over the Hecate Strait and the Dixon Entrance offer an illustration.[16] In 1903, the Alaska Boundary Tribunal established the "A-B line" that settled the land boundary dispute; yet differences remained about how to interpret the A-B line with respect to the maritime boundary (Nowell 1990). Canada asserted that the A-B line constituted the international maritime boundary. The US, however, argued for an equidistance method to draw the maritime boundary, which would favor the US by moving the boundary twelve miles south of the A-B line throughout most of its length

[16] The Hecate Strait lies between the Canadian Queen Charlotte Islands and the British Columbia. Mainland. The Dixon Entrance lies between Queen Charlotte Island and the Alaskan Prince of Wales Island.

(McDorman 1991, 373). Once official representatives of one state, such as Canada, challenge a maritime issue status quo and representatives of another state, such as the United States, affirm their disagreement over the issue, a new "maritime claim" begins.

States next employ myriad peaceful and militarized tools to manage, and hopefully settle, their maritime claim. They most often engage in direct bilateral negotiations (e.g., the 1977 Canada-US negotiations), but also turn to third parties for assistance. Canada and the US, for example, took their Gulf of Maine maritime boundary case to the ICJ. Finally, states occasionally use militarized force. In the Hecate Strait and Dixon Entrance dispute, for example, militarization occurred on July 29, 1991, when a US Coast Guard vessel boarded and seized a Canadian fishing boat (*Eliza Joye*) in the disputed waters (Facts on File, 8/1/1991). Previous studies explain states' selection among these various tools as a function of issue salience, militarized or peaceful settlement history, relative capabilities, and shared membership in IGOs (Hensel et al. 2008).

In the absence of international courts, states use the tools available to bargain on an *ad hoc* basis. Treaties and other historical practices serve as a guideline for decision-making, and customary law helps determine what types of claims and solutions are reasonable (e.g., Canada's claims about how to extend the A-B line; Goldsmith and Posner 2005, 23). Such a bargaining approach has advantages, but can also be inefficient and produce inconsistent outcomes—problems that grow as the number of actors involved in an issue area rise. Maritime issues display this latter trend; the post-World War II expansion of fishing fleets, trawling technology, and naval activities, along with ambiguities in maritime law, increased the frequency and variability in states' maritime claims beyond the customary three-mile territorial sea limits. When faced with such complexities, states typically institutionalize conflict management—

agreeing to common rules and dispute resolution processes (e.g., UNCLOS). Negotiations over maritime areas then change significantly, as international courts play a larger role and render judgments.

Legalization: UNCLOS Commitments and Maritime Conflict Management

When UNCLOS negotiations began, states were advancing incongruous claims to territorial sea areas, and the conventions governing maritime boundary delimitation were vague. If two states were negotiating a maritime boundary (e.g., US-Canada), customary law offered them little guidance about establishing baselines for the boundary or determining what principles should divide the maritime area. The Law of the Sea Convention resolved this coordination problem by establishing a clear set of guidelines for the limits of states' claims to the territorial sea, contiguous zone, or EEZ areas. UNCLOS therefore functions as a form of legalization (Abbott et al. 2000), under which states make legal commitments to specific forms of interstate behavior (e.g., maritime limits).

Legalization alters state bargaining in three ways. First, it reduces the likelihood of maritime claims among UNCLOS members (Hypothesis 1). When countries sign and ratify UNCLOS, they accept the delimitation standards it contains, making them less likely to challenge other UNCLOS members' claims to maritime spaces.[17] Signatories know and agree upon who gets what (and how to define it), so they are less likely to challenge the status quo. Second, legalization via UNCLOS eschews the use of force to manage any potential maritime disputes that arise (Hypothesis 2). Articles 279 and 280 establish general provisions for the peaceful settlement of maritime disputes and prohibit the use of force. Finally, legalization

[17] The UNCLOS regime's existence may also affect non-UNCLOS members, given the large number of states parties (Appendix Table A4). Our models consider this possibility.

encourages UNCLOS members to employ peaceful conflict management to manage their maritime disputes (Hypothesis 3). Articles 281-287 collectively clarify states' legal commitments to use peaceful settlement strategies. Commitment to UNCLOS therefore represents a good faith effort to settle maritime disputes peacefully and a willingness to recognize some form of compulsory dispute settlement for handling contentious maritime issues that arise.

Hypothesis 1: UNCLOS members are less likely than non-UNCLOS members to have a maritime claim against other UNCLOS members.
Hypothesis 2: UNCLOS members are less likely to use military force against each other than non-UNCLOS members.
Hypothesis 3: UNCLOS members are more likely to use peaceful conflict management when working to resolve a maritime claim than non-UNCLOS members.

Judicialization: International Courts and Maritime Conflict Management

Beyond the effects of legalization, how does the *judicialization* of maritime law—i.e., states' sense that their policy options are legally bounded and that courts have gained the authority to define the meaning of maritime law (Alter 2014, 64)—influence states' willingness to make maritime claims and the methods they use to resolve them? Three theoretical mechanisms exist. First, judicialization advances through case law, in which courts clarify legal ambiguities and build a record of how they decide cases that appear before them. Several such judgments appear before the creation of UNCLOS. The 1909 PCA judgment, for example, fixed the disputed maritime boundary between Norway and Sweden in the Grisbadarna dispute, relying upon Sweden's historical claims and activities related to lobster fishing in the disputed area.[18] The ICJ similarly settled a dispute in 1951 between the United Kingdom and Norway over earlier (1935) Norwegian claims to fishing zones that the British considered to be

[18] http://www.worldcourts.com/pca/eng/decisions/1909.10.23_Norway_v_Sweden.pdf.

inconsistent with international law.[19] Judgments like these continued after UNCLOS negotiations began in 1958—and accelerated after its signing in 1982. To date, international courts have heard over 90 cases related to land and water borders (Appendix Tables A1-A3), creating a rich array of maritime case law.

Case law achieves two purposes. On the one hand, it reduces uncertainty so that states bargain more efficiently and effectively. Prior to UNCLOS, a broad range of bargaining outcomes exist. This uncertainty drives the transaction costs of bargaining and litigation upward, advantaging those parties better able to bear financial costs (e.g., major powers). Moreover, it increases the likelihood that states will overestimate their chances of winning a case, thereby precluding out-of-court settlement and raising the number of litigated cases.

International courts confront such uncertainty directly. Through hearing cases, courts generate case law that establishes definitions, principles, and precedents. This facilitates a common understanding of the facts and how to choose among multiple focal points (Ginsburg and McAdams 2004; Mnookin and Kornhauser 1979). Courts also identify which party violated the law and how; reducing uncertainty about illegal acts increases the reputational costs for reneging on judgments, acts as a form of sanctioning, and deters states that may engage in similar behavior. In this way, international courts (e.g., ITLOS or ICJ) not only uphold the legal rules embodied in the UNCLOS treaty (i.e., legalization), but also remove the source of (future) disputes by filling the gaps that (incomplete) legalization leaves behind (i.e., judicialization).

On the other hand, case law allows states to predict—albeit with some uncertainty—how a court will likely decide a given case. Through court decisions, (would-be) litigants peer into a court's reasoning to understand not only the outcome (i.e., judgment), but also how the court

[19] http://www.icj-cij.org/docket/files/5/1811.pdf.

reached it. This allows (would-be) litigants to bargain more successfully for better terms *outside* the courtroom—whether before filing a case or as a court considers it. Such an effect only exists, however, if litigants know which court will hear their case—a point to which we return below.

The *North Sea Continental Shelf* cases highlight the benefits of case law (Ginsburg and McAdams 2004, 1319-1322). This dispute arose between West Germany, Denmark, and the Netherlands after the discovery of oil in the North Sea in the 1960s. The continental shelf (CS) treaty—negotiated during the first UNCLOS round—could not prevent the disagreement, as it left uncertainty about how delimitation occurs in overlapping zones with concave coastlines. Although not a party to the CS treaty, Germany pushed for equity, rather than equidistance from the shoreline, because it would receive little of the shelf under the equidistance rule. The ICJ heard the case, determined that the equity principle applied, and therefore paved the way for both a negotiated settlement between the three states and further articulation of delimitation rules in the 1982 UNCLOS agreement. In so doing, the ICJ not only clarified an ambiguity, but informed (would-be) litigants about how it would reason and decide similar, future cases.

In its second judicialization mechanism, UNCLOS places adjudication and arbitration—i.e., peaceful, binding conflict management—at the center of maritime dispute resolution. States can select from a wide range of militarized and peaceful diplomatic tools when managing their maritime disputes, but the threat of court looms constantly in the background. Yet, although states frequently find court involvement beneficial, as when a leader seeks political cover for a domestically unpopular decision (Allee and Huth 2006), adjudication and arbitration are generally costly. States must invest significant resources in writing legal documents and researching claims when they go before courts, with most cases continuing for multiple years.[20]

[20] Mnookin and Kornhauser (1979) refer to these as transaction costs; they can be financial, emotional, and psychological.

More importantly, states have little influence over the judges, the established rules and procedures for hearing a case, the existing case law, and the outcomes of judicial proceedings, making them reluctant to cede authority to international courts on highly salient foreign policy issues. This holds not only when they are facing equally powerful adversaries, but also when power asymmetries exist, for states pay audience costs if they lose to weaker adversaries. To minimize these litigation costs, countries prefer to strike negotiated agreements outside of court.

The court therefore channels the management of maritime claims in three directions. It sets a relatively costly tool—arbitration and adjudication—as the method of last resort, which encourages this tool's use. In so doing, it also encourages (potential) litigants to pursue other forms of peaceful, non-binding conflict management (e.g., negotiation and mediation) to retain control over their highly salient foreign policy issues and avoid the costs of litigation. Finally, violence falls too, not only because it is discouraged, but also because another method of last resort exists: the courts.

A third *judicialization* mechanism is the UNCLOS design for binding conflict management. Besides establishing courts, Article 287 allows states to make optional declarations about their preferred international court(s), effectively determining which courts can hear their future maritime cases. These declarations represent an additional judicial commitment to the UNCLOS regime. Importantly, only a minority of UNCLOS signatories make such declarations. Although 164 states have ratified the UNCLOS treaty (91.6% of signatories), only 44 (26.8%) ratifying countries have made Article 287 declarations recognizing the jurisdiction of ITLOS (35), the ICJ (18), or one of the two arbitration procedures (28) for compulsory dispute settlement.[21] Any effect we might observe for declarers will therefore *not* be a general effect of

[21] Because states can identify multiple courts in their declarations, these numbers do not add to the 44 states.

UNCLOS. It is instead a specific effect derived from this subset of states—with no obvious alternative explanation.

We anticipate that Article 287 declarations alter interstate bargaining in three ways. First, they decrease the use of military force. Declarations provide additional affirmation of states' legal commitments to UNCLOS. The peaceful settlement of maritime claims lies at the center of the UNCLOS regime. We therefore would expect declarers to employ force less often when managing their maritime claims. Second, declarations raise the use of non-binding conflict management tools. Article 287 declarations raise the credibility of threats to employ a jointly accepted court, for they reduce uncertainty about states' bargaining types.[22] Knowing which court will hear a potential case, disputants can better predict their case outcomes in court; they know how the court reasons, its case law, and therefore the shadow it casts. To avoid the costs of litigation—for example, losing control over their claim's management and outcome—states will turn more frequently to negotiation and mediation in the courts' shadows—much as prosecutors and defense attorneys reach plea bargains in domestic courts given the credible threat of a jury trial. Third, declarations reduce the likelihood of maritime claims. Identifying courts as 'acceptable' means embracing their case law and reasoning. As courts clarify maritime law, many (potential) sources of dispute will disappear—not only for the case's litigants, but for potential, future ones as well.

The above effects appear most prominently in dyadic situations where both states make *ex ante* 287 declarations. If they recognize the same forum (e.g., both prefer the ICJ most), then they know exactly which court will hear *their* potential cases; the dyad accepts the validity of that court, its cases, and therefore its shadow. If they recognize different forums—or make no

[22] This implies that states who make declarations should (try to) use the forums specified in their declarations if they go to court.

Article 287 declaration—then the default arbitration VII procedure applies. This suggests that the default procedure should also have strong shadow effects, since states implicitly recognize this forum's validity to hear cases. Such an effect will be admittedly difficult to untangle from the general effects of UNCLOS and represents weaker evidence of judicialization.

Hypothesis 4: Dyads whose members jointly make UNCLOS Article 287 declarations are less likely to have a maritime claim than dyads without Article 287 declarations.

Hypothesis 5: Dyads whose members jointly make UNCLOS Article 287 declarations are less likely to use military force against than dyads without Article 287 declarations.

Hypothesis 6: Dyads whose members jointly make UNCLOS Article 287 declarations are more likely to use peaceful conflict management tools to resolve a maritime claim than dyads without Article 287 declarations.

Research Design

We test our theoretical argument with three distinct logistic regression analyses that examine the effects of UNCLOS legalization and judicialization from numerous angles. These analyses retain the key independent variables of interest, but vary with respect to the dependent variable, unit of analysis, and temporal domain. The first analysis studies the effect of UNCLOS on *ICOW maritime claims* within politically relevant dyad-years during the period 1970-2001.[23] A maritime claim occurs when official representatives of two governments diplomatically contest the sovereignty or usage of a given maritime space (Hensel et al. 2008). Such claims therefore constitute the population of maritime cases that *could* go to court. Currently, ICOW contains data on maritime claims in the Western Hemisphere, Europe, and the Middle East.

The second analysis examines the effect of UNCLOS on dyadic interstate conflict (presented in Appendix B1). Our unit of analysis becomes the politically relevant dyad-year

[23] Politically relevant dyads include dyads whose members are (a) land contiguous or separated by up to 250 miles of water or (b) include at least one major state.

during the period 1920-2001, and we measure interstate conflict through the Correlates of War Project's Militarized Interstate Dispute (MID) data (Ghosn et al. 2004). A *MID* occurs when one state threatens, displays, or uses force against another state. "Onset" dichotomously captures the dyad-year in which a MID begins.

The final analysis considers the effect of UNCLOS on the management of ICOW maritime claims. The unit of analysis here shifts to the ICOW claim-dyad-year during the period 1900-2001. Disputants can use myriad peaceful techniques to manage their claim. A dichotomous variable first captures whether dyad-members use any *peaceful settlement attempt* toward this goal in a given claim-dyad-year, including *binding* third-party assistance (e.g., adjudication, arbitration), *non-binding* third-party assistance (e.g., mediation, good offices, conciliation), and *bilateral negotiations*. After this initial, aggregate analysis, we then study each subcomponent separately to understand any potential shadow effects better. Finally, because states can also use *military force* to manage their claim, we consider this possibility as well.[24]

Independent Variables:

Three sets of independent variables capture the legalization and judicialization characteristics of UNCLOS. The first set denotes dichotomously whether *one* or *both dyad members signed UNCLOS* (separately), and whether *one* or *both dyad members ratified UNCLOS* (separately). The second set controls for broader effects through two dichotomous variables that indicate whether the *UNCLOS regime exists* (post-1982) and whether the *UNCLOS regime is in force* (post- 1994). The third set focuses on state declarations under Article 287. Dichotomous variables measure whether *both (joint)* states declare a preference that any disputes

[24] 28% of ICOW maritime claims have experienced at least one MID.

involving them be addressed by the International Court of Justice (*ICJ 287 declaration*), the International Tribunal for the Law of the Sea (*ITLOS 287 declaration*), or the arbitration process in *Annex VII* or *Annex VIII* (each separately). These represent concrete commitments to judicial processes and, therefore, judicialization effects. States making *multiple 287 declarations* (*one/both [states]*) make stronger commitments—a possibility we also consider. And states that declare *no* preferences under Article 287 trigger the Annex VII default procedure; we consequently combine them with those making Annex VII declarations in a distinct measure: *Annex VII applies*.

Control Variables:

Each of our logistic regression models extends analyses presented in earlier work. We build upon the models of claim onset, MID onset, and issue management that Lee and Mitchell (2012), Mitchell and Powell (2011:213) and Hensel et al. (2008) respectively report. Control variables for our models derive directly from these studies and offer guidance about how our control variables should behave—an important consideration, since we wish to study unexplored shadow effects. Table 1 identifies each control variable, the form it takes, a brief description of its coding, and the source(s) from which it derives. Variation in temporal domain across our models derives from differences in these foundational studies.

Empirical Results

Does legalization through UNCLOS improve interstate cooperation over maritime issues? If so, we would expect—first and foremost—that UNCLOS reduces the likelihood that a dyad has maritime claims. Table 2 considers this possibility and reveals strong evidence consistent with it

(Hypothesis 1). Dyads containing at least one UNCLOS signatory (Model 1) or ratifier (Model 2) are significantly less likely to have a maritime claim—compared to dyads where neither state belongs to UNCLOS. The mere existence of UNCLOS (1983-2001; Model 3) also brings a wider, systemic effect (see also Nemeth et al. 2014); the likelihood of maritime claims is lower when the UNCLOS regime exists. These various effects, we propose, result from UNCLOS decreasing uncertainty about distributive bargaining options (e.g., clarifying definitions and principles). If we are correct, then any systemic effects derive largely from the existence of UNCLOS, not necessarily whether it is in force (i.e., the number of signatories). Although the latter admittedly tracks the strength of consensus about UNCLOS provisions, the clarity UNCLOS brings resides with the document itself. Model 4 confirms this supposition. Once UNCLOS exists (Model 3), the probability of maritime claims declines, but whether it is in force (1995-2001; Model 4) carries no discernible effect.

We next consider whether UNCLOS alters general, dyadic dispute behavior. Table B1 (supplemental appendix) presents this analysis, which produces evidence consistent with our second hypothesis. The probability of militarized interstate disputes (MID) is significantly lower if at least one dyad member has signed (Model 1) or ratified (Model 2) UNCLOS. A broader, systemic effect exists here, too. The likelihood of MID onset significantly declines after UNCLOS both emerges (Model 3) and enters into force (Model 4). One might propose that these latter findings result from the waning of interstate conflict over time; our *peace years* variable, however, controls for such a possibility. We therefore conclude that the observed effect attributes more to UNCLOS than underlying, temporal conflict trends.

A final analysis investigates whether UNCLOS changes how states manage their maritime claims. In particular, does UNCLOS encourage the use of peaceful conflict

management in maritime claims? Table 3 suggests strongly that it does—consistent with our third hypothesis (see also Nemeth et al. 2014). Dyads with a maritime claim are significantly more likely to use peaceful conflict management (measured in the aggregate) if at least one dyad member has signed UNCLOS (Model 1). Whether dyad members ratify UNCLOS, in contrast, does not affect their maritime claim management (Model 2). And, as elsewhere, systemic effects appear too. Peaceful conflict management increases after UNCLOS both emerges (Model 3) and enters into force (Model 4). This suggests, once again, that UNCLOS casts a wide shadow over bargaining between members and non-members alike—a shadow that discourages maritime claims and militarized behavior, while encouraging peaceful conflict management.

Beyond these legalization effects, does judicialization under UNCLOS alter interstate behavior as well? We propose that such effects arise through (a) case law, (b) using courts as method of last resort, and (c) Article 287 declarations. These mechanisms receive *prima facie* evidence. Maritime case law is rich and accelerates after UNCLOS (see case listings of the Permanent Court of Arbitration [PCA], ICJ, and ITLOS in supplemental appendices A1-A3). Moreover, the threat of court is real, particularly for those with declarations. Since UNCLOS entered into force, six of eight PCA maritime cases arose through Annex VII; at least one state possessed an *ex ante* Article 287 declaration in six (75%) of these cases. The ICJ heard nine maritime cases during this time, with another five pending. Eight of the heard cases (89%) involved at least one party with an Article 287 declaration, while four of the five ongoing cases also do (80%). Finally, states parties almost always comply with ICJ judgments. All of this not only reflects the successful judicialization of the UNCLOS treaty, but also suggests that the mechanisms we propose are plausible.

To evaluate the mechanisms empirically, we revisit Tables 2-3. This time, however, we attend to Model 5 within each table, which highlights Article 287 declarations. Three broad conclusions emerge. First, the prevalence of maritime claims varies by declaration type (Table 2, Model 5). Maritime claims are significantly more likely when dyad members make multiple Article 287 declarations, Annex VII applies, or both find the ICJ acceptable. At first blush, this seems incongruous with our argument. Maritime claims should be less likely when declarations exist (Hypothesis 4). Indeed, as our hypothesis predicts, dyad members who both accept ITLOS or Annex VIII arbitration see such an effect—a heartening conclusion, since UNCLOS intended ITLOS to handle maritime disputes. What then explains the positive effects? One potential answer is greater uncertainty. Annex VII, as the default procedure, sends a weak signal, while multiple 287 declarations decrease certainty about which court will hear a (potential) case. Both carry greater uncertainty than other declarations, and that uncertainty theoretically erodes any shadow effects.

Our second broad finding is that declarations often reduce dyadic conflict (Table B1, Model 5). Dyads with multiple declarations or to which Annex VII applies are significantly less likely to begin MIDs. Similarly, those that jointly accept ITLOS *never* experience a MID. These results support our fifth hypothesis, but not all evidence does. Annex VIII declarations do not alter MID behavior, while joint acceptance of the ICJ significantly increases dyadic conflict. As with maritime claims, those making ICJ declarations behave uniquely—and contrary to our expectation (see also Mitchell and Powell 2011). Future research might investigate why this occurs. Is it, for example, that variance around ICJ decisions—either judgment terms or reasoning—is larger than that around ITLOS? If so, the shadow effects may be weaker (i.e., greater uncertainty exists).

Finally, declarations fundamentally alter interstate bargaining over maritime claims. The first glimpse of this appears in Table 3 (Model 5). Dyads whose members jointly endorse the ICJ or possess more than one declaration are significantly more likely to use peaceful conflict management (in the aggregate) to address their maritime claims. The other declaration types reveal no aggregate effect, but this is misleading. In Table 4, we unpack the aggregate results to investigate exactly what strategies states use: binding third-party (i.e., the courts), non-binding third-party (e.g., mediation), or bilateral negotiations. This exercise yields strong evidence consistent with our sixth hypothesis. When states jointly make declarations accepting Annex VII, Annex VIII, or ITLOS—or if Annex VII (default) applies—they *never go to court*. Instead, they shift strategies, as our argument predicts. Those with multiple declarations or favoring Annex VIII pursue bilateral negotiations, while those to which Annex VII (the default) applies use non-binding third-party conflict management (e.g., mediation). Dyads with joint declarations accepting ITLOS or the ICJ produce a distinct result that favors no specific strategy. Yet, this need not be entirely inconsistent with our general argument. Those accepting the ICJ, for example, do not favor a *specific* conflict management tool (Table 4), but simply employ more tools overall (Table 3, Model 5). Similarly, those accepting ITLOS avoid the courts (Table 4), but do not prefer one of the remaining tools. Such behaviors—for example, seeking to avoid court-based outcomes and increasing the use of other, peaceful strategies—are consistent with dyads bargaining in the shadow of courts.

The control variables across Tables 2-5 behave as the studies from which they derive would anticipate. Space constraints preclude us from discussing these results in detail. Nonetheless, it is worth noting that we obtain no unexpected results.

In the end, we find significant evidence that UNCLOS alters out-of-court bargaining. Whether via legalization—that is, accepting the legal provisions that UNCLOS contains, which reduces uncertainty over distributional bargaining outcomes—or judicialization—recognizing the role of courts in bounding interstate behavior, which brings case law and threats of court to bear—UNCLOS fundamentally alters interstate behavior in three ways. First, it generally reduces the likelihood that maritime claims exist and that interstate conflict occurs. Second, it frequently encourages the use of peaceful strategies for managing maritime claims. And finally, it incentivizes states to *avoid* the very courts whose jurisdiction they accept. Importantly, these latter two findings are not indicative of signatories' or declarers' general dispute management preferences. An analysis of behavior in territorial claims (supplemental appendix C1) shows starkly different patterns. What we observe, then, is specific to maritime claims—the very issue over which UNCLOS should reduce uncertainty and cast a judicial shadow.[25]

Potential Criticisms

One might criticize our findings on two grounds. The first argues that states enter UNCLOS or make declarations after they resolve all their maritime claims. This, however, is not empirically true. Data from Ásgeirsdóttir and Steinwand (2018) tracks whether a dyad has settled all its maritime boundaries. We cross-reference these data against our information on states signing, ratifying, and issuing declarations under UNCLOS; the result is evidence strongly inconsistent with the criticism. Maritime borders remain unsettled in 74% of dyad-years in which at least one dyad member has previously signed UNCLOS. A similar figure obtains for

[25] Part C of the supplemental appendix re-analyzes Tables 2-4 and B1 using two sub-periods: (a) UNCLOS exists, but is not in force (1982-1993), and (b) UNCLOS in force (1994-2001). Because these time periods are highly restrictive and preclude an investigation of regime effects (i.e., Models 3-4 in Tables 2-3 and B1), we prefer the model specifications presented here.

ratification (73%). Moreover, maritime borders are unsettled in 59-78% of dyad-years in which states have made an Article 287 declaration—with the variance determined by declaration type. Annex VIII arbitration appears least often in the presence of unsettled borders, while the default Annex VII procedure appears most. Declarations supporting the ICJ or ITLOS occupy middle ground between these extremes. In short, states signing, ratifying, and declaring under UNCLOS possess ample opportunity for maritime claims to arise. That they do not is indicative of an UNCLOS, not a selection, effect.

The second criticism proposes that our models are mis-specified. It argues either (a) that (an) unaccounted-for factor(s) produces the effect(s) that we attribute to UNCLOS, or (b) that those making declarations differ from those that do not. The first is always possible, but unlikely. Only 27% of ratifying states have made declarations, and it is not obvious what alternative, common factor would explain both their willingness to make such declarations and their bargaining behavior across our myriad analyses. The use of earlier scholars' models as a foundation also combats this critique directly. It ensures proper, or at least well-accepted, model specification for the outcomes we examine, and throughout our analyses, these models behave congruent with their earlier, respective studies. We therefore gain confidence that our results show legalization and judicialization via UNCLOS alter how states bargain.

On the second point, additional analysis reveals some differences among declaring and non-declaring states. Civil law countries make more declarations than common law or Islamic law states—and prefer the ICJ. This coincides with existing research, which shows civil law states' affinity for accepting the ICJ's compulsory jurisdiction (Mitchell and Powell 2011). Democratic countries are also more likely to prefer the ICJ or ITLOS than non-democracies, while powerful military states select arbitration procedures if they make a declaration. Future

research might employ more sophisticated methodological tools to examine these potential selection effects more fully.

Extensions

Two questions of model extension may arise. First, do Article 287 declarations exert a monadic effect? Several ITLOS cases, after all, involve only one litigant with a declaration. A series of models (not shown) preliminarily investigates this. We find that Annex VII and ICJ declarations reduce the likelihood of maritime claims; Annex VII decreases MID onset; Annex VII increases bilateral negotiations; and ICJ declarations facilitate the use of binding conflict management. Although a full analysis lies beyond this study's scope, such results further support our argument; the judicial shadow of UNCLOS changes bargaining behavior, even at the monadic level. Second, do the efforts that UNCLOS promotes *succeed*—i.e., produce agreements, enhance compliance, or resolve the disputed issues? Separate analyses (not shown) reveal (a) that joint ITLOS declarations improve the chances for agreement in settlement attempts, and (b) bilateral negotiations increase significantly when UNCLOS is in force. Data limitations prevent us from teasing out these patterns; as ICOW releases additional data, however, this might be a question worthy of further study.

Conclusion

As international courts increase in number, scope, and power, it seems natural to ask—and revisit—what effect they have on interstate behavior. Scholars who study these courts typically reach pessimistic conclusions about their role in resolving interstate conflicts. This results from focusing on court dockets and judgments, which only reveal a portion of courts' effects. As

domestic legal scholars have long known, when a binding settlement option serves as the method of last resort in a dispute resolution process, bargaining behavior changes in anticipation of that option—both during court proceedings and well before invoking the court itself. We extend this argument to the international level. When two states agree to a judicialized dispute settlement process, (how) does their bargaining behavior change in the shadow of that process?

We advance a theoretical argument that addresses this question. Legalization—that is, the making of legal commitments—creates focal points that reduce uncertainty about distributive bargaining outcomes. Judicialization—that is, the operation of courts and legal constraints—then exerts an additional, distinct effect. Rational (potential) litigants seek the best outcome possible and consider various dispute resolution mechanisms to achieve that goal. Judicial processes offer one such mechanism; yet they also produce case law (i.e., reduce uncertainty), and threaten to involve the courts as a matter of last resort (i.e., a costly option)—both of which change states' incentives. If litigants know which court will hear their case, the court's rules and procedures, and the court's case law, they can predict—albeit imperfectly—how the court will rule. This encourages out-of-court bargaining through other conflict management mechanisms (e.g., negotiation or mediation). States pursue these alternatives to minimize the costs of litigation and obtain a more favorable outcome than they expect the court to provide. Because such incentives exist before and after cases are filed, the court's shadow prevents the filing of some cases and the alters the management of others.

We test this argument within the Law of the Sea domain, and there are strong advantages to doing so. First, maritime claims are highly salient—touching upon state sovereignty—and threatening the peace. Second, the United Nations Convention on the Law of the Sea (UNCLOS) establishes a highly judicialized system. It invokes judicial processes as a compulsory, dispute

resolution mechanism of last resort, establishes new courts (ITLOS), and asks states voluntarily to identify and rank *ex ante*—via Article 287 declarations—which of four judicial bodies they accept to hear future cases. Through such declarations, signatory states accept (or not) various bodies and rank them liberally (e.g., giving equal rank to multiple bodies). This not only clarifies preferences, offers public commitments to judicial processes, and credibly communicates information between (potential) litigants, but also produces variance in judicial commitments that our study exploits. Importantly, a minority of states (27% of ratifiers) make such declarations—and *before* they resolve all their maritime claims. Finally, maritime claims represent the full population of maritime cases that *could* go to court. This is the holy grail for those studying shadow effects, since it is often challenging to know which cases never appear before the courts.

Myriad empirical analyses support our theory. We find, in general, that UNCLOS members are less likely to have maritime claims, less likely to experience militarized disputes, and more likely to employ peaceful strategies for resolving maritime claims that arise. These dyadic effects also appear at the systemic level; the simple existence of the UNCLOS regime often yields pacific effects. Beyond these legalization effects, we uncover evidence of judicialization effects too. Dyads with Article 287 declarations—through which judicialization operates under UNCLOS—are often more likely to experience maritime claims; yet they manage these claims differently. Dyads whose members both make Article 287 declarations are *never* more likely to use judicial bodies to manage their maritime claims. In fact—except for the ICJ—when dyad members accept the same judicial body, they *never go to court*. They instead use bilateral negotiations, non-binding third-party conflict management, or some combination of the two. Importantly, these effects are unique to maritime claims; a different issue area (e.g.,

territorial claims) produces starkly different patterns. This suggests that states bargain differently when the threat of court looms. The effects of UNCLOS may therefore not be primarily seen in the courtroom, but rather in the shadow of the courts.

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Table 1. Control Variables.

Variable	*Form*	*Description*	*Sources*:
Civil law dyad	Dichotomous	Both dyad members have civil law tradition	Mitchell and Powell (2011)
Common law dyad	Dichotomous	Both dyad members have common law tradition	Mitchell and Powell (2011)
Islamic law dyad	Dichotomous	Both dyad members have Islamic law tradition	Mitchell and Powell (2011)
Jurisdictional acceptance of the PCIJ/ICJ	Dichotomous	Both states accept compulsory jurisdiction of PCIJ/ICJ	Mitchell and Powell (2011)
Democratic dyad	Dichotomous	Both states score +6 or higher on the Polity autocracy-democracy index	Bennett and Stam (2000); Mitchell and Powell (2011); Marshall and Jaggers (2009)
Relative capabilities	Continuous	Challenger's CINC score/Dyad's total CINC score	Bennett and Stam (2000); Mitchell and Powell (2011); Singer (1988)
Distance (capitals)	Continuous	Miles between dyad members' capital cities	Bennett and Stam (2000); Mitchell and Powell (2011)
Peace years	Continuous	Years since last MID	Bennett and Stam (2000); Mitchell and Powell (2011)
World Foreign Direct Investment	Continuous	Millions of current $USD (logged)	Lee and Mitchell (2012); World Bank (2009)
Development	Continuous	Claim challenger GDP/capita (logged $USD)	Lee and Mitchell (2012); World Bank (2009)
Alliance	Dichotomous	Dyad members have defense, entente, or neutrality pact	Gibler and Sarkees (2004); Lee and Mitchell (2012)
Openness	Continuous	Claim challenger: (exports + imports)/GDP	Gleditsch (2002); Lee and Mitchell (2012)
Bilateral trade	Continuous	Sum of all dyadic imports (A to B and B to A; logged $USD)	Gleditsch (2002); Lee and Mitchell (2012)
Claim salience	Integer (0=none to 12=high)	Claim salience (e.g., resource, historical, or strategic value)	Hensel et al. (2008)
Previous MIDs	Continuous	Number of MIDs over claim in previous ten years (weighted)	Hensel et al. (2008)
Failed peaceful attempts	Continuous	Number of peaceful conflict management attempts over claim in previous ten years (weighted)	Hensel et al. (2008)
Relative capabilities (stronger)	Continuous	Stronger state's CINC score/Dyad's total CINC score	Hensel et al. (2008); Singer (1988).
Claim duration	Integer/count	Year of claim's existence	Hensel et al. (2008)

Table 2. Logistic Regression of Maritime Claims (Directed, Politically Relevant Dyads, 1970-2001).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	-0.203**				
	(0.088)				
Both dyad members signed UNCLOS	-0.533***				
	(0.082)				
One dyad member ratified UNCLOS		-0.598***			
		(0.082)			
Both dyad members ratified UNCLOS		-1.268***			
		(0.154)			
UNCLOS regime exists			-0.269***		
			(0.090)		
UNCLOS regime in force				-0.003	
				(0.083)	
Multiple 287 declarations (one/both)					0.405***
					(0.062)
Annex VII applies (joint)					1.036***
					(0.233)
Annex VIII declaration (joint)					-0.546**
					(0.273)
ICJ 287 declaration (joint)					1.271***
					(0.138)
ITLOS 287 declaration (joint)					-1.480***
					(0.208)
World FDI (t-1)	-0.061**	-0.012	-0.093***	-0.160***	-0.213***
	(0.026)	(0.025)	(0.030)	(0.029)	(0.021)
Capability ratio (chal., t-1)	-0.370***	-0.252***	-0.355***	-0.314***	-0.342***
	(0.087)	(0.088)	(0.087)	(0.086)	(0.085)
Democratic Dyad (t-1)	0.438***	0.418***	0.455***	0.450***	0.489***
	(0.063)	(0.063)	(0.063)	(0.063)	(0.063)
Development (chal., t-1)	0.358***	0.278***	0.336***	0.313***	0.332***
	(0.038)	(0.037)	(0.036)	(0.036)	(0.037)
Alliance (t-1)	1.276***	1.255***	1.227***	1.228***	1.264***
	(0.061)	(0.062)	(0.062)	(0.062)	(0.062)
Openness (chal, t-1)	-4.330***	-3.893***	-4.232***	-4.108***	-4.444***
	(0.236)	(0.225)	(0.232)	(0.229)	(0.242)
Bilateral trade (t-1)	0.096***	0.093***	0.094***	0.099***	0.078***
	(0.015)	(0.016)	(0.015)	(0.015)	(0.016)
Distance (capitals; t-1)	-0.263***	-0.245***	-0.263***	-0.254***	-0.245***
	(0.027)	(0.027)	(0.027)	(0.027)	(0.028)
Peace years	-0.010***	-0.010***	-0.011***	-0.011***	-0.011***
	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)
Constant	-2.456***	-2.697***	-1.961***	-1.312***	-0.871***
	(0.363)	(0.329)	(0.375)	(0.366)	(0.314)
N	23,737	23,737	23,737	23,737	23,737

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses.

Table 3. Logistic Regression of Peaceful Settlement Attempts in Maritime Claims, 1900-2001.

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	0.402***				
	(0.187)				
Both dyad members signed UNCLOS	0.266*				
	(0.155)				
One dyad member ratified UNCLOS		-0.006			
		(0.219)			
Both dyad members ratified UNCLOS		0.283			
		(0.344)			
UNCLOS regime exists			0.329**		
			(0.132)		
UNCLOS regime in force				0.612**	
				(0.153)	
Multiple 287 declarations (one/both)					0.457***
					(0.166)
Annex VII applies (joint)					0.791
					(0.581)
Annex VIII declaration (joint)					0.583
					(0.742)
ICJ 287 declaration (joint)					0.812*
					(0.482)
ITLOS 287 declaration (joint)					-0.185
					(0.790)
Claim salience	0.026	0.027	0.025	0.024	0.029
	(0.028)	(0.027)	(0.028)	(0.028)	(0.027)
Previous MIDs	0.455***	0.478***	0.472***	0.507***	0.478***
	(0.138)	(0.139)	(0.137)	(0.134)	(0.135)
Failed peaceful attempts	0.528***	0.536***	0.521***	0.505***	0.490***
	(0.067)	(0.070)	(0.068)	(0.069)	(0.067)
Democratic dyad	0.035	0.087	0.034	0.052	0.038
	(0.132)	(0.128)	(0.131)	(0.131)	(0.134)
Relative capabilities (stronger)	-1.152 ***	-1.039***	-1.096***	-1.106***	-0.968**
	(0.392)	(0.393)	(0.388)	(0.389)	(0.406)
Claim duration	-0.019***	-0.017***	-0.018***	-0.019***	-0.019***
	(0.004)	(0.004)	(0.004)	(0.004)	(0.004)
Constant	-1.395***	-1.448***	-1.459***	-1.429***	-1.560***
	(0.425)	(0.431)	(0.422)	(0.427)	(0.436)
N	3,161	3,161	3,161	3,161	3,161

Notes: a) * $p<0.1$; ** $p<0.05$; *** $p<0.01$; b) Robust standard errors in parentheses.

Table 4. Logistic Regression of Conflict Management within Maritime Claims.

Dependent Variable	Binding	Non-Binding	Bilateral
Multiple 287 declarations	-0.620	-0.244	0.578***
(one/both)	(0.781)	(0.290)	(0.182)
Annex VII applies (joint)	Perfect	1.560**	0.580
	Failure	(0.684)	(0.633)
Annex VIII declaration (joint)	Perfect	Perfect	1.487*
	Failure	Failure	(0.760)
ICJ 287 declaration (joint)	1.458	0.568	0.547
	(1.038)	(0.978)	(0.473)
ITLOS 287 declaration (joint)	Perfect	0.346	-0.940
	Failure	(1.769)	(0.853)
Claim salience	0.123	0.014	0.017
	(0.142)	(0.040)	(0.033)
Previous MIDs	0.006	0.751***	0.058
	(0.419)	(0.163)	(0.149)
Failed peaceful attempts	0.171*	0.378***	0.505***
	(0.100)	(0.065)	(0.067)
Democratic dyad	0.909*	-0.428**	0.026
	(0.528)	(0.213)	(0.156)
Relative capabilities	-1.722	0.937	-1.282***
(stronger)	(1.637)	(0.717)	(0.469)
Constant	-5.219***	-4.340***	-2.024***
	(1.752)	(0.715)	(0.508)
N	3,112	3,149	3,161

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses.

Supplemental Online Appendix
Judicialization of the Sea: Bargaining under the UNCLOS Regime

Table of Contents

Section	*Tables*	*Content*	*Page*
A: Descriptive Statistics	A1	Permanent Court of Arbitration (PCA) Cases	1
	A2	World Court (PCIJ/ICJ) Cases, and Compliance with Court Rulings	3
	A3	International Tribunal for the Law of the Sea (ITLOS) Cases	6
	A4	UNCLOS: Signatures, Ratifications, and Article 287 & 298 Declarations	8
B: Supplemental Paper Analysis	B1	Logistic Regression of MID Onset (Politically Relevant Dyads), 1920-2001	13
C: Additional Analysis	C1	Logistic Regression of Conflict Management in Territorial Claims, 1816-2001	14
	C2-3	Re-analysis of Table 2 by Sub-Period (1982-1993 & 1994-2001)	15
	C4-5	Re-analysis of Table B1 by Sub-Period (1982-1993 & 1994-2001)	17
	C6-7	Re-analysis of Table 3 & B2 by Sub-Period (1982-1993 & 1994-2001)	19
	C8-9	Re-analysis of Table 4 by Sub-Period (1982-1993 & 1994-2001)	21

Table A1. Permanent Court of Arbitration (PCA) Cases Involving Territorial, River, or Maritime Issues.

Cases with Awards					
Award Year	**Claimants**	**Subject**	**Article 287 Declarations**	**Instituted Under UNCLOS Annex VII**	**Issue**
2014	Bangladesh / India	Bay of Bengal	Bangladesh (ITLOS)	Yes	Maritime
2014	Denmark/European Union	Atlanto-Scandian Herring	Denmark (ICJ)	Yes	Maritime
2013	Argentina/Ghana	ARA Libertad	Argentina (ITLOS-1/Arb VIII-2)	No	Maritime
2012	Pakistan/India	Indus Waters		No	River
2008	Ireland/United Kingdom	MOX Plant	United Kingdom (ICJ)	Yes	Maritime
2007	Guyana/Suriname	Maritime Boundary Delimitation		Yes	Maritime
2006	Barbados/Trinidad & Tobago	EEZ/Continental Shelf Delimitation	Trinidad & Tobago (ITLOS-1/ICJ-1)	Yes	Maritime
2005	Malaysia/Singapore	Land Reclamation/Straits of Johor		Yes	Maritime
2004	Netherlands/France	Rhine River Pollution	Netherlands (ICJ)	No	River
2002	Ethiopia/Eritrea	Border Dispute		No	Territorial
1999	Eritrea/Yemen	Red Sea Territorial/Maritime Border		No	Territorial/ Maritime
1928	United States/Netherlands	Island of Palmas	N/A	N/A	Territorial
1914	Netherlands/Portugal	Boundaries/Island of Timor	N/A	N/A	Maritime
1913	France/Italy	The Manouba	N/A	N/A	Maritime
1913	France/Italy	The Carthage	N/A	N/A	Maritime
1910	United Kingdom/United States	North Atlantic Fisheries	N/A	N/A	Maritime
1909	Norway/Sweden	Grisbadarna	N/A	N/A	Maritime
1905	France/United Kingdom	Muscat Dhows	N/A	N/A	Maritime

Pending Cases					
Begin Year	**Claimants**	**Subject**	**Article 287 Declarations**	**Instituted Under UNCLOS Annex VII**	**Issue**
2013	Netherlands/Russia	Arctic Sunrise Arbitration	Netherlands (ICJ); Russia (ITLOS-1/Arb VII-1/Arb VIII-1)	Yes	Maritime
2013	Malta/Sao Tome & Principe	Duzgit Integrity Arbitration		Yes	Maritime
2013	East Timor/Australia	Timor Sea Treaty Arbitration	East Timor (ITLOS-1/ICJ-1/Arb VII-1/Arb VIII-1); Australia (ITLOS-1; ICJ-1)	No	Maritime
2013	Philippines/China	Maritime Boundary		Yes	Maritime
2012	Croatia/Slovenia	Territorial/Maritime Border	Croatia (ITLOS-1; ICJ-2); Slovenia (Arb VII)	Yes	Maritime/ Territorial
2010	Mauritius/United Kingdom	Chagos Archipelago	United Kingdom (ICJ)	Yes	Maritime

Table A2. World Court (PCIJ/ICJ) Rulings Involving Territorial, River, or Maritime Issues.

Territorial Issues (including mixed territorial/maritime)			
Award Date	**Claimants**	**Subject**	**Did Both Comply?**
Nov 2012	Nicaragua / Colombia	Territorial and Maritime dispute	No[6]
May 2008	Malaysia / Singapore	Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge	Yes (appeal)[7]
Oct 2007	Nicaragua / Honduras	Territorial and Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea	Yes
Jul 2005	Benin / Niger	Frontier Dispute	Yes
Dec 2002	Indonesia / Malaysia	Sovereignty over Pulau Ligitan and Pulau Sipadan	Yes
Oct 2002	Nigeria / Cameroon, Equatorial Guinea intervening	Land and Maritime Boundary between Cameroon and Nigeria (see also 03/1999 judgment on Request for Interpretation of 1998 judgment on preliminary objections)	Yes
Mar 2001	Qatar / Bahrain	Maritime Delimitation and Territorial Questions between Qatar and Bahrain	Yes
Dec 1999	Botswana / Namibia	Kasikili / Sedudu Island	Yes
Feb 1994	Libya / Chad	Territorial Dispute [Aozou Strip]	Yes
Sep 1992	El Salvador / Honduras, Nicaragua intervening	Land, Island and Maritime Frontier Dispute (subsequent Application for Revision of the Judgment... rejected 12/2003)	Yes (appeal)[1]
Dec 1986	Burkina Faso / Mali	Frontier Dispute	Yes
Jun 1962	Cambodia / Thailand	Temple of Preah Vihear	Yes
Nov 1960	Honduras / Nicaragua	Arbitral Award Made by the King of Spain on 23 December 1906	Yes
Jun 1959	Belgium / Netherlands	Sovereignty over Certain Frontier Land [Zondereygen]	Yes
Nov 1953	France / United Kingdom	Minquiers and Ecrehos	Yes
Apr 1933	Norway / Denmark	Legal Status of Eastern Greenland (see also Legal Status of the South-Eastern Territory of Greenland)	Yes
Nov 1925	UK / Turkey	Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne [Mosul]	Yes
Sep 1924	Yugoslavia / Albania	Monastery of Saint-Naoum	Yes
Dec 1923	Poland / Czechoslovakia	Jaworzina	Yes
River Issues			
Award Date	**Claimants**	**Subject**	**Did Both Comply?**
Apr 2010	Argentina / Uruguay	Pulp Mills on the River Uruguay	Yes
Jul 2009	Costa Rica / Nicaragua	Dispute regarding Navigational and Related Rights	No[5]
Sep 1997	Hungary / Slovakia	Gabcikovo-Nagymaros Project	No[2]

Jun 1937	Belgium / Netherlands	Diversion of Water from the Meuse	Yes
Sep 1929	Germany et al. / Poland	Territorial Jurisdiction of the International Commission of the River Oder	Yes
Maritime Issues (except mixed territorial/maritime listed above)			
Award Date	**Claimants**	**Subject**	**Did Both Comply?**
Jan 2014	Peru / Chile	Maritime Dispute	Yes
Jul 2013	Burkina Faso / Niger	Maritime Dispute	Yes
Feb 2009	Romania / Ukraine	Maritime Delimitation in the Black Sea	Yes
Jun 1993	Denmark / Norway	Maritime Delimitation in the Area between Greenland and Jan Mayen	Yes
Nov 1991	Guinea-Bissau / Senegal	Maritime Award (subsequent Maritime Delimitation between Guinea-Bissau and Senegal case ended by 11/1995 discontinuance of proceedings)	Yes (appeal)[3]
Jun 1985	Libya / Malta	Continental Shelf	Yes
Oct 1984	Canada / United States	Delimitation of the Maritime Boundary in the Gulf of Maine Area	Yes
Feb 1982	Tunisia / Libya	Continental Shelf (subsequent Application for Revision and Interpretation rejected in 12/1985)	Yes (appeal)[4]
Jul 1974	UK / Iceland	Fisheries Jurisdiction	Yes
Jul 1974	West Germany / Iceland	Fisheries Jurisdiction	Yes
Feb 1969	West Germany / Denmark	North Sea Continental Shelf	Yes
Feb 1969	West Germany / Netherlands	North Sea Continental Shelf	Yes
Dec 1951	UK / Norway	Fisheries	Yes
Currently Pending Cases (Compliance not applicable)			
Award Date	**Claimants**	**Subject**	**Type**
(Pending)	Chile / Bolivia	Dispute over the Status and Use of the Waters of the Silala	River
(Pending)	Bolivia / Chile	Obligation to Negotiate Access to the Pacific Ocean	Maritime
(Pending)	Nicaragua / Colombia	Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia	Maritime
(Pending)	Nicaragua / Colombia	Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea	Maritime
(Pending)	Costa Rica / Nicaragua	Maritime Delimitation in the Caribbean Sea and the Pacific Ocean	Maritime
(Pending)	Somalia / Kenya	Maritime Delimitation in the Indian Ocean	Maritime

Notes: 1) The 1992 ICJ decision in the El Salvador-Honduras case has generally been accepted and carried out by both sides. A decade after the award, El Salvador appealed to the ICJ on the basis of newly discovered documents that might have affected a small portion of the overall award, but the ICJ rejected this appeal in December 2003 and upheld the original award. 2) The 1997 ICJ ruling in the Gabcikovo-Nagymaros case found both Hungary and Slovakia at

fault, as both Hungary's unilateral withdrawal from the 1977 agreement over the dam project and Slovakia's unilateral decision to go ahead with Variant C of the project were ruled illegal. Compliance is coded as no rather than pending because it has been more than five years since the award was issued, although talks have occurred between the claimants over a mutually satisfactory way to execute the ICJ ruling. 3) Guinea-Bissau initially pressed its case over the maritime question following the November 1991 ICJ decision, through both bilateral negotiations and a further ICJ case. Both sides are considered to have complied with this decision, though, as Guinea-Bissau withdrew its objections and successfully requested the discontinuance of further ICJ proceedings in 1985. 4) The 1982 ICJ decision in the Libya-Tunisia case is considered to be complied with by both sides. A Tunisian request for revision and interpretation was addressed by a follow-up ICJ ruling in December 1985, which rejected the request for revision and issued the requested interpretation and clarification, and the matter has subsequently been considered resolved. 5) Court does not find Nicaragua has right to dredge river. It does this in 2010, prompting a new case "Certain Activities Carried Out by Nicaragua in the Border Areas." 6) Case pending. Nicaragua alleges that Colombia has rejected and violated the agreement. 7) Case pending. Malaysia applied for a revision of the 2008 judgment because it allegedly found new diplomatic documents from the United Kingdom that suggest the Court should not have awarded Singapore certain disputed areas. 8) This table omits a series of cases ostensibly over territorial issues, but not directly dealing with territory. A full list of cases appears in the online appendix to Hensel and Mitchell (2007), available online at: http://www.paulhensel.org/comply.html. To these, we add cases involving the violation of the sovereignty of the Democratic Republic of the Congo by Uganda and Rwanda; update case information; and include all cases filed through February 2017.

Table A3. International Tribunal for the Law of the Sea (ITLOS) Cases.

	Cases with Awards			
Award Year	**Claimants**	**Subject**	**Article 287 Declarations**	**Instituted Under UNCLOS**
2015	Italy/India	The "Enrica Lexie" Incident	Italy (ITLOS-1; ICJ-1)	Article 290; Provisional Measures
2015	SRFC-multiple states	Request for an Advisory Opinion submitted by the Sub-Regional Fisheries Commission (SRFC)		Article 138 Rules; Advisory Opinion
2014	Panama/Guinea-Bissau	The M/V "Virginia G" Case		Article 55; Special Agreement
2013	Netherlands/Russia	The "Arctic Sunrise" Case	Netherlands (ICJ); Russia (ITLOS-1)/Arb VII-1/Arb VIII-1)	Article 290; Provisional Measures
2013	St. Vincent & Grenadines/Spain	The M/V "Louisa" Case	St. Vincent & Grenadines (ITLOS); Spain (ITLOS-1; ICJ-1)	Articles 287 & 290; Provision Measures
2012	Bangladesh/Myanmar	Bay of Bengal Maritime/Territorial Dispute	Bangladesh (ITLOS)	Annex VII
2012	Argentina/Ghana	The "ARA Libertad" Case	Argentina (ITLOS-1/Arb VIII-2)	Article 290; Provisional Measures
2011	International Seabed Authority	Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area		Article 191; Advisory Opinion
2009	Chile/European Union	Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean	Chile (ITLOS-1/Arb VIII-2)	Article 287
2007	Japan/Russia	The "Tomimaru" Case	Russia (ITLOS-1/Arb VII-1/Arb VIII-1)	Article 292; Prompt Release
2007	Japan/Russia	The "Hoshinmaru" Case	Russia (ITLOS-1/Arb VII-1/Arb VIII-1)	Article 292; Prompt Release
2004	St. Vincent & Grenadines/ Guinea-Bissau	The "Juno Trader" Case	St. Vincent & Grenadines (ITLOS)	Article 292; Prompt Release
2003	Malaysia/Singapore	Case concerning Land Reclamation by Singapore in and Around the Straits of Johor		Article 290; Provisional Measures
2002	Russia/Australia	The "Volga" Case	Russia (ITLOS-1/Arb VII-1/Arb VIII-1); Australia (ITLOS-1; ICJ-1)	Article 292; Prompt Release
2001	Ireland/United Kingdom	The MOX Plant Case	United Kingdom (ICJ)	Article 290; Provisional Measures

Table A3 (cont). International Tribunal for the Law of the Sea (ITLOS) Cases.

	Cases with Awards			
Award Year	**Claimants**	**Subject**	**Article 287 Declarations**	**Instituted Under UNCLOS**
2001	Panama/Yemen	The "Chaisiri Reefer 2" Case		Article 292; Prompt Release
2001	Belize/France	The "Grand Prince" Case		Article 292; Prompt Release
2000	Seychelles/France	The "Monte Confurco" Case		Article 292; Prompt Release
2000	Panama/France	The "Camouco" Case		Article 292; Prompt Release
1999	New Zealand/Japan	Southern Bluefin Tuna Cases		Article 290; Provisional Measures
1999	Australia/Japan	Southern Bluefin Tuna Cases	Australia (ITLOS-1; ICJ-1)	Article 290; Provisional Measures
1999	St. Vincent & Grenadines/Guinea	The M/V "SAIGA" (No. 2) Case	St. Vincent & Grenadines (ITLOS)	Article 290; Provisional Measures
1997	St. Vincent & Grenadines/Guinea	The M/V "SAIGA" Case	St. Vincent & Grenadines (ITLOS)	Article 292; Prompt Release
Begin Year	***Pending Cases***			
2015	Panama/Italy	The MV "Norstar" Case	Italy (ITLOS-1; ICJ-1)	Article 287
2014	Ghana/ Côte d'Ivoire	Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean		Article 15; Delimitation Article 290; Provisional Measures

Table A4: UNCLOS Signatures, Ratifications, and Article 287 & 298 Declarations

Country	Sig. Year	Rat. Year	ITLOS	ICJ	Arb. VII	Arb. VIII	Art. 298	Accession
United States of America	1994							
Canada	1982	2003	1		1		1	
Bahamas	1982	1983						
Cuba	1982	1984						
Haiti	1982	1996						
Dominican Republic	1982	2009						
Jamaica	1982	1983						
Trindad and Tobago	1982	2007	1	2			1	
Barbados	1982	1993						
Dominica	1983	1991						
Grenada	1982	1991						
St. Lucia	1982	1985						
St. Vincent & Grenadines	1982	2010	1					
Antigua & Barbuda	1983	1989						
St. Kitts & Nevis	1984	1993						
Mexico	1982	2003	1	1		1	1	
Belize	1982	1983						
Guatemala	1983	1997						
Honduras	1982	2002		1				
El Salvador	1984							
Nicaragua	1984	2000		1			1	
Costa Rica	1982	1992						
Panama	1982	1996						
Colombia	1982							
Venezuela								
Guyana	1982	1993						
Suriname	1982	1998						
Ecuador	2012	2012	1	1		1	1	1
Peru								
Brazil	1982	1988						
Bolivia	1984	1995						
Paraguay	1982	1986						
Chile	1982	1997	1			2	1	
Argentina	1984	1995	1			2	1	
Uruguay	1982	1982	1				1	
United Kingdom	1994	1997		1				1
Ireland	1982	1996						
Netherlands	1982	1996		1				
Belgium	1984	1998	1	1				
Luxembourg	1984	2000						

Country	Sig. Year	Rat. Year	ITLOS	ICJ	Arb. VII	Arb. VIII	Art. 298	Accession
France	1982	1996					1	
Monaco	1982	1996						
Liechtenstein	1984							
Switzerland	1984	2009	1					
Spain	1984	1997	1	1			1	
Andorra								
Portugal	1982	1997	1	1	1	1	1	
Germany	1994	1994	1	3	2			
Poland	1982	1998						
Austria	1982	1995	1	3		2		
Hungary	1982	2002	1	2		3		
Czech Republic	1993	1996						
Slovakia	1993	1996						
Italy	1984	1995	1	1			1	
San Marino								
Malta	1982	1993						
Albania	2003	2003						1
Montenegro	2006	2006	1	2			1	1
Macedonia	1994	1994						1
Croatia	1995	1995	1	2				1
Serbia	1995	1995						
Bosnia & Herzegovina	1994	1994						1
Slovenia	1995	2001			1		1	
Greece	1982	1995	1					
Cyprus	1982	1988						
Bulgaria	1982	1996						
Moldova	2007	2007						1
Romania	1982	1996						
Russia	1982	1997	1		1	1	1	
Estonia	2005	2005	1	1				1
Latvia	2004	2005	1	1				1
Lithuania	2003	2003	1	1				1
Ukraine	1982	1999	1		1	1	1	
Belarus	1982	2006	1		1	1	1	
Armenia	2002	2002						
Georgia	1996	1996						1
Azerbaijan								
Finland	1982	1996	1	1				
Sweden	1982	1996		1				
Norway	1982	1996		1			1	
Denmark	1982	2004		1			1	
Iceland	1982	1985					1	

Country	Sig. Year	Rat. Year	ITLOS	ICJ	Arb. VII	Arb. VIII	Art. 298	Accession
Cape Verde	1982	1987	1	2			1	
Sao Tome & Principe	1983	1987						
Guinea-Bissau	1982	1986					1	
Equatorial Guinea	1984	1997					1	
Gambia	1982	1984						
Mali	1983	1985						
Senegal	1982	1984						
Benin	1983	1997						
Mauritania	1982	1996						
Niger	1982	2013						
Ivory Coast	1982	1984						
Guinea	1984	1985						
Burkina Faso	1982	2005						
Liberia	1982	2008						
Sierra Leone	1982	1994						
Ghana	1982	1983					1	
Togo	1982	1985						
Cameroon	1982	1985						
Nigeria	1982	1986						
Gabon	1982	1998					1	
Central African Republic	1984							
Chad	1982	2009						
Congo	1982	2008						
Democratic Republic of Congo	1983	1989						
Uganda	1982	1990						
Kenya	1982	1989						
Tanzania	1982	1985						
Burundi	1982							
Rwanda	1982							
Somalia	1982	1989						
Djibouti	1982	1991						
Ethiopia	1982							
Eritrea								
Angola	1982	1990	1				1	
Mozambique	1982	1997						
Zambia	1982	1983						
Zimbabwe	1982	1993						
Malawi	1984	2010						
South Africa	1984	1997						
Namibia	1982	1983						
Lesotho	1982	2007						
Country	Sig.	Rat.	ITLOS	ICJ	Arb.	Arb.	Art.	Accession

	Year	Year			VII	VIII	298	
Botswana	1984	1990						
Swaziland	1984	2012						
Madagascar	1983	2001	1					
Comoros	1984	1994						
Mauritius	1982	1996						
Seychelles	1982	1991						
Morocco	1982	2007						
Algeria	1982	1996						
Tunisia	1982	1985	1		2		1	
Libya	1984							
Sudan	1982	1985						
Iran	1982							
Turkey								
Iraq	1982	1985						
Egypt	1982	1983			1		1	
Syria								
Lebanon	1984	1995						
Jordan	1995	1995						1
Israel								
Saudi Arabia	1984	1996					1	
Yemen Arab Republic	1982	1987						
Yemen People's Republic	1982	1987						
Kuwait	1982	1986						
Bahrain	1982	1985						
Qatar	1984	2002						
United Arab Emirates	1982							
Oman	1983	1989	1	1				
Afghanistan	1983							
Turkmenistan								
Tajikistan								
Kyrgyzstan								
Uzbekistan								
Kazakhstan								
China	1982	1996						
Mongolia	1982	1996						
Taiwan								
North Korea	1982							
South Korea	1983	1996					1	
Japan	1983	1996						
India	1982	1995						
Bhutan	1981							
Country	Sig. Year	Rat. Year	ITLOS	ICJ	Arb. VII	Arb. VIII	Art. 298	Accession

Pakistan	1981	1997						
Bangladesh	1982	2001	1					
Myanmar	1982	1996						
Sri Lanka	1982	1994						
Maldives	1982	2000						
Nepal	1982	1998						
Thailand	1982	2011					1	
Cambodia	1983							
Laos	1982	1998						
Vietnam	1982	1994						
Malaysia	1982	1996						
Singapore	1982	1994						
Brunei	1984	1996						
Philippines	1982	1984					1	
Indonesia	1982	1986						
East Timor	2013	2013	1	1	1	1		1
Australia	1982	1994	1	1			1	
Papua New Guinea	1982	1997						
New Zealand	1982	1996						
Vanuatu	1982	1999						
Solomon Islands	1982	1997						
Kiribati	2003	2003						1
Tuvalu	1982	2002						
Fiji	1982	1982	1					
Tonga	1995	1995						1
Nauru	1982	1996						
Marshall Islands	1991	1991						1
Palau	1196	1996					1	1
Federated States of Micronesia	1991	1995						1
Samoa	1984	1995						
Total	179	164	35	36	12	16	34	19
% of Ratifiers	92.3	91.6	21.3	22	7.3	9.8	20.7	11.6

Table B1. Logistic Regression, MID Onset (Politically Relevant Dyads), 1920-2001.

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	-0.363*** (0.088)				
Both dyad members signed UNCLOS	0.109 (0.071)				
One dyad member ratified UNCLOS		-0.201** (0.088)			
Both dyad members ratified UNCLOS		-0.417*** (0.118)			
UNCLOS regime exists			-0.095* (0.057)		
UNCLOS regime in force				-0.174** (0.070)	
Multiple 287 declarations (one/both)					-0.214* (0.116)
Annex VII applies (joint)					-1.581*** (0.305)
Annex VIII declaration (joint)					0.489 (0.552)
ICJ 287 declaration (joint)					1.074*** (0.343)
Civil law dyad	-0.263*** (0.058)	-0.285*** (0.058)	-0.280*** (0.058)	-0.270*** (0.058)	-0.236*** (0.059)
Common law dyad	-0.898*** (0.149)	-0.833*** (0.148)	-0.847*** (0.148)	-0.860*** (0.148)	-0.881*** (0.147)
Islamic law dyad	0.041 (0.096)	0.071 (0.097)	0.069 (0.096)	0.062 (0.096)	0.058 (0.096)
Jurisdictional acceptance of PCIJ/ICJ	0.248*** (0.084)	0.263*** (0.085)	0.252*** (0.085)	0.258*** (0.084)	0.206** (0.085)
Democratic dyad	-0.922*** (0.108)	-0.980*** (0.108)	-0.946*** (0.108)	-0.962*** (0.108)	-0.966*** (0.108)
Relative capabilities	-0.107* (0.060)	-0.119** (0.059)	-0.116* (0.059)	-0.113* (0.059)	-0.083 (0.060)
Distance (capitals)	-0.000*** (0.000)	-0.000*** (0.000)	-0.000*** (0.000)	-0.000*** (0.000)	-0.000*** (0.000)
		(continued)			
Peace years	-0.053*** (0.005)	-0.051*** (0.005)	-0.051*** (0.005)	-0.051*** (0.005)	-0.052*** (0.005)
Constant	-2.049*** (0.073)	-2.022*** (0.073)	-2.033*** (0.073)	-2.042*** (0.073)	-2.066*** (0.073)
N	70,511	70,511	70,511	70,511	70,511

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$ Robust standard errors in parentheses.

Table C1. Logistic Regression of Conflict Management within Territorial Claims, 1816-2001.

	Territorial Claims (1816-2001)		
Dependent Variable	Binding	Non-Binding	Bilateral
Multiple 287 declarations (one/both)	-13.031 (0.540)***	0.451 (0.434)	0.288 (0.270)
Annex VII applies (joint)	-	-	-
Annex VIII declaration (joint)	15.382 (1.028)***	Perfect Failure	0.622 (0.636)
ICJ 287 declaration (joint)	Perfect Failure	Perfect Failure	Perfect Failure
ITLOS 287 declaration (joint)	-	-	-
Claim salience	-0.105 (0.065)	0.227 (0.042)***	0.090 (0.020)***
Previous MIDs	0.480 (0.185)***	0.558 (0.087)***	0.049 (0.080)
Failed peaceful attempts	0.196 (0.150)	0.384 (0.059)***	0.383 (0.041)***
Democratic dyad	0.409 (0.358)	-0.075 (0.266)	0.460 (0.112)***
Relative capabilities (stronger)	-4.254 (0.985)***	-2.141 (0.597)***	-0.516 (0.312)*
Constant	-1.367 (0.880)	-3.871 (0.659)***	-2.651 (0.330)***
N	6,017	6,002	6,017

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses.

Table C2. Logistic Regression of Maritime Claims
(Directed, Politically Relevant Dyads, 1982-1993; see manuscript Table 2).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	-0.150				
	(0.140)				
Both dyad members signed UNCLOS	-0.518***				
	(0.133)				
World FDI (t-1)	-0.238***	-0.206**	-0.313***	-0.313***	-0.339***
	(0.081)	(0.081)	(0.079)	(0.079)	(0.079)
Capability ratio (chal., t-1)	-0.572***	-0.509***	-0.542***	-0.542***	-0.556***
	(0.142)	(0.146)	(0.142)	(0.142)	(0.141)
Joint democracy (t-1)	0.574***	0.549***	0.643***	0.643***	0.645***
	(0.104)	(0.105)	(0.102)	(0.102)	(0.101)
Development (chal., t-1)	0.603***	0.540***	0.559***	0.559***	0.578***
	(0.066)	(0.066)	(0.064)	(0.064)	(0.067)
Alliance (t-1)	1.406***	1.369***	1.322***	1.322***	1.356***
	(0.109)	(0.112)	(0.111)	(0.111)	(0.114)
Openness (chal, t-1)	-5.285***	-4.994***	-5.094***	-5.094***	-5.552***
	(0.391)	(0.387)	(0.383)	(0.383)	(0.402)
Bilateral trade (t-1)	-0.008	-0.018	-0.008	-0.008	-0.030
	(0.023)	(0.024)	(0.023)	(0.023)	(0.023)
Distance (t-1)	-0.337***	-0.317***	-0.336***	-0.336***	-0.334***
	(0.044)	(0.043)	(0.044)	(0.044)	(0.046)
Peace years	-0.011***	-0.012***	-0.012***	-0.012***	-0.011***
	(0.002)	(0.002)	(0.002)	(0.002)	(0.002)
One dyad member ratified UNCLOS		-0.732***			
		(0.154)			
Both dyad members ratified UNCLOS		PF			
UNCLOS regime exists			PF		
UNCLOS regime in force				PF	
Multiple 287 declarations (one/both)					0.449***
					(0.089)
Annex VII applies (joint)					0.287
					(0.870)
Annex VIII declaration (joint)					0.134
					(0.540)
ICJ 287 declaration (joint)					1.178***
					(0.196)
ITLOS 287 declaration (joint)					-1.846***
					(0.301)
Constant	-1.137	-1.336	-0.269	-0.269	-0.077
	(1.008)	(1.000)	(0.989)	(0.989)	(0.994)
N	8,588	8,491	8,588	8,588	8,588

* $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF= Perfect Failure.

Table C3. Logistic Regression of Maritime Claim Onset
(Directed, Politically Relevant Dyads, 1994-2001; see manuscript Table 2).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	-0.460**				
	(0.196)				
Both dyad members signed UNCLOS	-0.730***				
	(0.200)				
World FDI (t-1)	-0.159**	0.174**	-0.150**	-0.150**	-0.144**
	(0.073)	(0.078)	(0.073)	(0.073)	(0.073)
Capability ratio (chal., t-1)	-0.018	-0.015	-0.056	-0.056	-0.257
	(0.174)	(0.181)	(0.172)	(0.172)	(0.169)
Joint democracy (t-1)	0.613***	0.576***	0.584***	0.584***	0.677***
	(0.115)	(0.118)	(0.115)	(0.115)	(0.121)
Development (chal., t-1)	0.082	0.074	0.093	0.093	0.198***
	(0.070)	(0.069)	(0.068)	(0.068)	(0.071)
Alliance (t-1)	1.193***	1.155***	1.129***	1.129***	1.206***
	(0.110)	(0.114)	(0.112)	(0.112)	(0.115)
Openness (chal, t-1)	-3.634***	-3.310***	-3.650***	-3.650***	-4.977***
	(0.500)	(0.475)	(0.485)	(0.485)	(0.560)
Bilateral trade (t-1)	0.248***	0.210***	0.229***	0.229***	0.180***
	(0.032)	(0.031)	(0.030)	(0.030)	(0.032)
Distance (t-1)	-0.087*	-0.136**	-0.109**	-0.109**	-0.098*
	(0.052)	(0.053)	(0.053)	(0.053)	(0.056)
Peace years	-0.019***	-0.018***	-0.020***	-0.020***	-0.021***
	(0.004)	(0.003)	(0.003)	(0.003)	(0.004)
One dyad member ratified UNCLOS		-0.514***			
		(0.113)			
Both dyad members ratified UNCLOS		-1.330***			
		(0.175)			
UNCLOS regime Exists			PF		
UNCLOS regime in force				PF	
Multiple 287 declarations (one/both)					0.482***
					(0.097)
Annex VII applies (joint)					1.176***
					(0.252)
Annex VIII declaration (joint)					-1.049***
					(0.318)
ICJ 287 declaration (joint)					2.103***
					(0.238)
ITLOS 287 declaration (joint)					-1.398***
					(0.296)
Constant	-1.064	-5.001***	-1.472	-1.472	-2.126**
	(1.053)	(1.048)	(1.041)	(1.041)	(1.064)
N	8,021	8,021	8,021	8,021	8,021

* $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure.

Table C4. Logistic Regression, MID Onset
(Politically Relevant Dyads, 1982-1993; see Table B1).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	-0.292				
	(0.198)				
Both dyad members signed UNCLOS	0.213				
	(0.173)				
One dyad member ratified UNCLOS		-0.184			
		(0.158)			
Both dyad members ratified UNCLOS		-0.474			
		(0.322)			
UNCLOS regime exists			PF		
UNCLOS regime in force				PF	
Multiple 287 declarations (one/both)					-0.437**
					(0.186)
Annex VII applies (joint)					0.651
					(0.679)
Annex VIII declaration (joint)					-0.656
					(0.684)
ICJ 287 declaration (joint)					0.499
					(0.546)
Civil law dyad	-0.184	-0.243	-0.205	-0.205	-0.134
	(0.144)	(0.149)	(0.145)	(0.145)	(0.150)
Common law dyad	-1.320***	-1.251***	-1.245***	-1.245***	-1.252***
	(0.292)	(0.293)	(0.293)	(0.293)	(0.293)
Islamic law dyad	0.199	0.262	0.239	0.239	0.245
	(0.182)	(0.182)	(0.181)	(0.181)	(0.182)
Jurisdictional acceptance of PCIJ/ICJ	0.572***	0.658***	0.623***	0.623***	0.531**
	(0.202)	(0.201)	(0.201)	(0.201)	(0.208)
Democratic dyad	-0.362*	-0.494**	-0.474**	-0.474**	-0.460**
	(0.200)	(0.198)	(0.197)	(0.197)	(0.201)
Relative capabilities	0.422***	0.401***	0.414***	0.414***	0.430***
	(0.141)	(0.139)	(0.139)	(0.139)	(0.141)
Distance (capitals)	-0.000***	-0.000***	-0.000***	-0.000***	-0.000***
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Peace years	-0.084***	-0.080***	-0.080***	-0.080***	-0.079***
	(0.009)	(0.009)	(0.009)	(0.009)	(0.009)
Constant	-2.169***	-2.049***	-2.121***	-2.121***	-2.103***
	(0.200)	(0.157)	(0.151)	(0.151)	(0.150)
N	15,738	15,738	15,738	15,738	15,738

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure.

Table C5. Logistic Regression, MID Onset
(Politically Relevant Dyads, 1994-2001; see Table B1).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	0.405				
	(0.278)				
Both dyad members signed UNCLOS	1.039***				
	(0.271)				
One dyad member ratified UNCLOS		-0.128			
		(0.162)			
Both dyad members ratified UNCLOS		-0.390**			
		(0.181)			
UNCLOS regime exists			PF		
UNCLOS regime in force				PF	
Multiple 287 declarations (one/both)					0.080
					(0.181)
Annex VII applies (joint)					-1.533***
					(0.339)
Annex VIII declaration (joint)					0.700
					(0.625)
ICJ 287 declaration (joint)					1.159**
					(0.520)
Civil law dyad	-0.473***	-0.602***	-0.579***	-0.579***	-0.494***
	(0.149)	(0.151)	(0.150)	(0.150)	(0.168)
Common law dyad	-1.161***	-0.892**	-0.983***	-0.983***	-1.046***
	(0.353)	(0.359)	(0.353)	(0.353)	(0.351)
Islamic law dyad	-0.501	-0.287	-0.294	-0.294	-0.358
	(0.262)	(0.267)	(0.264)	(0.264)	(0.265)
Jurisdictional acceptance of PCIJ/ICJ	0.351*	0.574***	0.513**	0.513**	0.311
	(0.203)	(0.207)	(0.206)	(0.206)	(0.215)
Democratic dyad	-0.175	-0.316	-0.178	-0.178	-0.360
	(0.337)	(0.344)	(0.336)	(0.336)	(0.343)
Relative capabilities	-0.187	-0.240	-0.248*	-0.248*	-0.131
	(0.150)	(0.143)	(0.142)	(0.142)	(0.148)
Distance (capitals)	-0.000***	-0.000***	-0.000***	-0.000***	-0.000***
	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)
Peace years	-0.070***	-0.062***	-0.063***	-0.063***	-0.067***
	(0.013)	(0.012)	(0.012)	(0.012)	(0.012)
Constant	-2.355***	-1.484***	-1.634***	-1.634***	-1.633***
	(0.317)	(0.197)	(0.193)	(0.193)	(0.189)
N	13,976	13,976	13,976	13,976	13,976

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure.

Table C6. Logistic Regression of Peaceful Settlement Attempts in Maritime Claims, 1982-1993 (see manuscript Table 3).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	0.659				
	(0.492)				
Both dyad members signed UNCLOS	0.352				
	(0.462)				
One dyad member ratified UNCLOS		-0.097			
		(0.503)			
Both dyad members ratified UNCLOS		PF			
UNCLOS regime exists			N/A		
UNCLOS regime in force				N/A	
Multiple 287 declarations (one/both)					0.484*
					(0.282)
Annex VII applies (joint)					PF
Annex VIII declaration (joint)					PF
ICJ 287 declaration (joint)					-0.141
					(0.813)
ITLOS 287 declaration (joint)					0.644
					(1.239)
Claim salience	0.067	0.055	0.059	0.059	0.067
	(0.064)	(0.061)	(0.061)	(0.061)	(0.059)
Previous MIDs	-0.237	-0.194	-0.200	-0.200	-0.082
	(0.268)	(0.275)	(0.276)	(0.276)	(0.267)
Failed peaceful attempts	0.646***	0.648***	0.651***	0.651***	0.567***
	(0.125)	(0.125)	(0.126)	(0.126)	(0.132)
Democratic dyad	0.150	0.167	0.194	0.194	0.133
	(0.294)	(0.303)	(0.289)	(0.289)	(0.294)
Relative capabilities (stronger)	-2.806***	-2.572***	-2.663***	-2.663***	-3.006***
	(0.856)	(0.853)	(0.810)	(0.810)	(0.851)
Claim duration	-0.008	-0.008	-0.008	-0.008	-0.010
	(0.007)	(0.007)	(0.007)	(0.007)	(0.007)
Constant	-0.913	-0.636	-0.624	-0.624	-0.500
	(0.847)	(0.007)	(0.822)	(0.822)	(0.798)
N	719	710	719	719	715

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure; N/A=UNCLOS regime exists and in force are always constant because of the time period restriction (i.e., 1 and 0 respectively).

Table C7. Logistic Regression of Peaceful Settlement Attempts in Maritime Claims, 1994-2001 (see manuscript Table 3).

	(1)	(2)	(3)	(4)	(5)
One dyad member signed UNCLOS	0.188				
	(0.522)				
Both dyad members signed UNCLOS	0.154				
	(0.501)				
One dyad member ratified UNCLOS		-0.778**			
		(0.324)			
Both dyad members ratified UNCLOS		-0.547			
		(0.402)			
UNCLOS regime exists			N/A		
UNCLOS regime in force				N/A	
Multiple 287 declarations (one/both)					0.281
					(0.303)
Annex VII applies (joint)					-0.161
					(0.658)
Annex VIII declaration (joint)					1.537*
					(1.129)
ICJ 287 declaration (joint)					0.881
					(0.772)
ITLOS 287 declaration (joint)					-0.337
					(1.095)
Claim salience	0.076	0.068	0.072	0.072	0.086
	(0.060)	(0.060)	(0.060)	(0.060)	(0.061)
Previous MIDs	0.669**	0.848***	0.692***	0.692***	0.515*
	(0.274)	(0.272)	(0.257)	(0.257)	(0.267)
Failed peaceful attempts	0.390***	0.415***	0.389***	0.389***	0.372***
	(0.091)	(0.098)	(0.090)	(0.090)	(0.090)
Democratic dyad	-0.349	-0.469	-0.336	-0.336	-0.304**
	(0.302)	(0.306)	(0.291)	(0.291)	(0.313)
Relative capabilities (stronger)	-3.287***	-2.875***	-3.098***	-3.098***	-3.135***
	(0.971)	(0.917)	(0.878)	(0.878)	(0.950)
Claim duration	-0.033***	-0.032***	-0.033***	-0.033***	-0.033***
	(0.009)	(0.009)	(0.009)	(0.009)	(0.100)
Constant	1.022	1.238	1.030	1.030	0.790
	(0.906)	(0.917)	(0.886)	(0.886)	(0.962)
N	517	517	517	517	517

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure; N/A=UNCLOS regime exists and in force are always constant because of the time period restriction (i.e., 1 and 0 respectively).

Table C8. Logistic Regression of Conflict Management within Maritime Claims, 1982-1993 (see manuscript Table 4).

	Maritime Claims (1982-1993)		
Dependent Variable	Binding	Non-Binding	Bilateral
Multiple 287 declarations	1.618	-0.076	0.477
(one/both)	(1.443)	(0.613)	(0.308)
Annex VII applies (joint)	PF	PF	PF
Annex VIII declaration (joint)	PF	PF	PF
ICJ 287 declaration (joint)	1.505	1.257	-0.914
	(1.789)	(1.320)	(1.118)
ITLOS 287 declaration (joint)	PF	PF	1.523
			(1.479)
Claim salience	0.198*	-0.084	0.077
	(0.112)	(0.095)	(0.072)
Previous MIDs	-1.234	0.491	-0.253
	(1.061)	(0.449)	(0.301)
Failed peaceful attempts	0.398	0.616***	0.410***
	(0.305)	(0.195)	(0.132)
Democratic dyad	PF	-0.448	0.219
		(0.573)	(0.312)
Relative capabilities	-12.216***	0.432	-3.213***
(stronger)	(2.231)	(1.692)	(0.921)
Constant	1.671	-3.777**	-0.900
	(1.295)	(1.697)	(0.892)
N	377	706	715

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure.

Table C9. Logistic Regression of Conflict Management within Maritime Claims, 1994-2001 (see manuscript Table 4).

	Maritime Claims (1994-2001)		
Dependent Variable	Binding	Non-Binding	Bilateral
Multiple 287 declarations (one/both)	-	-0.378 (0.452)	0.578* (0.330)
Annex VII applies (joint)	-	0.507 (0.685)	0.507 (0.685)
Annex VIII declaration (joint)	-	PF	2.454 (1.246)
ICJ 287 declaration (joint)	-	0.294 (0.970)	0.260 (0.735)
ITLOS 287 declaration (joint)	-	0.869 (1.389)	PF
Claim salience	0.478 (0.388)	0.066 (0.088)	0.089 (0.070)
Previous MIDs	PF	-0.121 (0.480)	0.125 (0.269)
Failed peaceful attempts	PF	0.162* (0.092)	0.445*** (0.092)
Democratic dyad	PF	-0.564 (0.427)	-0.667** (0.325)
Relative capabilities (stronger)	-21.593*** (4.761)	-3.766*** (1.324)	-3.521*** (1.074)
Constant	5.750 (4.432)	0.139 (1.336)	-0.010 (1.050)
N	167	509	507

Notes: * $p<0.1$; ** $p<0.05$; *** $p<0.01$; Robust standard errors in parentheses; PF=Perfect Failure.