

Capacity, Commitment, and Compliance

INTERNATIONAL INSTITUTIONS AND TERRITORIAL DISPUTES

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Why should governments delegate decision-making authority over territorial issues to an international institution? This study argues that governments are motivated to reach territorial solutions to reduce the opportunity costs associated with a festering dispute. The evidence suggests that domestic political incapacity to negotiate concessions is associated with a commitment to arbitrate. Compliance is a function of the net costs and benefits involved in accepting the arbitral decision. These costs include the loss of valuable territory, but noncompliance also exacts costs with respect to governments' reputation, both domestically and internationally. This research speaks to a broader debate about the role of international legal institutions in foreign policy making and international outcomes. It shows that governments have good reasons, under certain political and economic conditions, to use international legal processes as a substitute for domestic political decision making.

Sovereign control over territory has long been considered the quintessential feature of modern statehood.¹ No issue is more likely to stimulate nationalist sentiments or lead to violent interstate conflict than disputes over territory (Gibler 1999; Goertz and Diehl 1992; Hensel 1996, 2001; Senese 1996; Vasquez 1993; Vasquez and Henehan 2001), and territorial conflicts continue to be one of the primary causes of regional instability in the post-cold war period (Kolodziej and Zartman 1996, 9-11). At the heart of a country's national security and national identity, assertions of sovereignty

1. The Montevideo Convention of 1933, ratified by 16 Western Hemisphere countries, provides in Article I that "the state as a person in international law should possess [among others things] a defined territory." See any international law text (e.g., Carter and Trimble 1993, 412-13).

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over geographical space is one of the last policy arenas in which one might expect governments to give up their sovereign decision-making authority.²

Yet a number of governments have decided recently to do just that. In October 1998, Peru and Ecuador allowed representatives from Argentina, Brazil, Chile, and the United States to arbitrate a segment of their border. Conflict over this boundary has fueled a century of sporadic violence between these two countries (Simmons 1999b). Nicaragua has recently submitted a request to the International Court of Justice (ICJ) to judge its dispute with Colombia over the islands of Providencia, San Andres, and Santa Catalina. Countries as diverse as Cameroon and Nigeria,³ Namibia and Botswana,⁴ Indonesia and Malaysia,⁵ and Qatar and Bahrain⁶ currently have territorial cases before the ICJ. Eritrea and Yemen have recently accepted the verdict of an international arbitration panel set up in London to determine sovereignty over the Hanish Islands in the Red Sea region.⁷ Other countries—Zambia and Zimbabwe,⁸ Latvia and Lithuania,⁹ for example—have recently indicated an interest in arbitration should negotiations fail. Many more have seriously considered territorial arbitration, only to rule it out as a solution to territorial disputes (Ukraine and Romania,¹⁰ Belize and Guatemala,¹¹ Chile and Argentina, in the case of the Continental Glaciers conflict¹²). Whether looking to the positive example of Chad and Libya's compliance with the territorial decision of the ICJ or the disastrous example of Iraq's unilateralism regarding Kuwaiti territory, there seems to be growing willingness to at least *consider* review of territorial disputes by a neutral, international judicial or quasi-judicial body.¹³

2. Krasner (1995-1996) notes that the most important incursions into autonomy occur when states give up authority over how decisions are to be made.

3. On March 29, 1994, Cameroon filed an application instituting proceedings against Nigeria in a dispute concerning the question of sovereignty over the Bakassi Peninsula, which it claimed was in part under military occupation by Nigeria (see <http://www.icj-cij.org/icjwww/idocket/icn/icnframe.htm>).

4. In 1995, President Masire of Botswana and President Nujoma of Namibia agreed "to submit the dispute to the International Court of Justice for a final and binding determination" (see <http://www.icj-cij.org/icjwww/idocket/ibona/ibonaframe.htm>).

5. In November 1998, Indonesia and Malaysia jointly asked the International Court of Justice (ICJ) to settle a dispute concerning sovereignty over Pulau Ligitan and Pulau Sipadan, two islands in the Celebes Sea (see <http://www.icj-cij.org/icjwww/idocket/iinma/iinmaframe.htm>).

6. The dispute submitted to the court now includes the Hawar Islands, including the island of Jana; Fasht al Dibal and Qit'at Jaradah; Zubarah; and other matters connected with maritime boundaries (<http://www.icj-cij.org/icjwww/idocket/ibq/ibqframe.htm>).

7. Al-Quds Al-'Arabi, London, 8/10/98 (FBIS-NES-98-281); Al-Sharq Al-Awsat, London, 14/10/98 (FBIS-NES-98-287); Voice of the Broad Masses in Eritrea, Asmara, 9/10/98 (FBIS-AFR-98-285); Mena, Cairo, 9/10/98 (FBIS-NES-98-282); Arab Republic of Egypt Radio (<http://www.library.unr.edu/depts/bgic/guides/government/cite.html>).

8. Zambia National Broadcasting Corporation Network, Lusaka, 23/5/97 (FBIS-AFR-97-143) (<http://www.library.unr.edu/depts/bgic/guides/government/cite.html>).

9. Leta News Agency, Riga, 20/12/95.

10. Interfax News Agency, Moscow, 23/10/97 (FBIS-SOV-97-296) (<http://www.library.unr.edu/depts/bgic/guides/government/cite.html>).

11. Siglo Vientiuno, Guatemala City, 7/10/97 (FBIS-LAT-97-289) (<http://www.library.unr.edu/depts/bgic/guides/government/cite.html>).

12. El Mercurio, Santiago, 8/1/97 (FBIS-LAT-97-006) (<http://www.library.unr.edu/depts/bgic/guides/government/cite.html>).

13. On the increasing tendency for non-Western countries to turn to judicial forms of dispute settlement, see McWhinney (1991). On the historical use of arbitration panels, see Simpson and Fox (1959). But see also Jenks (1964, 101), who argues that since World War II, judicial functions have lagged other forms of international organizational development.

These developments are something of a puzzle for the study of international relations, which traditionally assumes that states generally desire to preserve their legal sovereignty, particularly in an area as central to the national interest as title to territory. Yet, territorial conflict has been understudied by political scientists who are interested in international law and institutions. Little has been done to theorize why—or even to document whether—governments actually comply with the territorial decisions of legally constituted supranational authority (i.e., “second-order” compliance).¹⁴

This article examines the following questions: why do governments sometimes allow third parties to make authoritative rulings on their actions and policies?¹⁵ Under what conditions do they comply with such rulings when enforcement is at best uncertain? These questions relate to a broader theme in world politics: what impact do international legal institutions have on state behavior and outcomes?

The analysis focuses primarily on the role that domestic politics plays in encouraging governments to commit themselves and their country to supranational legal or quasi-legal processes. I argue that international institutions are used strategically to achieve results that cannot be realized through negotiations and domestic decision making alone. Although such a strategy can be risky for a chief executive, it can also greatly improve chances that the dispute will be settled without further conflict. The first section reviews what international relations theory has to say about delegation to international institutions and compliance with their legally binding decisions. The second section discusses the scope and methods of the analysis. The third section presents findings, and a final section draws conclusions.

THEORY, TERRITORY, AND INTERNATIONAL INSTITUTIONS

The issue of using legal procedures to settle interstate disputes has hardly been central to the study of international relations, largely due to the primacy of realist and neorealist theory. This is unfortunate because the systematic work that has been done to date seems to suggest that arbitration contributes to the peaceful settlement of international disputes (Dixon 1996, 670). Most realists—theoreticians and practitioners—tend to be highly skeptical that law influences state actions in any important way.¹⁶ As Hoffmann (1956, 364) has written, the national state is “a legally sovereign unit in a tenuous net of breakable obligations.” Realist approaches view major powers in particular as highly unlikely to use supranational legal processes because they are typically well equipped to use other forms of unilateral persuasion (Bilder 1989, 478). Indeed, why an international dispute ought *ever* be referred to a third party, except as a result of

14. This is distinct from “first-order compliance” or compliance with substantive standing rules (Bulterman and Kuijer 1996; Fisher 1981, 25).

15. For an analysis that emphasizes that governments are more likely to choose nonbinding roles for third parties, see Hensel (2001).

16. Examples from the legal scholarship include Bork (1989-1990) and Boyle (1980). International relations theorists who have discussed law extensively and reached a similar conclusion (though from very different theoretical points of view) include Bull (1977, chap. 6); Downs, Rocke, and Barsoom (1996); and Mearsheimer (1994-1995).

outright coercion, is virtually inexplicable in realist terms. Controversies that are submitted to third-party rulings are likely to be those in which the stakes are very low (Diehl 1996, 161). Because the decisions of third parties are unlikely to be enforced, states are believed to have little incentive to comply.

The dominance of the realist paradigm has discouraged scholars from closely examining the role that legal processes play in settling territorial disputes. After all, territory is an issue that seems on its face to be most amenable to traditional realist analysis. Along with geographical position and natural resource endowments, territory is usually viewed as contributing to a state's power potential (Gold 1982; Knorr 1975, 244; Morgenthau 1985, 127-38). Most research in this area honors realist assumptions by viewing territory as a zero-sum issue and influenced almost exclusively by the military or strategic context of the states concerned (Huth 1996).¹⁷

But consider some of the reasons that impel governments toward settling their territorial disputes with neighboring countries. There are tremendous positive benefits to getting borders settled, some of which are "joint gains," that are rarely considered explicitly. Mutually accepted borders themselves are valuable international institutions that provide the stability necessary for private actors to invest and engage in cross-border exchange.¹⁸ Figure 1 suggests that the economic opportunity costs of festering territorial conflicts can be significant.

Consider Nicaragua's bilateral trade patterns with Honduras (with whom Nicaragua has never had a territorial dispute) compared to that with Colombia (a country with whom a dispute over islands in the Caribbean has soured bilateral relations). Despite its much larger economy, Colombia accounts for a much smaller proportion of Nicaragua's trade than does Honduras. A similar pattern can be seen in El Salvador's trade. A longstanding territorial dispute with Honduras probably stunted those countries' economic relations (certainly in comparison to the growth in El Salvador's trade with Guatemala, with whom El Salvador has never had a territorial dispute). The settlement of the Honduran-Salvadoran territorial conflict by the ICJ in 1992 opened the way for bilateral trade between these two countries to improve drastically in the 1990s.

These figures suggest that arguments over territory may exact high opportunity costs in terms of trade. More important still, settled borders further reduce opportunity costs of disputing, allowing each side to reduce military expenditures and channel resources to other purposes. Settlement contributes to overall positive relations between countries and is often necessary—indeed, may be an explicit prerequisite—to participate in regional integration projects such as the European Union (EU) and Mercosur. The fact that most borders are uncontested suggests that most governments value these gains highly.

17. Although Huth's (1996) is one of the most exhaustive efforts to test a "modified realist" hypothesis in which domestic politics are said to affect dispute settlement, only 3 of 12 variables tested are not explicitly related to military power or the strategic/security setting (minorities along the border, political unification, and democratic norms) (see, e.g., p. 142).

18. The case of Ecuador and Peru also suggests that countries involved in a territorial dispute trade much less with each other than would be expected on the basis of propinquity, size, and wealth (on the case of Ecuador and Peru, e.g., see Simmons 1999b).

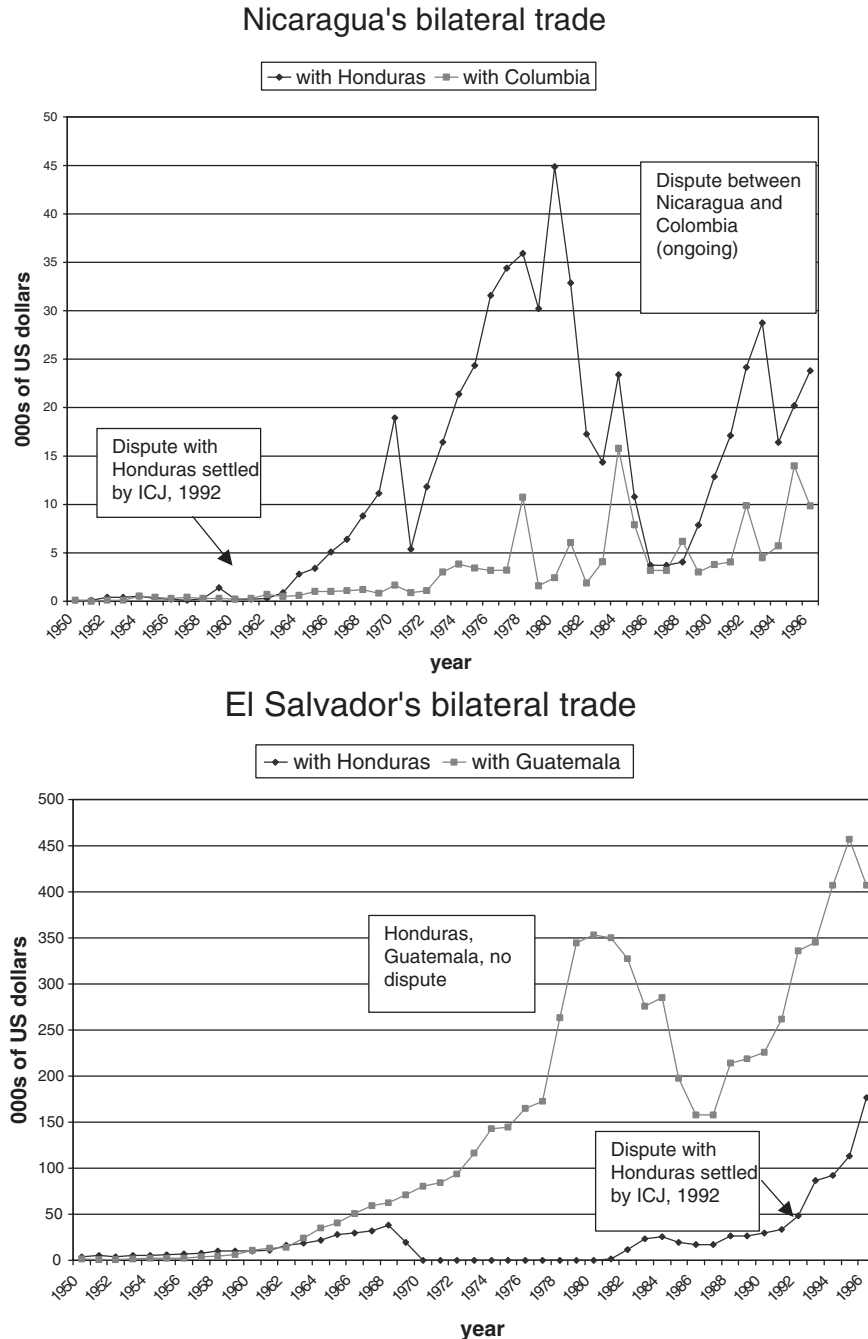


Figure 1: Nicaragua's and El Salvador's Bilateral Trade

NOTE: ICJ = International Court of Justice.

If a government has an interest in resolving a territorial dispute—and consideration of opportunity costs suggests they often may¹⁹—then international arbitration or adjudication affords an attractive way to do so. These processes are especially useful where national leaders value settlement but are blocked by domestic political opposition from pursuing it. Consider a polity where the value placed on settlement varies across the politically relevant population or decision-making institution. A continuum of preferences from “settle at any cost” to “oppose any settlement” is possible, but assume for the moment that the median voter or legislator lies somewhere between these two extremes. Furthermore, suppose that the government negotiates a border agreement with its adversary/neighbor, which is rejected by the relevant domestic political body. This government may have strong incentives to propose arbitration by a disinterested third party. Such a proposal can be acceptable to a polity even if it has rejected a negotiated solution. The main reason is that the polity may expect, *ex ante*, greater benefits from an arbitral agreement than a negotiated one. This assessment can be greatly influenced by the belief in the strength of one’s country’s legal “right” to the disputed territory, as a result of years or even decades of propaganda asserting the rectitude of such claims. This belief can lead some domestic groups to expect a more favorable outcome from a neutral legal authority than is possible through political compromise. A coalition for arbitration or adjudication could therefore succeed where a coalition for a particular political settlement would fail.

But even if a polity does not expect any better deal from an arbitrator or a court than it could get from negotiation, there may still be reasons to choose arbitration. Even if an arbitration panel produces the same terms as did political compromise, some domestic groups will find it more attractive to make concessions to a disinterested institution than to a political adversary.²⁰ The former sends a “cooperative” signal, whereas the latter is likely to signal weakness. The former bolsters a positive reputation that can be valuable in future interactions,²¹ whereas the latter sets a precedent that can stimulate further demands for concessions. A domestic audience that places some value on settlement could reasonably accept an arbitrated settlement that it could not accept as part of an identical agreement made through direct political concession. This implies that we should not necessarily assume, as some scholars have (Coplin 1968; Schwarzenberger 1945, 432-33), that only governments willing to make concessions will in fact submit to international legal processes.

While the use of arbitration or adjudication is a voluntary²² process that leads to a legally binding ruling, it is clear that not all decisions are complied with. Consider once again a polity that has decided to gamble on arbitration. Some groups strongly

19. This argument complements those made by commercial liberals that trade helps to preserve peace (Oneal and Russett 1999). Logically, if the anticipation of lost trade can help avert war, then the desire to develop better trading relations can encourage the settlement of disputes that cause bilateral relations to deteriorate.

20. I gratefully acknowledge Robert Powell’s suggestion of this argument.

21. This is the compliance mechanism in most rational functionalist theories (Keohane 1984). A parallel argument can be found in the legal literature (Schachter 1991, 7).

22. In the absence of special agreements, there is no general obligation for states to submit their disputes to third parties either for help in settlement or for binding settlement (Bilder 1989, 476).

favor settlement; some oppose settlement on any terms.²³ These groups' attitudes toward compliance do not change when the ruling is revealed *ex post*. But a segment of the politically relevant populace thought that they could do better by making a legal case than by making political concessions. It is this group that is likely to resist an adverse ruling. The greater the difference between *ex ante* expectations and the arbitration ruling *ex post*, the greater the likelihood of noncompliance as disaffected groups oppose the outcome and begin to denounce the legal process and maybe the government itself for taking the nation down that road.

On the other hand, the mere existence of a legally binding ruling changes the context for decision making. Specifically, the choice not to comply involves costs, and domestic groups may differ as to their assessment of these costs. For one thing, a third party—whether a government or the international community—has now staked its prestige on rendering a “legally binding decision.” The arbitrator’s credibility is now at stake, raising the possibility that the agreement will be enforced.²⁴ But even if enforcement is unlikely, flouting the decision of a quasi-judicial entity is not without costs. Prior to the ruling, title to the land was unclear. But once a disinterested party has reached a considered conclusion about what the law requires, this raises the legitimacy of a particular focal point for settlement.²⁵ The costs of disregarding such decisions can be higher than similar behavior in their absence. The assessment of these costs varies within and across countries, but as they are given more weight, second-order compliance should improve.

The above discussion points to the possible *internal incapacity* of governments to solve the territorial problem without the institutional device of arbitration. Like traditional realism, this approach admits that states delegate sovereignty grudgingly and prefer to solve international controversies through political means. However, depending on the constellation of domestic political forces, this may not be possible. If decision making is captured by either staunch supporters of settlement or incorrigible opponents, arbitration is not a likely outcome. But there may be enough support for rolling the dice, especially if political settlement is blocked. In this case, arbitration or adjudication is a plausible way out. At the same time, taking the gamble changes significantly the context of decision making by raising the costs of unilateral action.

23. Paul Huth notes that domestic groups are often to blame for the escalation of territorial conflicts and opposition to settlement (Huth 1996, chaps. 5 and 6).

24. A legal ruling arguably unifies the international community around the “focal” ruling. According to Fisher (1981, 25), “A court of law—or some comparable institution—is crucial to the very concept of compliance whenever its meaning is in dispute. Once a court has resolved a dispute and decided what ought to happen, the compliance objective of the community is clear: it wants its members to comply with that decision.”

25. For an argument that international institutions create and legitimate focal points, see Garrett and Weingast (1993). On the importance of legitimacy for international relations, an early important statement includes Claude (1966). International legal scholars who have addressed this issue include Caron (1993), Franck (1988), and Peck (1996).

SCOPE AND METHODS

The remainder of this article assesses hypotheses suggested by this domestic explanation for why states make legally binding commitments, the conditions under which they turn to third parties to help settle disputes, and the conditions leading to second-order compliance with legally constituted supranational authority. The hypotheses will be evaluated using territorial disputes from 19th- and 20th-century Latin America. Latin America provides an interesting opportunity to study commitment and compliance with respect to territorial issues, primarily because the continent offers a large number of cases: although every other continent has seen territorial arbitrations numbering in the low single digits, there have been more than 20 cases of arbitration or adjudication in Latin America. In fact, one country, Honduras, has sought third-party legal rulings four times on all three of its international borders, twice turning to the ICJ (regarding the border with Nicaragua in 1960 and El Salvador in 1992). At the same time, focusing on this region allows us to hold constant a number of potentially complicating factors such as legal culture and ethnic conflict. Of course, one should remain cautious about generalizing to other regions.

Arbitration and adjudication are both considered here as examples of cases that raise issues of second-order compliance. Although there are important differences between the two legal procedures, these differences are not severe enough to exclude one at the expense of reducing the sample.²⁶ Not surprisingly, arbitration is used more frequently than adjudication because the former allows the disputants to choose the arbitrators and the exact issues to be decided. Adjudication, on the other hand, invokes an existing legal framework and institution.²⁷ The result in both cases, however, is a legally binding ruling, carrying similar obligations with respect to compliance.

Appendix A displays the cases analyzed here. These cases were chosen because they involved official government²⁸ sovereignty claims with respect to territory and borders²⁹ that were mutually incompatible. For purposes of comparison and to raise our awareness of problems of selection bias, this analysis includes control cases involving no disputes as well as disputed borders, cases in which a third-party ruling was rendered in addition to cases in which one was not, and cases of compliance as well as cases of noncompliance.

This allows us to see, for example, that disputed cases tend to involve countries that are much more evenly matched by several measures of military capabilities than do cases of no dispute. A simple difference of means test shows that the nondisputed con-

26. For a discussion of the differences between arbitration and adjudication, see van Glahn (1992, 604-21). In running the tests for Table 5, I tested for the impact on compliance of adjudication versus arbitration (there were only three cases of the former). I could find no significant impact.

27. The distinction has been eroded by the use of chambers in the ICJ, however. Three out of four of the cases in the late 1980s that used chambers were territorial disputes, indicative of how sensitive states are to submit this kind of issue to standing courts (Rosenne 1989, 236).

28. Claims by subnational groups that were not taken up by the government are excluded.

29. Disputes that were primarily maritime in nature are excluded. However, two disputes over sizable islands are included (Argentina vs. the United Kingdom over the Malvinas/Falkland Islands and Nicaragua vs. Colombia over Providencia, San Andres, and Santa Catalina).

TABLE 1
Power Asymmetry as a Source of Bias:
Average Ratio (Larger/Smaller) of Capabilities for Various
Categories of Cases (Comparison of Means Test; *t* Statistic)

	<i>Number</i>	<i>Average Ratio</i>		
		<i>Total Population</i>	<i>Military Personnel</i>	<i>Military Expenditures</i>
All cases				
No dispute	5	127.079	49,048	59,999
Dispute	38	7.157	6,092	14,059
Probability		.0003	.0003	.0103
<i>t</i> statistic		3.99	3.99	2.69
Disputed cases only				
No ruling	17	11.324	7,652	14,675
Ruling	21	3.783	4,829	13,561
Probability		.0299	.3669	.9033
<i>t</i> statistic		2.262	0.914	0.122
Ruled cases only				
No compliance	11	3.217	3,45	9,338
Compliance	10	4.405	6,346	18,205
Probability		.612	.521	.515
<i>t</i> statistic		0.503	-0.654	-0.663

trol cases had much higher ratios for various measures of capabilities than the disputed border cases, implying a possible deterrence effect (Table 1; see Appendix B for definition of variables).

The differences are far less significant as between cases that were disputed but not ruled on versus those in which authoritative rulings were made. Among the cases in which rulings were made, power asymmetries were indistinguishable across the compliance and noncompliance cases. This look at "null cases" indicates that when we select out arbitrated or adjudicated cases for testing, we are probably excluding the most extreme cases of power differences between the countries involved. For this reason, tests have been done on the entire set of cases (including null cases), as well as specified subsets. The results presented below were obtained using logistical regression analysis, with each border pair as a case.

Arbitration and adjudication have a long history in Latin America, but these legal processes have not had the same effect on state behavior over time. Figure 2 illustrates the distribution of legal delegation to a third party in this area over time. The pre-World War I "golden age" of arbitration saw some dozen territorial disputes handled through arbitration, yet fewer than half of these legal rulings were actually complied with. In the post war years, there have been fewer arbitrations or adjudications, but with a surprising reversal in the relative frequency with which governments have accepted and implemented the decisions of the judge or arbitrator. Since World War II, Latin American governments that have agreed to submit their territorial disputes to authoritative third-party rulings have been twice as likely to comply as not. Certainly, this partially

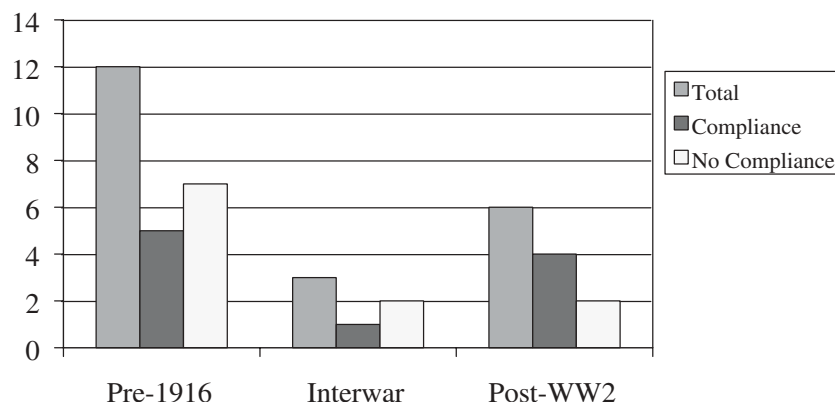


Figure 2: Latin American Territorial Arbitration, Adjudication, and Compliance over Time

reflects a more selective delegation of cases than was true in the decades surrounding the turn of the century, when the United States actively sought legalistic solutions to a number of disputes in the Western Hemisphere. But domestic political conditions are an important part of the explanation as well, as the following sections show.

FINDINGS

WHY DO STATES MAKE COMMITMENTS TO HAVE A LEGALLY CONSTITUTED THIRD-PARTY ARBITRATE THEIR BORDER?

Realist theory does not offer a good explanation for the decision of states to turn to authoritative third parties to render an arbitral award regarding territory. To the extent that some explanation must be found within the realist paradigm, however, third-party arbitration is only likely as a result of threat or coercion or over matters that do not involve a vital national interest. The more significant the matter at stake for a state's power, the less likely is the decision to be made to cede sovereign control over the right to self-judge.

The explanation offered here, on the other hand, would suggest that governments commit themselves to arbitration when domestic politics blocks an explicitly political approach. The use of quasi-judicial processes can be seen as a substitute for a government's ability to settle a dispute or solve a problem through negotiation. If this is true, arbitration should be associated with conditions in which its expected value exceeds the value of political settlement. After all, the argument concedes that political solutions are preferred to arbitrated ones if they offer an expected higher payoff. Consistent with realism, powerful countries should be reluctant to commit to arbitration because they have good reason to expect a better payoff through political channels. However,

TABLE 2
Commitment to Arbitrate

<i>Explanatory Variables</i>	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>	<i>Model 4</i>	<i>Model 5</i>
Constant	0.569 (0.732)	0.672 (0.810)	0.044 (1.41)	-0.156 (1.057)	-0.240 (1.23)
Ratification failure	1.789** (0.868)	2.23** (0.995)	1.79** (0.872)	1.72* (0.884)	2.22* (1.37)
Ratio of military personnel	-0.132* (0.072)	-0.158* (0.088)	-0.126* (0.073)	-0.130* (0.069)	-0.086 (0.062)
Democratic pair	—	0.177 (0.847)	—	—	—
Past violence	—	—	0.238 (0.542)	—	—
Resources	—	—	—	0.465 (0.527)	—
Border length	—	—	—	—	2.055 (2.005)
Number of observations	39	36	39	39	37
Log likelihood	-17.05	-14.613	-16.94	-16.77	-14.45
χ^2	(2) 7.86	(3) 7.25	(3) 8.16	(3) 8.11	(3) 8.73
Probability > χ^2	.0196	.0644	.0429	.0439	.0330

NOTE: Dependent variable: presence of a bilateral arbitration treaty. Data presented as logit coefficients (robust standard errors).

*Significant at the .10 level. **Significant at the .05 level.

we would also expect the willingness to commit to arbitration to be associated with some evidence of domestic political blockage to negotiated resolution. Finally, because the argument for arbitration turns on a belief that the country will do better in court than it has done at the negotiating table, we expect a commitment to arbitrate to be associated with domestic susceptibility to government propaganda. Politics with little access to independent assessments of their territorial "rights" are more likely to gamble on arbitration.

Table 2 presents some evidence to address these hypotheses. (All definitions and sources for dependent and explanatory variables can be found in the Appendix B.) The first hypothesis is confirmed by the negative coefficient on the power measure (ratio of military personnel). The greater the asymmetry between countries, the greater the expected value of a political settlement for the larger country, making arbitration unlikely. This finding is consistent with both a traditional realist hypothesis that overwhelmingly powerful countries are unlikely to commit themselves to arbitration and the domestic politics argument developed above.

The second finding uniquely supports arbitration as a desirable solution under circumstances of domestic political blockage. "Ratification failure" (whether or not a signed border treaty failed to be ratified in one or both of the signatory countries) is used as an indicator of domestic blockage. The evidence suggests that a history of ratification failures is associated with a higher probability of negotiating treaties that commit states to arbitration. Where there has been a history of ratification failure, the like-

lihood of an arbitration treaty increases. Unsuccessful efforts to solve the problem diplomatically seem to be associated with a commitment to let a third party arbitrate or adjudicate the border between states. This is true whether we look at all cases of a shared border or only at those cases in which there was a territorial dispute (not reported).

The third expectation could not be confirmed through the tests performed here. Using “joint democracy” as an indicator of the informational context—with the expectation that more democratic polities would discount propaganda on the strength of its legal case in light of a range of critical views—there is no evidence that arbitration is more likely in a less democratic regime where information bias is likely to be more extreme. On the other hand, two indicators that uniquely support a more traditional realist hypothesis were also not confirmed. It is, surprisingly, not the case that governments only agree to arbitrate “unimportant” cases. Using “past violence” and “resources” as proxy indicators of the importance the countries attach to the territory, we would have expected a strong negative effect of these indicators on the commitment to arbitrate. But neither past violence—presumably a subjective indicator of how important the territory is for the countries in question—nor extent of natural resources located in the region—a somewhat more objective indicator of the intrinsic significance of the territory—were correlated with an arbitration commitment. There is no evidence that high stakes strip governments’ desire to commit to arbitration. It should be noted that the domestic politics explanation does not at all depend on such a relationship; rather, it depends only on a comparison of payoffs expected from arbitration versus negotiation.

We were not able to confirm an effect to regime type as an indicator of the kind of information on which domestic expectations are based. It is possible, however, that ratification failure is endogenous to regime type, thus masking the effects of democratic regimes. If democracies run into fewer ratification problems (a statistical colinearity problem), an information environment could then indirectly contribute to the arbitration commitment. There is some possibility that this is the case. Earlier research suggests that, if anything, the more democratic countries were associated with a lower probability of ratification failures (Simmons 1999a, 219). This finding is consistent with the information environment generated by democratic regimes. The free flow of information means both that democratic governments are “sophisticated negotiators”: they will only negotiate in the range of agreements that they know can be accepted by their domestic constituency; at the same time, the domestic constituency harbors much weaker mythic illusions about the strength of the country’s rightful claim to the territory. Both of these mechanisms should lead to political rather than judicial settlement according to the argument presented above. They may be difficult to observe statistically, however, because of the possibility of colinearity.

WHAT IS THE SIGNIFICANCE OF AN ARBITRATION TREATY? DOES IT REALLY LEAD TO ARBITRATION?

Realists do not spend their time coding the existence of arbitration treaties because their approach to international politics would admit only a trivial relationship between

TABLE 3
Carrying Out Arbitration

<i>Explanatory Variables</i>	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>	<i>Model 4</i>
Constant	-0.706 (0.610)	-0.536 (0.758)	-1.184 (0.977)	-0.728 (1.193)
Ad hoc arbitration treaty	1.461** (0.684)	1.441** (0.696)	1.392* (0.716)	1.460** (0.683)
Territory and bilateral treaty	0.446** (0.226)	0.414* (0.235)	0.425* (0.231)	0.447* (0.217)
Multilateral general arbitration treaty	-1.674** (0.820)	-1.700** (0.830)	-1.758** (0.843)	-1.676** (0.849)
Ratio of military personnel	—	-0.015 (0.035)	—	—
Past violence	—	—	0.271 (0.475)	—
Resources	—	—	—	0.009 (0.585)
Number of observations	38	38	37	38
Log likelihood	-14.56	-19.19	-19.06	-19.26
χ^2	(3) 14.56	(4) 14.87	(4) 13.25	(4) 14.68
Probability > χ^2	.0022	.0050	.0101	.0055

NOTE: Dependent variable: whether an authoritative third-party ruling has been made in each case (disputed cases only). Data presented as logit coefficients (robust standard errors).

*Significant at the .10 level. **Significant at the .05 level.

commitments and actions. Such promises may be made for tactical reasons, which have little to do with the genuine intention to fulfill the promise. The domestic logic proposed here suggests that in the absence of drastically changed circumstances or new information that *pacta sunt servanda*: the parties will go through with their commitment to get a ruling. This is not a highly principled argument; it is one based on an assessment of expected payoffs.

Table 3 presents some evidence that supports the domestic coalitions argument while casting doubt on both pat realism and principled multilateralism. Consistent with the domestic politics argument developed above, the existence of bilateral arbitration treaties is associated with a strong likelihood of completing the arbitration process (e.g., it increases the probability that there will actually be a ruling). Governments commit themselves to a process for settlement; their behavior reflects this commitment. But some very telling patterns emerge with respect to the kinds of commitments that lead to an actual arbitration. In the first place, general multilateral treaties were inversely associated with achieving a ruling. This suggests that general commitments (which are binding "in principle") may be of limited use for solving specific problems. General commitments made to a large number of states on a range of issues simply do not function in the same way as a specific commitment designed to overcome a domestic hurdle on a particular issue. Grand pronouncements to take any dispute involving any signatory to a third party for arbitration were associated with a diminished chance of actually doing so. This is consistent with a domestic politics interpretation based on

specific expected payoffs. Arbitration does not appear to rest on principle but on the expectation of improved payoffs in a specific situation.

On the other hand, bilateral and especially ad hoc agreements to arbitrate showed a strong positive correlation with actually reaching a ruling. The more specific the commitment, the more likely it is to be carried out. This is because commitments in the model discussed here are endogenous to domestic political considerations.³⁰ Once again, we can distinguish two levels of specificity with respect to bilateral commitments: where agreements were drawn up to arbitrate a specific dispute (ad hoc arbitration agreements), the effects were consistently strong and positive. (Note, however, that it is not automatic: for example, a 1904 boundary arbitration convention that I have coded as “ad hoc,” naming the emperor of Germany or Mexico as arbitrator, was agreed between Colombia and Ecuador but was never carried out.) In the presence of general bilateral treaties or boundary treaties with specific arbitration provisions to address dispute settlement should a dispute arise, an actual ruling was highly likely, although the relationship is not as strong as with ad hoc agreements.

None of the other hypotheses normally associated with realism had any explanatory power: asymmetric power did not contribute to whether a case would be arbitrated, nor did past violence or extent of natural resources.

The emerging picture suggests that more evenly matched, perhaps less democratic governments find it difficult to negotiate international boundary agreements that can be accepted at home. This is the kind of environment in which years of propaganda have convinced crucial groups to be suspicious of making political concessions to their adversary. Domestic political blockage leads to the negotiation of arbitration treaties because a significant group believes it has more to gain through arbitration than through negotiation. Specific arbitration treaties are therefore a good predictor that the case will in fact “go to court.” Without recourse to principle (our finding on the effects of multilateral arbitration treaties casts doubt on such an explanation) and contrary to the expectations of traditional realists, governments facing particular domestic constraints are likely to make and fulfill commitments to use arbitration to settle crucial issues involving the geographical reach of their sovereignty.

WHO COMPLIES?

The central issue that motivated this study was the question of second-order compliance: what are the conditions under which states comply with the decisions of a legally constituted third party? In the discussion above, I posited the existence of politically relevant domestic groups who thought, *ex ante*, that arbitration had a higher expected value than accepting a political settlement. Therefore, the greater the difference between *ex ante* expectations and the actual arbitration decision, the more likely some members of this group are to oppose compliance. The degree of democracy is used as an indicator that should narrow the gap between expectations and arbitration outcomes because more democratic regimes allow for a better informational flow and

30. Although the results are not reported in these tables, the evidence suggests that states with a high ratification failure rate do not choose general multilateral treaties; they are more closely associated with specific ad hoc agreements to arbitrate.

a reduction in extreme expectations. Democracy should be associated with fewer arbitrations but better compliance when arbitration is sought.³¹

Second, the loser's acceptance of the arbitral decision should be influenced by its perceptions of the net costs of (non)compliance. I have argued above that the cost of not complying with an arbitral award can in general be considered greater than the costs of rejecting a politically negotiated solution. But for those groups in the polity who had overestimated their country's chance of a favorable ruling, the costs of second-order compliance increase when there is more at stake. The importance of the territory need not deter this group from gambling on arbitration (because they thought they had a good chance of winning), but it can cause hawkish gamblers to oppose complying with the decision.

On the other hand, there are potentially tangible and intangible costs to noncompliance. First, the prospects of enforcement reduce the willingness to flout an arbitral decision. Second, a government can be expected to pay reputational costs internationally for reneging on an agreement to accept a disinterested legal judgment. Finally, and less tangibly but no less real, a government whose domestic legitimacy is based on the rule of law faces the possibility of higher domestic costs if it flouts the ruling of an authoritative panel that has rendered a legally binding decision. Such behavior raises questions about the willingness of the government to respect constitutional limitations on its own power in the future.³²

Table 4 presents evidence that speaks to these relationships. The indicator proposed to capture the gap between expectations and the arbitral outcome, degree of democracy, had the expected positive sign but was not at all statistically significant. The impact of net costs to (non)compliance, however, is much clearer. First, the importance of natural resources in or near the area under dispute was a significant detractor from the willingness to comply. The loss of resources raises the cost of accepting the decision of the arbitrator.

The nature of the resource base in the area is not the whole compliance story, however. There is also evidence that governments are concerned about the costs of ignoring the ruling. For example, the identity of the arbitrator made a significant difference to the willingness of the losing party to comply. Compliance was significantly more likely when the arbitrator was from the Western Hemisphere (including the United States or regional arbitrators). It was significantly less likely with European arbitrators (the United Kingdom, France, and Spain were used on various occasions). Near neigh-

31. Others have argued that regime type should matter for understanding the role of law in interstate relations but depend on different mechanisms. Risse-Kappen (1995) argues that norms regarding limited government, respect for judicial processes, and regard for constitutional constraints "carry over" into the realm of international politics. These arguments dovetail nicely with a growing agenda in political science that argues that liberal democracies are more likely than are other regime types to revere law, promote compromise, and respect processes of adjudication (Dixon 1993; Doyle 1986; Raymond 1994).

32. According to Fisher (1981, 30), "International law is not unlike constitutional law in that it imposes legal obligations upon a government that in theory the government is not free to ignore or change." Thus, behavior in the international realm provides information about whether the government can be expected to observe principled limitations on power in the domestic sphere.

TABLE 4
Compliance

<i>Explanatory Variables</i>	<i>Model 1</i>	<i>Model 2</i>	<i>Model 3</i>
Constant	59.01	62.40	71.14
Arbitration pre-1916	2.769 (1.921)	2.80* (1.729)	3.91** (1.56)
Resources	-30.03*** (0.851)	-31.73*** (0.872)	-37.47*** (1.54)
Western Hemisphere arbitrator	27.16*** (1.63)	28.79*** (1.97)	33.84*** (1.59)
Change of executive in loser	-7.77*** (3.04)	-7.912*** (3.12)	-10.04*** (3.67)
Judicial independence of loser	1.834** (0.813)	1.815** (0.871)	3.020** (1.23)
Democracy of loser	—	0.079 (0.621)	—
Relative military power of loser	—	—	1.46 (1.39)
Number of observations	21	21	21
Log likelihood	-3.81	-3.81	-3.63
χ^2	(5) 11,493.26	(6) 16,811.16	(6) 20,995.66
Probability > χ^2	.000	.000	.000

NOTE: Dependent variable: compliance with the decision of a legally constituted third party (ruled cases only). Data presented as logit coefficients (robust standard errors).

*Significant at the .10 level. **Significant at the .05 level. ***Significant at the .01 level.

bors, and especially the United States, are more likely than Europeans to be able and motivated to establish their credibility through the possibility of enforcement.

There is also evidence that governments are concerned with reputational costs to noncompliance. The evidence here is fairly specific: it suggests that governments (not "states") attach costs to the breaking of their legal commitments. This proposition was tested by comparing the compliance behavior of a government that had agreed to arbitrate with that of a government that had come to power during the arbitral process. Continuity in the executive in the 2 years preceding arbitration contributed to compliance; change in the executive tended to contribute to noncompliance. At the simplest level, this at least provides a mechanism by which voluntary subjection to a third party can nonetheless result in noncompliance: a significant change of government can—and apparently does, in many cases—intervene after making an arbitration commitment and prior to or shortly after the ruling. This is hardly surprising because domestic political blockage often gives rise to the desire to arbitrate in the first place. Arguably, these are polities that are highly split, even possibly polarized, on a number of issues. But for our purposes, the important point is that chief executives who make commitments to arbitrate tend to keep them; those who did not (and possibly opposed them all along) do not have the same reputational stake. Domestic costs of noncompliance for a

new chief executive in this case are likely to be minimal because these politicians are likely to have come to power on a different coalitional basis than the previous chief executive. International costs may even be muted as well because the rejection of the decision may be understood as a part of a broader policy shift and not a purely cynical manipulation of the international community.

Finally, there is evidence consistent with the expectation that governments based on the rule of law anticipate higher costs if they disregard a legally binding ruling. *Judicial independence in the losing state* is an indicator meant to capture the extent to which a regime depends on the rule of law for its own legitimacy and credibility. As judicial independence increases, there is a greater tendency to accept the binding ruling of an international arbitral panel or court. A tradition of judicial independence reflects a populace better prepared to accept an adverse ruling in the belief that there are costs to the unbridled exercise of political power. Moreover, noncompliance provides crucial information that may be interpreted in rule-of-law societies as evidence of the government's unwillingness to accept principled limits on its actions. A government that ignores this domestic preference by rejecting a legally binding international ruling is more likely to antagonize this domestic audience.³³

One additional variable was included as a control, and its effect is somewhat surprising: greater relative military capabilities on the part of the loser did not systematically affect the likelihood of compliance; in fact, the coefficient is unexpectedly positive, though not statistically significant. Although it is true that disputing pairs are somewhat more evenly matched than nondisputing pairs, this finding is difficult to square with realist assertions that more powerful countries rarely comply with inconvenient legal obligations.

CONCLUSIONS

Territorial disputes have traditionally sparked militarized conflicts and continue to be a source of tension in many regions around the world. But in addition to disputes that have dragged on for decades (that between India and Pakistan, Israel and its Arab neighbors, the five-country dispute over the Spratley Islands), it is currently easy to find a number of important instances in which governments have decided to cast their lot with binding arbitration or adjudication by a disinterested third party. Why this decision is made and whether it changes behavior have been understudied by international relations scholars.

33. Recent theoretical as well as empirical work has emphasized the ability of democracies to generate domestic audience costs that constrain governmental behavior and international outcomes (e.g., see Fearon 1994; Gelpi and Griesdorf 2001). Other have argued that rule-of-law countries (meaning liberal democracies with independent judiciaries) should use and comply with international legal processes more readily than others, but these arguments rest on a different mechanism. Anne-Marie Slaughter (1995a, 1995b, 1998), for example, attributes this to transjudicial communication and a shared set of legal values held by both the countries and the tribunal in question.

This article is an effort to address this theoretical and empirical lacuna. Despite its limitations,³⁴ the story told by the evidence presented here provides some empirical grist for understanding delegation to and compliance with supranational authority. It suggests that such delegation is most likely when a government that wants to settle the dispute finds settlement blocked by domestic politics. This article has suggested that accumulation of opportunity costs (e.g., foregone trade and investment) might provide the motivation for seeking an authoritative third-party ruling on a specific case. Future research could fruitfully concentrate on what kinds of opportunity costs are a prime motivation for dispute resolution. Here, it has been shown that where extreme power asymmetries have not deterred a dispute in the first place, governments are willing to commit to processes of third-party review—to agree to submit to supranational legal authority—because they wish to solve disputes that have eluded unilateral or bilateral political solution. The commitment to arbitrate appears to be closely tied to the inability to negotiate an international agreement that can be ratified at home. This happens because some groups expect arbitration to provide higher payoffs than political concessions; they believe they will win in court, but even if the outcome is the same as the negotiated deal, there is a strong preference to defer to an authoritative body rather than to a political-military rival.

Once a bilateral arbitration commitment was made, this was the strongest correlate for actually obtaining a ruling—evidence that the commitment was meaningful for action. But a careful examination of which kind of arbitral commitments actually led to rulings indicates a strong case for the endogenous mechanism offered here, with its emphasis on expected payoffs, and no case at all for a more principled multilateralism.

Nor should we harbor any illusions about the unconditional “compliance pull” of a tribunal’s authority. The evidence shows that prior to World War II, governments were more likely to flout than comply with the decision of an arbitrator. The postwar period has seen fewer arbitrations but a stronger tendency to accept and implement legal obligations. One possibility is that the reputational costs of ignoring such rulings have risen as norms of peaceful territorial resolution have solidified (Zacher 2001). Another possibility is that the opportunity costs (trade foregone) have become far more obvious as regional and international trade has boomed over the past two to three decades. That countries increasingly recognize the value of being “trading states” (Rosecrance 1986) has likely enhanced a willingness to settle disruptive territorial claims.

Despite these considerations, resource-rich territory was especially difficult to relinquish. The probability of complying was much higher, though, if the arbitrator was from the Western Hemisphere, which in turn could reasonably be associated with a higher probability of enforcement. Specific reputational factors also influence the compliance decision: continuity in the executive in the year of and preceding the ruling

34. Obvious limitations include the small sample size. Other limitations include the truncation on the democracy indicator for the cases considered here (there are relatively few truly liberal democracies in this study) and the crudeness of rule-of-law measure, for which it has been difficult to match the time periods of the observations precisely. Furthermore, one should exercise caution in generalizing to other regions because the focus on Latin America holds much constant. Finally, one should be cautious about generalizing to other issue areas, for which the selection bias for using legal dispute settlement mechanisms could differ significantly (e.g., in the trade area).

increased the probability that an adverse ruling would nonetheless be accepted. Furthermore, the contribution of executive turnover to noncompliance is understandable in the context of the domestic political conditions I have associated with the decision to arbitrate in the first place. The decision to arbitrate is associated with fractiousness and some opposition to settlement. Having brought a highly divisive issue to an international forum, there is a high risk that a change in domestic political coalitions will undercut the “international institutionalist” strategy of a previous executive. We should expect domestic political struggles and noncompliance when coalitions lose their hold on executive power in the midst or at the conclusion of the international judicial process. On the other hand, as the evidence seems to suggest, executives who are able to ride out the political maelstrom are more likely to view their reputations—internationally and domestically—as linked positively to compliance.

This effect is supported by another feature of the domestic system of governance: its experience with and hence the legitimacy accorded to judicial rulings meant to constrain the exercise of pure political power. The argument is not that governments that face judicial restraints will simply exercise the same normative judgments in the international sphere. Rather, it is that such behavior sends signals to a domestic audience, which for very good reasons itself values legal restrictions on the raw exercise of political discretion. Higher domestic costs in rule-of-law countries further discourage noncompliance.

This research has implications for the study of international institutions more broadly. It suggests that it is possible to make some headway between the two extremes of the debate about whether international institutions matter for the conduct of foreign policy and international outcomes. Progress depends on a plausible mechanism that links institutions with effects (see Martin and Simmons 1998). In this project, the focus was on the domestic political conditions associated with the decision to delegate to an authoritative international institution and the decision to comply with its ruling. Arbitration is only a reasonable choice for a government that wants to settle but faces very specific domestic conditions: enough opposition that negotiated concessions are rejected but enough support (aided by the belief in the strength of the legal case) to garner agreement on a roll of the dice. Under these conditions, it is reasonable to turn to international legal institutions to substitute for suboptimal domestic decision making.

Once this basic condition is in place, much of the evidence that normally informs a contest between realism and institutionalism falls into place. Yes, governments honor their specific, bilateral arbitration agreements because they want to solve a problem that, unresolved, constitutes a “suboptimality.” But they do not honor general multilateral commitments to arbitrate because these represent principles that may be distant from the pragmatic purpose at hand. The explanation for second-order compliance similarly illuminates and orders evidence that could normally cause both realists and institutionalists to claim victory. Ex post, the value of territory affects the compliance decision, but a balanced assessment of costs and benefits of compliance has to take into account domestic and external reputational consequences as well. The existence of an authoritative focal point serves to change significantly the calculus on which such decisions are made.

APPENDIX A

Cases

Category 1: Cases of no dispute

Argentina/Uruguay
 Belize/Mexico
 Brazil/Venezuela
 Brazil/Guyana
 El Salvador/Guatemala

Category 2: Disputes handled, apparently without suggestion of a third party

Argentina/Bolivia	1872-1925
Argentina/ United Kingdom	1820-1995
Bolivia/Brazil	1837-1925
Bolivia/Chile	1858-1995
Bolivia/Paraguay	1825-1938
Brazil/Paraguay	1860s-1932
Brazil/Peru	1821-1913
Brazil/Uruguay	1825-1995
Colombia/Panama	1903-1924
Guyana/Suriname	1975-1995

Category 3: Disputes in which third-party ruling is suggested or initiated but not concluded

Belize/Guatemala	1939-present
Brazil/Colombia	1826-1937
Colombia/Ecuador	1830-1916
Colombia/Nicaragua	1890-present
Colombia/Peru	1822-1933
Dominican Republic/ Haiti	1844-1936
Guatemala/Mexico	1840-1895

Category 4: Third-party ruling, no compliance

	<i>Dates of Dispute</i>	<i>Ruling Date</i>	<i>By</i>	<i>Rejector</i>	<i>Comments</i>
Argentina/Chile	1847-1984	(1977)	United Kingdom	Argentina	Beagle Channel, settled 1984
Argentina/Chile	1847-1994	(1902)	United Kingdom	Chile	Awards in four sectors; two rejected
Bolivia/Peru	1825-1911	(1909)	Argentina	Bolivia	Resolved by Peru's concessions
Chile/Peru	1881-1929	(1924)	United States	Peru	Re: holding of a plebiscite

APPENDIX A (continued)

	<i>Dates of Dispute</i>	<i>Ruling Date</i>	<i>By</i>	<i>Rejector</i>	<i>Comments</i>
Costa Rica/Nicaragua	1842-1900s	(1888)	United States	Nicaragua	
Costa Rica/Nicaragua	1842-1900s	(1916)	Central American Court of Justice	Nicaragua	Re: validity of 1888 ruling
Costa Rica/Panama	1903-1944	(1900)	France	Costa Rica	Originally: Costa Rica and Colombia
Costa Rica/Panama	1903-1944	(1914)	United States	Panama	
Ecuador/Peru	1842-present	(1945)	Brazil	Ecuador	
Guyana/Venezuela	1951-present	(1899)	United States	Venezuela	Rejects United Kingdom/Venezuela arbitration
Honduras/Nicaragua	1858-1960	(1906)	Spain	Nicaragua	Nicaragua claimed "null and void"
Category 5: Third-party ruling, compliance					
	<i>Dates of Dispute</i>	<i>Ruling Date</i>	<i>By</i>	<i>"Loser"</i>	<i>Comments</i>
Argentina/Brazil	1858-1898	(1895)	United States	Argentina	
Argentina/Chile	1872-1903	(1899)	United States	Not clear	Los Andes
Argentina/Chile	1847-1966	(1966)	United Kingdom	Chile	Palena sector; 70% to Argentina
Argentina/Chile	1847-1994	(1994)	Regional	Chile	Laguna del Desierto
Argentina/Paraguay	1840-1939	(1878)	United States	Argentina	
Colombia/Venezuela	1838-1932	(1891)	Spain	Venezuela	Compliance delayed 25 years
El Salvador/Honduras	1861-1992	(1992)	Inter-national Court of Justice	El Salvador	80% to Honduras
Guatemala/Honduras	1842-1933	(1933)	United States	Not clear	
Guyana (United Kingdom)/Venezuela	1880-1899	(1899)	United States	Venezuela	34K square miles to United Kingdom; 8K to Venezuela
Honduras/Nicaragua	1858-1960	(1960)	Inter-national Court of Justice	Nicaragua	

APPENDIX B

Data Definitions and Sources

DEPENDENT VARIABLES

Ratification failure. The number of treaties regarding the specification of the border that have failed to be ratified in one or both countries (range: 0 to 5, with 20 cases coded 0, 11 cases coded 1, 5 coded 2, 4 coded 3, 1 coded 4, 2 coded 5). The data were then recoded dichotomously 0 = 0 and 1 – 5 = 1. Sources: Allcock (1992); Ireland (1938, 1941).

Arbitration treaty. Presence (1) or absence (0) of one or more bilateral treaties that provide for the arbitration of a specific border or border region. This includes ad hoc arbitration treaties (above) and provisions within specific border treaties that indicate that differences arising from the treaty should be referred to third-party arbitration. Fourteen cases were coded 0; 27 were coded 1. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

Arbitration. Whether (1) or not (0) the boundary or any portion thereof had been the subject of international arbitration (17 cases) or adjudication (3 cases). Twenty cases coded 1; 25 cases coded 0. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941). One ambiguous case is that of the 1910 arbitration in process by the King of Spain between Ecuador and Peru, which I have not coded as a completed ruling because Ecuador's eminent rejection of the ruling caused the king to withdraw as arbitrator without issuing his decision (Krieg 1986, 37-44).

Compliance. Compliance with a third-party ruling (1); noncompliance (0). Among the 20 ruled cases, 10 awards were accepted and complied with, whereas 10 were rejected, protested, and/or ignored by one of the parties. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

ADDITIONAL DOMAIN VARIABLE

Dispute. Whether (1) or not (0) the border between states is disputed by one or both states. To qualify as a disputed border, there had to be evidence of disagreement over the location of the boundary, as articulated by the central or national government. Out of 44 cases, 39 were coded as disputed at some point, whereas in 5 cases (Argentina/Uruguay, Belize/Mexico, Brazil/Venezuela, Brazil/Guyana, and El Salvador/Guatemala), I found no evidence of any territorial dispute. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

EXPLANATORY VARIABLES

Total population. Ratio of total population in the larger country to the smaller country, averaged for the duration of the dispute. Where the series was incomplete for the period as a whole, averages were constructed using identical years using available observations (i.e., averages cover only that portion of the time for which data were available for both countries). Where data were unavailable for the time period (e.g., for Costa Rica and Nicaragua in the 19th century), figures were estimated. U.K. capability was used in the first Venezuela/Guyana dispute (up to 1899). Original data were expressed in thousands. Source: Correlates of War data set on national material capabilities. For a complete description, see Singer, Bremer, and Stuckey (1972).

Military personnel. Ratio of total military personnel in the larger country to the smaller country, averaged for the duration of the dispute. Estimation and averaging procedures as in "total population" above. Original data were expressed in thousands. Source: Correlates of War data set on national material capabilities (see Singer, Bremer, and Stuckey 1972).

Military expenditures. Ratio of total military expenditures in the larger country to the smaller country, averaged for the duration of the dispute. Estimation and averaging procedures as in "total population" above. Original data were expressed in thousands of current-year British pounds from 1816 to 1913 and thousands of current-year U.S. dollars from 1915 to 1995. Because only the ratio is used, there was no effort to construct a consistent time series. Source: Correlates of War data set on national material capabilities (see Singer, Bremer, and Stuckey 1972).

Democracy. The average democracy score, calculated from the POLITY III data set, for the period covered by the duration of the dispute for the first country in the country-pair. Source: POLITY III data set. For a complete discussion of the conceptualization and coverage of this data set and comparisons with other democracy measures, see Jagers and Gurr (1995).

Democratic pair. Whether (1) or not (0) both countries in a given pair were relatively democratic during the dispute. The cutoff to qualify as a democracy was placed at the sample mean (2.6). Even with this very low threshold for democracy, only eight pairs were considered to both be more democratic. Source: POLITY III data set (see Jagers and Gurr 1995).

Violence. A three-level rating of the degree of violence relating specifically to territorial and border issues between the two countries. Cases were coded 1 if there was virtually no mention of border or border-related violence between the two countries (e.g., Colombia and Venezuela); cases were coded 2 if there were skirmishes, clashes, or isolated incidents between police, armed forces, or local inhabitants. Cases were also coded 2 if there was a substantial show of force at any point during the episode (e.g., the numerous shows of force—1895, 1978, and 1982—regarding the Beagle Channel and lower Patagonia between Argentina and Chile). Cases were coded 3 if there was substantial military conflict up to and including full-fledged war (e.g., the War of the Pacific, 1879-1881, between Chile and Peru for control over territory). Sources: Allcock (1992); Ireland (1938, 1941).

Resources. A three-level rating of the importance of natural resources for the territory under dispute. Cases were coded 1 if the issue of resources and their control was apparently absent from the dispute (e.g., if the issue of resources was never mentioned, as in the case of Argentina and Brazil, or if the territory is unusable jungle or desert). Cases were coded 2 if the territory was of moderate value (examples include agricultural land, e.g., desirable plains in an Atlantic River valley in the case of Honduras and Nicaragua; or water rights, as in the case of Argentina and Paraguay; or control of fishing resources, as in the case of Argentina and Chile with respect to the Beagle Channel). Cases were coded as 3 if they involved significant mineral or oil deposits or significant commercial assets such as ports or canal control (an example includes Chile and Peru, which disputed control over both Pacific ports and territory, including significant nitrate deposits). Nineteen cases were coded 1, 18 were coded 2, and 7 were coded 3. Sources: Allcock (1992); Ireland (1938, 1941).

Judicial independence of the loser. A 7-point scale that combines two measures of judicial independence: method of making appointments and a subjective measure of political control over the judiciary.

- 1 = if personnel selection coincides with political cycles or if terms are less than 5 years (Paraguay, Guatemala),
- 2 = terms for judicial appointments are longer than 5 years but less than life (e.g., Bolivia with 10-year terms, Ecuador with 6-year terms, Costa Rica with 8-year terms),
- 3 = terms are indefinite or for life (Peru after 1979).

The second was a subjective measure reported in the secondary literature.

- 1 = subject to systematic political control and review (e.g., Haiti),
- 2 = subject to political pressure in practice (e.g., Bolivia),
- 3 = fairly independent (e.g., Colombia),
- 4 = very independent (e.g., Belize, Costa Rica).

Where data were missing on one of these measures, the value was determined by doubling the other measure. The measure is not sensitive to changes over time; it is a single read in the mid-20th century and hence may not be appropriate for the 19th-century cases. Sources: *Worldmark Encyclopedia of the Nations* (1995); various country sources. Countries that scored above 5 with the combined criteria were coded as having more independent judiciaries. Coding refers to the country that received the smaller share of the territory under arbitration (the "loser") or the country that rejected the arbitral ruling. Note: this variable has values for arbitrated/adjudicated cases only.

Multilateral general arbitration treaty. The number of multilateral general arbitration treaties that both parties have ratified. Treaties have to have been in effect during the period in which the territory was under dispute; they are excluded if countries ratified the treaty after a dispute had been arbitrated or otherwise settled. For the null cases, treaties simply had to be in effect at some point during the first 100 years of independence. Where one treaty appears to be a successor for another (as in the case of the Treaty of Peace and Amity, signed at the Central American Peace Conference in 1907, in effect between 1907 and 1918, which appears to be succeeded by the 1923 Convention for the establishment of an International Central American Tribunal, in effect between 1923 and 1934), these are coded as one treaty. Treaties that simply call for commissions of inquiry (e.g., the 1923 Gondra Treaty negotiated at the Fifth International Conference of American States) or for the peaceful settlement of disputes (e.g., the 1933 South American Anti-War Pact) are excluded. Twenty-four country pairs were coded 0, 11 were coded 1, and 3 were coded 2. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

Territorial and bilateral general arbitration treaty. The number of treaties that commit states to arbitrate territorial disputes. Included are general obligations to arbitrate disputes arising from a specific territorial agreement or a bilateral general agreement to arbitrate disputes. Treaties have to have been in effect during the period in which the territory was under dispute; they are excluded if countries ratified the treaty after a dispute had been arbitrated or otherwise settled. Twenty-seven cases were coded 0, 11 were coded 1, 4 were coded 2, 0 were coded 3, and 1 was coded 5. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

Ad hoc arbitration treaties. The number of specific agreements, ratified by both parties, to arbitrate a particular territorial dispute. To count as an ad hoc arbitration treaty, the main purpose of the agreement had to be to commit to the arbitration of a specific territorial dispute. Although these are usually proximate in time to the actual carrying out of a ruling, they do not automatically imply a ruling will be made. For example, a 1904 boundary arbitration convention naming the emperor of Germany or Mexico was agreed between Colombia and Ecuador but never carried out. Where one ad hoc arbitration agreement was obviously designed to succeed another, the agreements are coded as one treaty (e.g., in 1971, Chile and Argentina signed an agreement that Britain should arbitrate the Beagle Channel dispute, and in 1972, another agreement was signed transferring authority from the United Kingdom to adjudication by the International Court of Justice. These are coded as one ad hoc commitment.). Twenty-one cases were coded 0, 17 were coded 1, 4 were coded 3, and 1 was coded 4. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

Democracy of the loser. Ten-year average democracy score (calculated from the POLITY III data set) for the "loser" for the decade immediately preceding the arbitration/adjudication decision. Note: this variable has values for arbitrated/adjudicated cases only. Source: POLITY III data set (see Jagers and Gurr 1995).

Relative military power of the loser. Using the ratio of the loser's military personnel to the winner's military personnel (see above), pairs were scored 0 if the loser's military personnel was less than half that of the winner's, 1 if the loser's military personnel was between half and twice that of the winner's, and 2 if the loser's military personnel was more than two times that of the winner.

Western Hemisphere arbitrator. Coded 1 if the arbitrator or arbitration/adjudication panel was primarily from countries of the Western Hemisphere (Latin America, Central America, or the United States), 0 if not. Fourteen cases were coded as arbitrated by representatives of countries within the Western Hemisphere (9 of these were arbitrated by representatives of the United States); 6 were by representatives of European countries. Note: this variable has values for arbitrated/adjudicated cases only. Sources: Allcock (1992); Biger (1995); Ireland (1938, 1941).

Arbitration pre-1916. A dummy variable indicating whether (1) or not (0) the arbitration decision was rendered before 1916. Note: this variable has values for arbitrated or adjudicated cases only. Twelve cases were pre-1916; 9 cases were post-1916. Sources: Allcock (1992); Ireland (1938, 1941).

Change of executive. Coded 1 if there was a change in the effective executive within the losing country the year of or prior to an arbitration award, 0 if not. Such a change requires that the new executive be independent of his or her predecessor. Ecuador's rejection of Brazil's arbitration award was coded an executive change because there were several changes of executive between 1945, when the ruling was made, and the rejection of the Rio Protocol and arbitral ruling in 1960. Note: this variable has values for arbitrated or adjudicated cases only. Sources: Banks (1971); *Europa Yearbook: South America, Central America, and the Caribbean* (1997).

REFERENCES

- Allcock, John. 1992. *Border and territorial disputes*. Essex, UK: The Long Group.
- Banks, Arthur S. 1971. *Cross-polity time series data*. Cambridge, MA: MIT Press.
- Biger, Gideon. 1995. *The encyclopedia of international boundaries*. Jerusalem: Jerusalem Publishing House.
- Bilder, Richard B. 1989. International third party dispute settlement. *Denver Journal of International Law and Policy* 17 (3): 471-503.
- Bork, Robert H. 1989-1990. The limits of "international law." *The National Interest* 18:3-10.
- Boyle, Francis A. 1980. The irrelevance of international law. *California Western International Law Journal* 10.
- Bull, Hedley. 1977. *The anarchical society: A study of order in world politics*. New York: Columbia University Press.
- Bulterman, M. K., and M. Kuijer, eds. 1996. *Compliance with judgments of international courts*. The Hague, the Netherlands: Martinus Nijhoff.
- Caron, David D. 1993. The legitimacy of the collective authority of the Security Council. *American Journal of International Law* 87 (4): 552-88.
- Carter, Barry E., and Phillip R. Trimble. 1993. *International law*. Boston: Little, Brown.
- Claude, Inis L. 1966. Collective legitimization as a political function of the United Nations. *International Organization* 20 (3): 367-79.
- Coplin, W. D. 1968. The World Court in the international bargaining process. In *The United Nations and its functions*, edited by R. W. Gregg and M. Barkin, 313-31. Princeton, NJ: Princeton University Press.
- Diehl, Paul F. 1996. The United Nations and peacekeeping. In *Coping with conflict after the cold war*, edited by E. Kolodziej and R. Kanet, 147-65. Baltimore: Johns Hopkins University Press.
- Dixon, William J. 1993. Democracy and the management of international conflict. *Journal of Conflict Resolution* 37 (1): 42-68.
- . 1996. Third party techniques for preventing conflict escalation and promoting peaceful settlement. *International Organization* 50 (4): 653-81.
- Downs, George W., David M. Rocke, and Peter N. Barsoom. 1996. Is the good news about compliance good news about cooperation? *International Organization* 50 (3): 379-406.
- Doyle, Michael. 1986. Liberalism and world politics. *American Political Science Review* 80:1151-69.
- Europa yearbook: South America, Central America, and the Caribbean*. 1997. 6th ed. London: Europa Publications.
- Fearon, James D. 1994. Domestic political audiences and the escalation of international disputes. *American Political Science Review* 88 (3): 577-92.
- Fisher, Roger. 1981. *Improving compliance with international law*. Charlottesville: University of Virginia Press.
- Franck, Thomas M. 1988. Legitimacy in the international system. *American Journal of International Law* 82 (October): 705-59.
- Garrett, Geoffrey, and Barry Weingast. 1993. Ideas, interests, and institutions: Constructing the EC's internal market. In *Ideas and foreign policy*, edited by J. Goldstein and R. Keohane, 173-206. Ithaca, NY: Cornell University Press.
- Gelpi, Christopher F., and Michael Griesdorf. 2001. Winners or losers? Democracies in international crisis, 1918-94. *American Political Science Review* 95 (3): 633-47.
- Gibler, Douglas M. 1999. Alliances that never balance: The territorial settlement treaty. In *Roadmap to war*, edited by P. F. Diehl, 181-204. Nashville, TN: Vanderbilt University Press.
- Goertz, Gary, and Paul F. Diehl. 1992. *Territorial changes and international conflict*. New York: Routledge Kegan Paul.
- Gold, John R. 1982. Territoriality and human spatial behaviour. *Progress in Human Geography* 6 (1): 44-67.
- Hensel, Paul. 1996. Charting a course to conflict: Territorial issues and militarized interstate disputes, 1816-1992. *Conflict Management and Peace Science* 45 (1): 43-73.
- . 2001. Contentious issues and world politics: The management of territorial claims in the Americas. *International Studies Quarterly* 45 (1): 81-109.

- Hoffmann, Stanley. 1956. The role of international organization: Limits and possibilities. *International Organization* 10 (3): 357-72.
- Huth, Paul K. 1996. *Standing your ground*. Ann Arbor: University of Michigan Press.
- Ireland, Gordon. 1938. *Boundaries, possessions, and conflicts in South America*. Cambridge, MA: Harvard University Press.
- . 1941. *Boundaries, possessions, and conflicts in Central and North America and the Caribbean*. Cambridge, MA: Harvard University Press.
- Jagers, Keith, and Ted Robert Gurr. 1995. Tracking democracy's third wave with the Polity III data. *Journal of Peace Research* 32 (4): 469-82.
- Jenks, C. Wilfred. 1964. *The prospects of international adjudication*. London: Stevens, Oceana.
- Keohane, Robert O. 1984. *After hegemony: Cooperation and discord in the world political economy*. Princeton, NJ: Princeton University Press.
- Knorr, Klaus. 1975. *The power of nations*. New York: Basic Books.
- Kolodziej, Edward, and William Zartman. 1996. Coping with conflict: A global approach. In *Coping with conflict after the cold war*, edited by E. Kolodziej and R. Kanet, 3-32. Baltimore: Johns Hopkins University Press.
- Krasner, Stephen D. 1995-1996. Compromising Westphalia. *International Security* 20 (3): 115-51.
- Krieg, William L. 1986. *Ecuadorian-Peruvian rivalry in the Upper Amazon*. 2d ed. enlarged to include the Paquisha Incident (1981) ed. Washington, DC: Department of State External Research Program.
- Martin, Lisa L., and Beth A. Simmons. 1998. Theories and empirical studies of international institutions. *International Organization* 52 (4): 729-57.
- McWhinney, Edward. 1991. *Judicial settlement of international disputes: Jurisdiction, justiciability, and judicial lawmaking on the contemporary international court*. Dordrecht, the Netherlands: Martinus Nijhoff.
- Mearsheimer, John. 1994-1995. The false promise of international institutions. *International Security* 19 (3): 5-26.
- Morgenthau, Hans. 1985. *Politics among nations: The struggle for power and peace*. 6th ed. New York: Knopf.
- Oneal, J. R., and B. Russett. 1999. The Kantian peace: The pacific benefits of democracy, interdependence, and international organizations, 1885-1992. *World Politics* 52 (1): 1-37.
- Peck, Connie. 1996. *The United Nations as a dispute settlement system*. The Hague, the Netherlands: Kluwer Law International.
- Raymond, Gregory. 1994. Democracies, disputes, and third party intermediation. *Journal of Conflict Resolution* 38 (1): 24-42.
- Risse-Kappen, Thomas. 1995. *Cooperation among democracies: The European influence on U.S. foreign policy*. Princeton, NJ: Princeton University Press.
- Rosecrance, Richard N. 1986. *The rise of the trading state: Commerce and conquest in the modern world*. New York: Basic Books.
- Rosenne, Shabtai. 1989. *The World Court: What it is and how it works*. 4th ed. Dordrecht, the Netherlands: Martinus Nijhoff.
- Schachter, Oscar. 1991. *International law in theory and practice*. Dordrecht, the Netherlands: Martinus Nijhoff.
- Schwarzenberger, Georg. 1945. *International law*. London: Stevens & Sons Ltd.
- Senese, Paul D. 1996. Geographical proximity and issue salience: Their effect on the escalation of militarized interstate conflict. *Conflict Management and Peace Science* 15:133-61.
- Simmons, Beth A. 1999a. See you in "court"? The appeal to quasi-judicial legal processes in the settlement of territorial disputes. In *A roadmap to war: Territorial dimensions of international conflict*, edited by P. F. Diehl, 205-37. Nashville, TN: Vanderbilt University Press.
- . 1999b. *Territorial disputes and their resolution: The case of Ecuador and Peru*. Washington, DC: U.S. Institute of Peace.
- Simpson, J., and H. Fox. 1959. International arbitration: Law and practice. In *Encyclopedia of public international law: Vol. 2. Decisions of international courts and tribunals and international arbitration*, edited by R. Bernhardt. Amsterdam: Max Planck Institute, North-Holland.

- Singer, J. David, Stuart Bremer, and Jonathan Stuckey. 1972. Capability distribution, uncertainty, and major power war. In *Peace, war, and numbers*, edited by Bruce Russett, 19-48. Beverly Hills, CA: Sage.
- Slaughter, Anne-Marie. 1995a. International law in a world of liberal states. *European Journal of International Law* 6:503-38.
- . 1995b. A typology of transjudicial communication. *University of Richmond Law Review* 29:99.
- . 1998. International law and international relations theory: A new generation of interdisciplinary scholarship. *American Journal of International Law* 92 (3): 367-97.
- van Glahn, Gerhard. 1992. *Law among nations: An introduction to public international law*. 6th ed. New York: Macmillan.
- Vasquez, John. 1993. *The war puzzle*. Cambridge, UK: Cambridge University Press.
- Vasquez, John, and Marie Henehan. 2001. Territorial disputes and the probability of war, 1816-1992. *Journal of Peace Research* 38 (2): 123-38.
- Worldmark encyclopedia of the nations*. 1995. 8th ed. New York: Gale Research.
- Zacher, Mark. 2001. The territorial integrity norm: International boundaries and the use of force. *International Organization* 55 (2): 215-50.