

Conflict Management Regimes and the Management of Land, River, and Maritime Claims¹

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Abstract

The issue-based approach to world politics demonstrates that conflict management within militarized conflict varies by issue area (e.g., disputes over land, river, or maritime areas). Yet this approach has not explored the full extent of this variation – often because it focuses on broad, aggregate efforts (e.g., binding or non-binding third-party conflict management). We advance research in this area along two fronts. First, we develop a theoretical argument that explains variation in conflict management strategies across issue areas through three characteristics: state interests, transaction costs, and relative power. When state interests and power asymmetries are higher and when transaction costs are lower, states prefer conflict management strategies that afford them greater control over the settlement process and the substantive terms of settlement. This, however, is only part of the story – we also argue that regimes develop around issue areas. These regimes offer loose constraints – that is, they help states select specific conflict management strategies (e.g., fact-finding) among a collection of strategies (e.g., non-binding third-party conflict management) that would satisfy their minimum need for control. Our theory and empirical analyses demonstrate that the salience of the contested issue, the characteristics of the disputant states, and the strategic context within which the issue is contested influence the strategies that states employ when trying to find peaceful solutions to their territorial conflicts.

Keywords: territorial disputes, territorial claims, conflict management, institutions, regimes

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Fact-finding missions are a rather innocuous form of conflict management. During such missions, a third-party collects information about a dispute, usually to verify the positions or actions of the disputants or to clarify the issues under dispute. Disputants are not bound to accept this information as fact, and the third-party does not make settlement recommendations. It seems, then, that these missions would be useful in the management of all diplomatic territorial claims involving land, river, and maritime boundaries. Yet disputants *never* use fact-finding missions to manage their maritime claims. And when used in the management of land claims, the claim *also always* involves a river. In other words, fact-finding missions only appear when disputants are managing a river claim.² What explains this puzzling fact?

We propose that the answer lies in a better understanding of conflict management regimes. Territorial claim types – those involving land, river, or maritime space – vary substantially, particularly in how important or salient the area is to disputants and how many potential states are affected. Disputing states experience competing pressures. They want to limit the number of actors involved in their claim’s management, for this simplifies negotiation (i.e., by incorporating fewer interests) and offers them greater control over the negotiation process and outcome. Thus, most states have a preference for bilateral negotiations. Other interested parties, however, may push to be included in the claim’s management, forcing a more multilateral process. Importantly, as the number of additional, interested parties increases, states will develop more institutionalized measures through which to manage claims – if for no other reason than to reduce transaction costs and stabilize expectations.³ In other words, if claim types produce variation in state interests and issue characteristics (i.e., salience), as well as transaction costs, claim types should produce different conflict management regimes or socially constructed

² Hensel et al. 2008.

³ For an overview of international organizations, institutions, and regimes, see Martin and Simmons 2012.

institutions containing a set of behavioral standards for managing interstate conflicts.⁴ This, of course, does not imply that all actors will always follow these behavioral standards; powerful and non-conforming states may occasionally choose alternative paths. Nonetheless, most states facing a territorial claim should follow the norms established by the regime that prescribe how their claim type is most appropriately handled.⁵

We outline our argument below in greater detail and the subsequent analysis of the theory's predictions confirms that distinct conflict management regimes govern land, river, and maritime claims. States want the greatest control when managing land (e.g., border) claims; they prefer bilateral negotiations and eschew third-party assistance more often than in river or maritime claims. The river claim regime, in contrast, encourages third-party assistance, especially fact-finding missions and the involvement of regional inter-governmental organizations. Finally, the maritime claim regime states a clear preference for multilateral and global IGO functions including adjudication. However, when maritime claims involve traditional "land border" issues (i.e., control of resources in exclusive economic zones), the management of these claims differs markedly from other maritime claims (i.e., those over access to fishing zones), looking more like land claim management. These findings cumulatively suggest that claim characteristics influence the formation of conflict management regimes and that these regimes subsequently condition conflict management strategies in territorial disputes. Our study demonstrates not only the creation and efficacy of regimes within particularly contentious issue areas such as territorial disputes⁶, but also that the management of contemporary, contentious land, river, and maritime claims (e.g., those involving border disputes or the Arctic Circle)

⁴ Finnemore and Sikkink 1998; Keohane 1984; Ruggie 1998. For an argument that norms appear and spread as a function of states' self-interest, values, and power, see Kelley 2008.

⁵ Barnett and Duvall 2005.

⁶ Hensel et al. 2008; Owsiak 2012; Tir and Vasquez 2010.

follow predictable management strategies – a finding that should interest those worried about how these claims might affect interstate relations today and in the future.

Conflict Management Strategies in Territorial Disputes

Generally speaking, a territorial dispute emerges when two states lay claim to the same territory – whether land, river, or maritime space.⁷ Such disputes are highly important to domestic audiences, often persist for long periods of time, are prone to militarization and escalation, and dominate foreign policy agendas, thereby diverting resources from other foreign policy goals.⁸ States therefore have incentives⁹ to manage territorial disputes and they can do so violently or non-violently. On the violent side, states can threaten, display, or use force against another state as a means through which to achieve what they want.¹⁰ This violence frequently captures the attention of diplomats, scholars, and the media, but it is not the dominant method of managing interstate disputes. Instead, states more frequently employ a broad array of peaceful or diplomatic conflict management strategies, even among the most contentious of territorial issues (e.g., those involving land borders).¹¹ Our analysis focuses on these peaceful management techniques, particularly the seven most commonly-used strategies: bilateral and multilateral negotiations, good offices, fact-finding missions, mediation, arbitration, and adjudication. These strategies vary widely along two related dimensions: 1) how involved a third-party is in assisting the disputants to manage the conflict and 2) how much control the disputants have over the

⁷ Hensel 2001; Huth 1996.

⁸ See Tir and Vasquez 2010 for an overview.

⁹ Simmons 2005.

¹⁰ These are militarized interstate disputes (MIDs); see Ghosn, Palmer, and Bremer 2004.

¹¹ Dixon 1996, 662; Hensel et al. 2008.

substantive outcome being negotiated.¹² We discuss each of these strategies in turn and depict their relationship to one another in Figure 1.

<< Figure 1 about here >>

Negotiation offers disputants the greatest control over the management of their dispute. In negotiations, the disputants determine the negotiation agenda, process (including how communication will occur), and settlement terms. Third-party conflict managers remain entirely out of the process, thereby eschewing their influence. Of course, negotiations are not all alike; they exist in two general forms: bilateral and multilateral. *Bilateral negotiations* occur between two disputing states. *Multilateral negotiations*, in contrast, occur when more than two disputing states each seek to manage a dispute on their own behalf (e.g., claims to maritime areas around Antarctica). Bilateral negotiations offer disputants slightly more control than multilateral negotiations, since the inclusion of additional negotiators necessarily requires the process to account for the needs and interests of additional disputants. Furthermore, any multilateral settlement of a territorial claim will need to distribute a finite territorial space or its resources among a greater number of actors. Disputants who use multilateral negotiations therefore potentially lose some control over the process, the outcome, and certain tangible territorial space.

Disputants, however, can elect not to go it alone, but rather to involve third-parties in the management of their dispute. There is a trade-off to doing this because third-party involvement – by definition – requires disputants to transfer control over some aspect of the conflict management process to the third-party. The exact amount of control transferred depends upon the strategy that disputants allow the third-party to employ. Conflict management scholars identify two broad types of third-party involvement: *non-binding techniques*, which offer

¹² For a more detailed overview, see Bercovitch and Jackson 2009.

disputants greater control, and *binding techniques*, which involve more legalistic approaches that afford disputants less control.

One type of non-binding conflict management involves *good offices*, where a third-party facilitates negotiations between disputing states. This allows the third-party to control more of the negotiation process (i.e., communication, agenda, and/or meeting space). In *fact-finding missions*, the third-party collects information about the dispute, primarily either to verify the position or actions of the disputants or to clarify the issues under dispute. This grants the third-party control over the information used during the conflict management process. The disputants, however, are free to accept or ignore this information. *Mediation* gives third-parties the ability to make substantive suggestions about how the dispute should be resolved, but is also considered “non-binding” because the parties are ultimately free to accept or reject the mediator’s recommendations. Although disputants still retain the freedom to accept any settlement terms, the disputants nonetheless lose some control over the settlement. Not all of the settlement terms generated derive from the disputants, perhaps forcing them to consider terms that they would otherwise deem unacceptable. Furthermore, mediators often have an interest in the substantive outcome of the disputes in which they become involved, causing them to use rewards and punishments to encourage disputants to adopt *their* preferred outcome.¹³

Finally, disputants can also allow a third-party to determine the ultimate settlement of their dispute using legal, binding conflict management strategies. In *arbitration*, disputing states select a mutually agreeable, specific third-party (often a prominent political leader or a panel of individuals) to review and resolve their conflict. They also agree to accept the decision (or “ruling”) of the third-party as a final settlement of their dispute, thereby binding the disputants to adhere to the arbitrator’s decision and not to raise the disputed issues again. A similar process

¹³ An exception would be truly neutral mediators. As Princen 1992 shows, however, these are extremely rare.

happens in *adjudication*, during which an international legal body such as the International Court of Justice (ICJ) hears the disputants' case and issues a ruling to resolve it. Arbitration and adjudication differ, however. Disputants usually have less control over who hears an adjudicated, as opposed to an arbitrated case, since there are a more limited number of international legal bodies and states generally agree to submit certain disputes to a legal body's jurisdiction before the dispute arises. Standing courts also have a set of established procedural rules, whereas the disputants can negotiate the particular procedures employed in an arbitration panel (the *compromis*). In either case, disputants using these two legal strategies agree to forego much control over the conflict management process; the third-party determines the information to be considered, how this information will be conveyed, (often) what legal procedures will be employed, and what terms the disputants will accept as a resolution. The general consensus among conflict management scholars is that binding techniques are used much less frequently than non-binding techniques, but that binding settlements are much more effective at inducing compliance by the parties involved and resolving the issues at stake.¹⁴

Although there are clear differences between peaceful conflict management strategies, most previous work on the management of territorial claims does not distinguish between these seven peaceful strategies. Instead, scholars focus on a subset of these strategies or collapse them into broader categories (e.g., non-binding versus binding). Huth, Croco, and Appel illustrate the first of these approaches.¹⁵ They examine the conditions under which states prefer to use legal strategies (i.e., arbitration or adjudication as an aggregate category) – as opposed to bilateral negotiations, force, or nothing – to manage their territorial claims. Third-party strategies beyond arbitration and adjudication (e.g., mediation) are not considered in their analysis. Similar

¹⁴ Gent and Shannon 2010; Mitchell and Hensel 2007; Simmons 2002.

¹⁵ Huth, Croco, and Appel 2011.

decisions to focus on a subset of conflict management strategies can be found within research on negotiation mediation, or arbitration/adjudication.¹⁶

Other studies tend to incorporate many strategies, but still employ broad categories that mask the nuance obtained through further disaggregation of individual strategies. Hensel, Mitchell, Sowers, and Thyne, for example, investigate the conditions under which states use force or peaceful conflict management to settle territorial disputes.¹⁷ They do not distinguish between conflict management performed by the disputants (i.e., negotiation) and that performed by third-parties. Hensel, Mitchell, and Sowers address this distinction by studying when riparian states resort to force, bilateral negotiations, or third-party assistance broadly defined to handle their river claims.¹⁸ Yet their study does not distinguish between *types* of third-party involvement. Finally, Hensel analyzes the use of force, negotiations, non-binding third-party assistance, and binding third-party assistance in the management of land claims.¹⁹ Unfortunately, as before, the nuances of individual strategy selection within broader categories remains masked.

To compound difficulties further, existing studies diverge not only in the categories of conflict management examined, but also in the territorial claim types included (i.e., land, river, and maritime). Nonetheless, two common conclusions emerge in this research. First, disputants rely upon or succeed with different conflict management strategies under different conditions. Second, disputants may employ different strategies depending on whether the territorial claim involves land, rivers, or maritime space. We therefore believe that it is important to further disaggregate conflict management strategies *and* types of territory – for there are strong

¹⁶ See, *inter alia*, Ghosn 2010; Crescenzi et al. 2011; Greig 2001; Kydd 2003; Melin 2011; James, Park, and Choi 2006; Simmons 2002; Gent and Shannon 2010; Bercovitch and Jackson 2009; Frazier and Dixon 2006.

¹⁷ Hensel et al. 2008.

¹⁸ Hensel, Mitchell, and Sowers 2006.

¹⁹ Hensel 2001. See also Gent and Shannon 2010; Dixon 1996.

theoretical reasons to suspect that the broad categories discussed above hide insights found only when we disaggregate both territorial claims and conflict management strategies.

The Emergence of Conflict Management Regimes

Even though disputes over land, river, and maritime areas seem similar because they inherently involve territorial issues, we propose that historical political events have produced distinct conflict management regimes for each issue type. A regime embodies a socially constructed institution containing a set of behavioral standards, “defined in terms of rights and obligations.”²⁰ These institutions determine the goals towards which participants strive, as well as the norms, rules, and decision-making procedures that constrain behavior directed towards those goals. Regimes identify what is important and how to appropriately achieve it, and they can form to address many substantive topics, including the management of territorial disputes. We argue that we can understand the emergence of particular conflict management regimes by focusing on three broad dimensions: 1) state interests and issue characteristics, 2) transaction costs, and 3) the distribution of power between disputants.²¹ Once formed, such regimes then encourage states to manage different claim types in distinct ways.

State Interests & Issue Characteristics

States actively managing their territorial disputes incur costs, regardless of third-party involvement. Management demands the devotion of time and resources and produces opportunity costs. Importantly, these management costs can be significant; because territorial disputes often persist for long periods of time, their management can require substantial

²⁰ Keohane 1984, 57; Ruggie 1998.

²¹ See Zawahri and Mitchell 2011 for a similar framework.

investment.²² States must therefore receive some *benefit* from managing their territorial disputes. Otherwise, the costs involved would deter them from management altogether. These benefits constitute states' *interests* in territorial dispute management and they derive from the intangible and tangible value of disputed territory.²³

Intangible value often refers to either state identity or prestige (e.g., the United Kingdom's position on the Falkland Islands).²⁴ States that dispute territory because of its intangible value generally feel threatened – either existentially or reputably – by another's claim to the same territory.²⁵ The benefit to holding such territory is then a more secure identity or increased/preserved prestige. In contrast, tangible value involves the concrete resources that territory provides to the state that possesses it. These resources may offer the possessing state strategic (e.g., the Golan Heights), economic (e.g., oil, fish, or navigation rights), or human needs (e.g., access to fresh water) benefits. Given such benefits, states have an interest in maximizing their relative share of various territorial spaces to receive a greater amount of desirable benefits. This interest might derive from any number of sources – for example, a state's desire to enhance its security, better provide for its population, increase its relative power, or to hold more resources through which to strike cooperative bargains with other states.²⁶ Irrespective of the exact motivation, the pursuit of such benefits may persuade states to willingly incur the costs associated with peacefully managing their territorial claims.

The intangible and tangible benefits of territory have three direct implications for how states should choose to peacefully manage their territorial claims. First, as contested territory becomes more salient or valuable to disputing states, leaders should attempt to manage the

²² Huth and Allee 2002.

²³ Hensel and Mitchell 2005; Huth 1996.

²⁴ Claims based on a desire to unite ethnic groups may also qualify as intangible.

²⁵ See Kahler 2006.

²⁶ See Powell 1991.

competing claims more frequently. To see why, consider territory possessing less value, such as the dispute over Navassa Island between the United States and Haiti, a territory with little military or economic value. We expect states to manage such claims passively or with little investment, since the potential benefits do not provide sufficient motivation to incur the costs of conflict management. Conversely, as disputed territory becomes more valuable to states, they are motivated to incur greater costs to obtain the potentially higher benefits.

This general logic has two unique applications: *across* territorial claim types (i.e., land, river, and maritime) and *within* territorial claim types. With respect to the former, Hensel et al. propose a clear distinction between land claims on the one hand and river and maritime claims on the other.²⁷ Land, river, and maritime claims all can contain relatively high tangible value (i.e., concrete resources), but land claims differ from river and maritime claims by possessing relatively high intangible value as well.²⁸ States and their citizens often view specific land as part of their history and culture, and they derive psychological benefits from owning it. This additional intangible value – generally found in land disputes – makes land disputes relatively more salient to states than river or maritime claims. Thus, states should resort more frequently to conflict management strategies when managing land, as opposed to other territorial claims.

Although land claims may generally be more salient than river or maritime claims, each individual claim *type* also varies in salience.²⁹ Land, for example, might have strategic or economic value; rivers could involve access to resources (e.g., hydroelectric power) or navigation channels; and maritime areas may contain critical resources (e.g., fish, oil) or a strategic position (e.g., access to straits). As the salience of a given territorial claim rises – i.e.,

²⁷ Hensel et al. 2008, 121.

²⁸ This may occur because land claims often involve the delineation of interstate borders, which define the state. See Huth and Allee 2002; Kahler 2006; Owsiak 2012.

²⁹ Hensel et al. 2008, 130-1.

the territory has greater value to the state possessing it – states are more likely to employ peaceful conflict management tools.³⁰

Our argument, however, makes more nuanced predictions. Actors in dispute over a valuable object prefer to maintain as much *control* as possible over the outcome of that dispute. This incentive exists for two reasons. First, if an actor foregoes this control, it is more likely to obtain a settlement that does not maximize its interests, perhaps by giving it fewer of the disputed territory's benefits. Nigeria, for example, lost control of the Bakassi Peninsula to Cameroon as the result of a ruling by the International Court of Justice (ICJ). Nigeria lost this resource-rich territory despite being more powerful than the counterclaiming state.³¹ Thus, being powerful is not sufficient for securing one's preferred settlement terms. As a territory's salience rises, fear of failing to maximize the benefits from disputed territory should therefore encourage states to manage these claims directly. Second, domestic groups may punish state leaders who cede decision-making control over highly salient territory – even to a third-party conflict manager – since it may appear that the leader is “giving away the state.” Leaders are therefore more reluctant to involve third-parties when more salient territory is at stake. Nonetheless, if states *do* agree to involve a third-party in the management of their claims, they should limit third-party control over settlement terms as salience rises. We expect that arbitration should be used more frequently to settle highly salient land issues, while states may find adjudication more attractive for settling less salient maritime or river claims. In the former, disputants can control

³⁰ Brochmann and Hensel 2011; Dinar, Dinar, and Kurukulasuriya 2011; Hensel et al. 2008; James et al. 2006; Zawahri and Mitchell 2011.

³¹ Mitchell and Hensel 2007.

who decides the dispute and what rules produce the settlement terms. In contrast, disputants lose much of this control during adjudication.³²

Transaction Costs

As noted earlier, states have incentives to manage their territorial claims actively. Nonetheless, conflict management entails costs – in time, resources, and opportunities foregone. Rational state actors will want to minimize these costs, and two mechanisms exist that serve this purpose - each of which has ramifications for the peaceful strategies states use to address their territorial claims.

First, states can limit the number of parties involved in the conflict management process. This suggests a clear preference for bilateral negotiations. Yet the type of territorial claim in question will condition states' ability to exclude actors. Land disputes, for example, occur most frequently between two neighboring states over territory adjacent to their mutual border.³³ These disputes will therefore give rise more readily to bilateral – as opposed to multilateral – negotiations, since only the two neighboring states have incentives for managing such disputes.³⁴ Furthermore, given the high tangible and intangible salience of land disputes, states should want greater flexibility to settle land claims as they see fit. This suggests that states will select a strategy that offers them greater control (e.g., negotiation). It also implies that a very limited international regime will develop to manage land claims, which reduces the appropriateness and frequency of both multilateral negotiations and third-party assistance.

³² Allee and Huth 2006 argue that states might seek out third-party settlement of land border disputes in order to provide domestic political cover for loss of a highly salient issue. This is still consistent with our argument; states can cede varying levels of control, even when employing legal conflict management strategies (e.g., arbitration vs. adjudication).

³³ Huth and Allee 2002; Owsiak 2012.

³⁴ An exception might occur at border tri-points (e.g., China, India, and Pakistan). Even in these cases, however, states generally prefer pairwise negotiations.

Indeed, we observe such a limited regime with respect to land claims.³⁵ The United Nations Charter enshrines the concept of territorial sovereignty in international law and requests that all disputes be resolved peacefully. Although sovereignty as an institution existed before this³⁶, the United Nations codified it. Yet this codification remains silent on the precise strategy states should select to manage their land disputes. Instead, it merely asks them to employ peaceful mechanisms. States can therefore choose any peaceful strategy they wish, and their desire to limit the involvement of extraneous parties encourages them to prioritize bilateral negotiations over multilateral negotiations or the involvement of third-parties. Over time, the repeated preference of disputing states for bilateral negotiations establishes a decision-making norm with respect to land claims: use bilateral negotiations first.³⁷ Should third-party involvement become necessary, then the second norm would be the selection of tools that offer disputants greater decision-making control. These norms are precisely what we observe empirically – serving both the task of regime creation and maintenance.³⁸

In contrast to the land claims regime, the maritime regime developed much more multilaterally. This resulted from states' view that "oceans should be treated differently than land territory" – a point that originated both from a desire to ensure states' ability to navigate oceans freely, as well as the belief that oceans are a public good.³⁹ Protecting this freedom and public good requires a multilateral framework, since unilateral actions might decrease the ocean's value to others (e.g., through pollution, overfishing, or navigation restrictions). Furthermore, states have to balance two competing concerns. On the one hand, coastal states want sovereignty over maritime areas adjacent to their land, either for security or economic reasons. On the other hand,

³⁵ Hensel, Allison, and Khanani 2009; Simmons 2002.

³⁶ Ruggie 1998, 870.

³⁷ On norm development, see Finnemore and Sikkink 1998; Kelley 2008.

³⁸ In Latin America, for example; see Ireland 1938.

³⁹ Kraska 2011, 108.

the international community seeks greater access to oceans. This implies the need to establish a commonly agreed upon maritime boundary at which a coastal state's sovereignty ends and the international common space begins. States created an elaborate multilateral regime to manage maritime space, complete with different zones⁴⁰ and standing dispute resolution bodies (e.g., the International Tribunal for the Law of the Sea [ITLOS]). The United Nations Convention on the Law of the Sea (UNCLOS), the main embodiment of the maritime regime, also established a complex dispute management system, with a default procedure of arbitration (under Article 287) should bilateral negotiations fail and the option of choosing an international court as a preferred forum for third-party settlement (either the ITLOS, the ICJ, or both).

The development of a multilateral maritime regime has two clear implications for the conflict management of maritime claims. First, norms under the regime encourage greater multilateral, as opposed to bilateral, management. Even if they would prefer to manage the claim bilaterally, states will consider – or acquiesce more often to the use of – multilateral negotiations or third-party involvement because it is an “appropriate” way to handle maritime claims under the regime. Second, the regime establishes clear norms, rules, decision-making processes, and legal institutions for dispute settlement. The clarity of institutional rules and dispute management processes, for example, as codified in the UNCLOS and other treaties, obviates disagreements over what type of information to consider or how to interpret it (i.e., fact-finding), as well as the need for third-parties to propose solutions (i.e., mediation) or decide disputes outside the context of the established juridical process (i.e., arbitration). Instead, states should more frequently resort to adjudication for managing maritime claims, since the regime established courts for this purpose (ITLOS) and recognizes the authority of other courts to hear maritime cases (ICJ). Indeed, the courts have ample material on maritime law through treaties and previous judgments.

⁴⁰ For example, territorial seas, exclusive economic zones, and the high seas. See Klein 2011.

Nonetheless, these general trends depend conditionally on the *type* of maritime claim. As noted above, the maritime regime establishes numerous spaces, including exclusive economic zones (EEZs). An EEZ is a maritime space of no more than 200 miles from a coastal state's land in which the coastal state retains the rights to natural resources (e.g., oil or fish) and scientific endeavors.⁴¹ Because these zones contain an abundance of resources, many maritime conflicts involve competing claims to sovereignty over a potential EEZ. Such questions arise most frequently where two states' maritime jurisdictional areas meet or overlap – in effect, mimicking an international land border dispute.

If this is true, then disputes involving EEZs will differ markedly from those that do not. Maritime disputes concerning EEZs will yield multilateral negotiations less frequently and bilateral negotiations, good offices, arbitration, and adjudication more frequently than maritime disputes that do not concern EEZs. This occurs for two related reasons. First, the border-like status of the EEZ will decrease the number of states potentially interested in the claim (to those immediately bordering the EEZ). This reduces the likelihood of multilateral negotiations. Yet the regime also finds multilateral conflict management appropriate because the oceans are a public good. Thus, although states may not be *substantively* interested in joining the negotiations as a disputant (i.e., multilateral negotiations), they may be willing to facilitate conflict management as a third-party, and disputants will see this as acceptable. This third-party involvement, however, will most frequently involve good offices, arbitration, or adjudication in disputes that have border-like properties because disputants can retain greater decision-making control. Other strategies, such as fact-finding and mediation, are not as likely because the regime has clear norms, rules, decision-making bodies, and juridical processes to manage maritime claims. Armed with this clarity, disputing states will only need communication assistance (i.e., good offices) or

⁴¹ Klein 2011; Kraska 2011.

someone to decide their dispute through the established juridical processes (i.e., arbitration or adjudication).

The conflict management regime for river claims lie somewhere between the bilateral norms developed for land claims and the global multilateral norms established for maritime claims. At a basic level, this results from the number of states affected by river claims. Many rivers provide water, economic benefits (e.g., fishing), irrigation, hydroelectricity, or navigation for more than two states. For example, the Amazon and Nile river basins directly affect seven and ten states respectively. Nonetheless, rivers are not considered *global* public goods, like oceans. Considerations of sovereignty under the maritime and river regimes bear this out. EEZs qualify as sovereign territory for coastal states under the maritime regime (UNCLOS, Article 56). Yet coastal states must still allow other states to navigate through those spaces, thereby curbing absolute sovereignty (UNCLOS, Article 58). Rivers, on the other hand, are often treated with more direct sovereignty rights, especially when they are entirely contained within a single state's territorial boundaries. Furthermore, an individual river will not affect every state in the world. Mexico, for example, has little (if any) interest in the resources found in or pollution of the Danube River. These qualities create three competing dynamics.

First, states have a general incentive to reduce the number of actors involved in negotiations (including third-parties). Second, states face pressure to increase the number of actors involved in negotiations over multilateral river basins because more than two states are affected. Finally, states lack sufficient incentives to generate a global regime to cover river claims. The end product of these tensions is many bilateral negotiations (even in multilateral basins⁴²), along with limited regional cooperation to manage rivers. India, for example, prefers

⁴² See Zawahri and Mitchell 2011; Wolf 1998.

striking bilateral agreements with its neighbors on the Ganges River, rather than negotiating a multilateral, basin-wide accord.

The issues inherent in river management are also slightly different than those involved in land or maritime claims. Two such issues stand out. First, the lack of clarity in river treaties complicates negotiations over their interpretation. For example, although two states often agree that a river should serve as the international border between them, the treaties defining these borders frequently contain imprecise terms regarding the exact placement of the border.⁴³ Second, rivers create interdependence among states in the basin – even when sovereignty is accepted – and this interdependence differs from that found in maritime spaces. A river that flows through two states' sovereign jurisdiction can create conflict when the upstream state dams the river (e.g., for hydroelectric power), over-fishes or over-pollutes, or takes a disproportionate share of river water – all of which affect the quality and quantity of resources available for downstream states. Interdependence, in other words, is much more significant and direct in river basins. The river resources are vital for life and economic livelihood, and actions have clear, direct ramifications for others using the river.

Both of these issues (border interpretation and effects on resources) will more frequently require fact-finding missions to address conflicts that arise. That is, disputants will need to collect information on how the river is used either to ascertain the best boundary or to document the damage being done to the river by upstream states. These fact-finding missions are all the more important given both the absence of a global regime that contains norms for behavior and given that natural climate changes and weather variability make it difficult to discern if states upstream are directly responsible for damage (e.g., the loss of water quantity) downstream.

⁴³ Prescott and Triggs 2008.

Both the lack of a global regime and a desire for greater individual control over river claim management can be seen in the United Nations (UN) Convention on Non-Navigational Uses of International Watercourses.⁴⁴ The United Nations notes that this is “the only treaty governing shared freshwater resources that is of universal applicability,” underscoring the lack of global cooperation in this area.⁴⁵ Nonetheless, at first blush, the mere existence of a UN Convention suggests that a global regime exists. This “universal” convention, however, lacks broad support. Although created by the General Assembly in 1997, the Convention did not enter into force until 2014 because it lacked the thirty-five state signatures required to do so.⁴⁶ A global conflict management regime for rivers is therefore far from present.

The Convention provides four recommendations about conflict management in river claims. First, when upstream states may adversely affect downstream states, the Convention asks them to consult and negotiate (Article 17). Second, it notes that states may enter into consultations to create a joint management mechanism for a river (Article 24); it remains silent about the membership or form of this mechanism, although it suggests the localized (or regional) cooperation that we observe (e.g., the Central Commission for Navigation on the Rhine River). Third, if states refuse to communicate with each other, it asks them to communicate through indirect channels of their choosing. No standing institutions, however, are created to assist them, in contrast to the maritime regime. Finally, if a dispute arises, the Convention asks them first to consider negotiations. Should negotiations fail, the parties may pursue any peaceful conflict management strategy. Yet the Convention establishes a very detailed fact-finding process that can be initiated at the request of any member state (Article 33). The text therefore conveys that fact-finding missions constitute a preferred (or most “acceptable”) form of third-party conflict

⁴⁴ United Nations, A/RES/51/229.

⁴⁵ http://www.un.org/waterforlifedecade/transboundary_waters.shtml.

⁴⁶ Seventeen signatures occurred since 1/1/2010.

management for river claims.⁴⁷ This feature of the regime helps to explain the puzzle we noted earlier in the paper about why fact-finding has been used so predominantly in the settlement of river claims.

Based on the preceding discussion, as well as the UN Convention, we anticipate that the conflict management of river claims will reveal four broad patterns. First, bilateral negotiations will feature prominently in river claims management. This occurs both because states generally seek to maintain control over the management of their claims and because high levels of interdependence in shared river basins encourage cooperation.

Second, multilateral negotiations within river claims should be more frequent than for land claims, but less frequent than for maritime claims. Rivers often affect more than two states, but states still also try to limit the number of negotiators. In the absence of a global regime, the incentive will be to divert to bilateral negotiations, though states will not always be able to do so. Third, states will use fact-finding missions more frequently to manage river claims than other territorial claims; not only does the need for such missions exist (e.g., to determine “harm done”), but the river regime expresses a preference for these missions during river disputes. Fourth, states will resort to mediation more in river (and land) than in maritime claims. Global regimes establish universally agreed upon rules of behavior and dispute management mechanisms, thereby clarifying states’ expectations and preferred solutions. In the absence of such universal principles, states may need assistance to find the best way to settle their disputes. Mediators offer them this help.

Another way that states can minimize transaction costs is through *formal* intergovernmental organizations (IGOs). This admittedly relates to the regimes described above. As multilateral regimes develop, states might institutionalize these regimes by creating IGOs to

⁴⁷ See also Prescott and Triggs 2008, chapter 7.

reduce the transaction costs of future negotiations over issues under the regime's umbrella.⁴⁸ States can also grant IGOs authority or autonomy, which can subsequently bind their hands in future negotiations. The maritime regime, for example, establishes a clear dispute resolution process and grants various bodies jurisdiction to manage disputes (see UNCLOS, Section V).

The different regimes that developed to manage land, river, and maritime claims have clear implications for IGO involvement in territorial dispute management. Land claims lack a detailed global regime, primarily because few states are interested in any one claim and states want greater control over their claim's management. States universally agree upon territorial sovereignty, but not the principles or processes through which to manage land disputes. As a result, there exists a paucity of available IGOs to address land claims. River claims likewise lack a detailed global regime. Emerging conventions, however, indicate that states find multilateral and third-party involvement more acceptable in river claims than land claims. Many regional river treaties also establish river basin organizations to help riparians share information and resolve conflicts. They also suggest that regional IGOs should respond frequently to river disputes, even if global IGOs do not. Finally, a global regime clearly manages maritime claims. The universal acceptance of general rules, decision-making processes, and dispute-resolution mechanisms undergird this maritime regime, which also creates and refers disputes to standing IGOS for management. Global IGOs should therefore respond more frequently to maritime than to land or river claims.

Distribution of Power

All states have a preference for greater control over the management of their territorial claims. Yet states differ markedly in military and economic power, both of which translate into

⁴⁸ Abbott and Snidal 1998; Finnemore and Sikkink 1998; Keohane 1984.

negotiating power. This suggests that the distribution of power has direct ramifications for conflict management behavior. We find two such ramifications important to our study. First, powerful states will not only prefer bilateral negotiations to multilateral ones, they can ensure this preference translates into practice. Powerful states can either force negotiations to occur where they otherwise would not or prevent additional parties from becoming involved in their dispute's management.⁴⁹ This creates more frequent bilateral negotiations and ensures that they remain bilateral.

Second, powerful states are less likely to *need* the assistance of third-parties. Bargaining theories of war maintain that states fight militarily to ascertain credible information about one another's relative capabilities.⁵⁰ Logically, states can avert a conflict by finding this information through a credible, peaceful channel. Third-parties can serve as such a channel.⁵¹ This channel, however, is not always needed. As power disparity grows between disputants, there is less uncertainty over who will win a militarized encounter; the disputing states can agree that a significantly more powerful state will win. They therefore do not need a channel to credibility communicate information about capabilities, suggesting that asymmetrically powerful dyads will employ third-parties less frequently than symmetrically powerful ones.

Nonetheless, third-parties are not merely conduits of information. Sometimes, they *encourage* dispute settlement by manipulating the cost/benefit calculations of the disputants. If, for example, a third-party can offer a reluctant disputant an aid package (i.e., an incentive) or threaten them (i.e., a punishment), conflict management might occur and succeed where it otherwise would not.⁵² This manipulation, however, is unlikely to be of great value in

⁴⁹ Zawahri and Mitchell 2011.

⁵⁰ Fearon 1995.

⁵¹ Kydd 2003; Crescenzi et al. 2011.

⁵² See Melin 2011.

asymmetric dyads. Powerful states will be swayed by such efforts less frequently; they need third-party benefits less and can withstand punishment more than less powerful states.

Furthermore, the cost/benefit calculus of weaker states in an asymmetrically powerful dyad can be manipulated directly by the more powerful state. If it so desires, the powerful state can offer rewards to or threaten punishment of its adversary to encourage settlement. The third-party therefore becomes somewhat superfluous in managing such conflicts.

We do not intend for the preceding discussion to suggest that third-parties have no value to asymmetrically powerful dyads in dispute. Rather, third-parties will simply be needed less frequently in such dyads both because the powerful state prefers and can enforce its preference for bilateral negotiations and because the functions performed by third-parties are needed less often. We therefore predict that bilateral negotiations will occur more frequently and third-party conflict management will occur less frequently in asymmetric dyads than in symmetric dyads.

Research Design

To evaluate our argument, we use version 1.1 of the Issue Correlates of War (ICOW) project's data on contentious issue claims.⁵³ The ICOW project looks for explicit evidence that official representatives of two or more states contend over three broad types of territory. First, *territorial (i.e., land) claims* occur when one state challenges sovereignty over a specific piece of territory that is claimed or administered by another state. Second, *river claims* involve contention over the usage or ownership of an international river. Finally, *maritime claims* exist when two or more states contest the ownership, access to, or usage of a maritime area. Our argument also suggests management differences between sub-types of maritime claims; we therefore distinguish maritime claims involving *exclusive economic zones (EEZ)* from those that do not.

⁵³ Hensel 2001; Hensel et al. 2008.

The version of the ICOW data we use contains territorial claims in the Western Hemisphere and Western Europe (1816-2001); river claims in the Western Hemisphere, Western Europe, and the Middle East (1900-2001); and maritime claims in the Western Hemisphere and Europe (1900-2001).⁵⁴ For each claim, ICOW determines which dyads are involved in the claim in each year that the claim is ongoing. These represent the observations in the dataset, and the claim-dyad-year serves as our unit of analysis. We have a total of 10,045 claim-dyad-year observations in our data set.

Because we are interested in the various ways that dyads manage their claims, we employ a number of dichotomous dependent variables throughout our analysis, each of which comes from the ICOW project's data on peaceful settlement attempts. We defined and discussed the individual conflict management strategies in depth earlier in this work. This includes *bilateral negotiations, multilateral negotiations, good offices, fact-finding, mediation, arbitration and adjudication*. There are a total of 1,690 peaceful conflict management attempts in our data.

Figure 1 visually outlines the relationships between our conflict management dependent variables. The variables become more aggregated as one moves down the figure. Thus, the most general variables appear further to the bottom of the figure (below the horizontal line), while the more specific variables (i.e., individual conflict management strategies) appear toward the top of the figure (above the horizontal line; e.g., bilateral negotiations or mediation). As an illustration, we capture mediation as a separate variable in some analyses, but it is also part of the “non-binding third-party conflict management” variable, the “third-party conflict management” variable, and the “(all) peaceful conflict management” variable. The aggregate variables allow us to connect with prior research, while the disaggregated variables allow us to explore the nuances of conflict management regimes.

⁵⁴ On coding and coverage, see the ICOW website at <http://www.paulhensel.org/icow.html>.

Additionally, our argument proposes that the conflict management behavior of inter-governmental organizations (IGOs) should vary by claim type too (i.e., territorial, river, or maritime); this derives from the fact that regimes often become institutionalized through IGOs. Two dichotomous dependent variables account for the involvement of IGOs. *Regional IGO* captures if a regional inter-governmental organization (e.g., the African Union) helps manage a claim in a given claim-dyad-year, while *global IGO* captures the same information for more universal membership organizations (e.g., the United Nations). An IGO receives credit for conflict management if it uses *any* third-party conflict management strategy to assist disputants during a given claim-dyad-year.

The issues involved in claims – territorial, river, and maritime space constitute the key independent variables in our analysis. To these, we add six control variables that may alter the management of territorial claims. First, we account for the salience of a claim using the ICOW *claim salience* index.⁵⁵ Second, we address the effects of *recent militarized interstate disputes (MIDs)*⁵⁶ by employing ICOW's weighted MID score, constructed as the weighted sum of recent MIDs over the claim in question during the 10 years prior to the current observation.⁵⁷ Third, we consider *recent failed peaceful attempts*, measured as the weighted number of failed peaceful conflict management attempts (of any type) between a given dyad's members over the claim in question within the last 10 years. Fourth, we control for whether the dyad in question is a *joint democracy* – i.e., whether both states score six or higher on the Polity IV autocracy-democracy index.⁵⁸ Fifth, *relative capabilities* accounts for the power (a)symmetry between disputing states

⁵⁵ Hensel 2001; Hensel et al. 2008, 130.

⁵⁶ Ghosn, Palmer, and Bremer 2004.

⁵⁷ A MID that occurred in the previous claim-dyad-year receives a value of 1.0. This value decreases by 0.10 for each year prior to the current observation that the MID occurred.

⁵⁸ Marshall and Jaggers 2009.

by constructing a ratio of the stronger to the weaker dyad member's capabilities.⁵⁹ Finally, we control for *claim duration* by including a running count of the number of years that a claim has been ongoing.

Because our dependent variables are dichotomous, we employ logistic regression models in the analysis that follows. When we have less than 100 total "events" for a given dependent variable, we also run a rare events logistic regression as a robustness check.⁶⁰ These rare events models do not change the substantive results reported below.

Empirical Results

In Table 1, we examine the frequency with which actors use various conflict management strategies to manage their land, river, and maritime claims. For each type of claim, we offer two sets of statistics. First, we note the number of claim-dyad-years in which each conflict management strategy is used. As an illustration, Table 1 reveals that disputants employ peaceful conflict management (of all types) within 819 land claim-dyad-years, 150 river claim-dyad-years, and 346 maritime claim-dyad-years (split between 200 EEZ claim-dyad-years and 150 non-EEZ claim-dyad-years).

<< Table 1 about here >>

In addition to relative frequencies, we also calculate the percentage of claim-dyad-years for a given claim type (land, river, or maritime) in which disputants employ each conflict management strategy. For example, disputants resort to good offices in 1.14% of all land claim-dyad-years (or 69 of 6,051 claim-dyad-years), but use fact-finding in only 0.12% of all territorial claim-dyad-years (or 7 of 6,051 claim-dyad-years). Such a statistic offers two benefits in which

⁵⁹ That is, CINC scores; see Singer 1988.

⁶⁰ Tomz, King, and Zeng 2003.

we are interested. First, it permits a comparison of strategy usage *within* specific claim types. We can, for instance, say that disputants use good offices more often than fact-finding to manage their land claims.

Second, it permits us to compare strategy usage better *across* issue claim types as well. This is particularly important because the frequency of claim types vary substantially. Land claims are significantly more common (6,051 claim-dyad-years) than either river (762 claim-dyad-years) or maritime (3,231 claim-dyad-years) claims. Viewing only the frequency values would therefore suggest that conflict management happens primarily within land claims. Yet just because there is more *opportunity* for conflict management to happen within territorial claims, this need not imply that actors are more likely to use a given strategy to manage a territorial claim as opposed to a river or maritime claim. An illustration demonstrates this point. Even though good offices are used more often within land claim-dyad-years (n=69, or 1.14% of territorial claim-dyad-years), this strategy is used *relatively* more frequently in river claim-dyad-years (n=15, but this is 1.97% of river claim-dyad-years).

The descriptive data provided in Table 1 offer two benefits. First, to our knowledge, our study is the first to disaggregate conflict management strategies by claim type. Second, the data in Table 1 suggest *prima facie* evidence in favor of our theoretical argument. In particular, we see conflict management regimes emerge in four general findings. First, disputants rely upon fact-finding relatively more in river claims (1.31%) than either land (0.12%) or maritime (0.00%) claims. The regime formed around river claims seems to be the most compelling explanation for such a finding. After all, fact-finding is somewhat innocuous; disputants voluntarily allow it to occur, and can shut it down any time or reject the inquiry's findings if they choose. Further evidence of the regime explanation appears in two additional findings. First, although fact-

finding is used in three land disputes (for seven claim-dyad-years), *each* of these disputes *also* involves a river claim. Second, disputants also rely upon the closest alternative strategies to fact-finding (good offices and mediation) relatively more often in river claims (1.97% and 1.97% respectively) than in land (1.14% and 1.24% respectively) or maritime claims (1.05% and 0.71% respectively). Such findings offer initial support for our argument that a distinct conflict management regime has formed around river claims, centered upon the use of fact-finding and related management strategies (see also the relative frequencies for the aggregate category of “third-party non-binding attempts”).

Second, multilateral negotiations appear more likely in maritime claims. Disputants use this strategy in 2.04% of maritime claim-dyad-years, but only 0.50% and 1.31% of land and river claim-dyad-years respectively. At first glance, this seems to result merely from the number of parties affected by the issue. Two difficulties, however, belie such an explanation. First, river claims often involve multilateral basins⁶¹, while maritime claims (e.g., Guyana and Suriname) are frequently bilateral. We therefore have no *ex ante* expectation that maritime claims should necessarily involve more multilateral negotiations than river claims. Second, when we disaggregate maritime claims into those diplomatic disputes that involve an EEZ and those that do not, the regime story strengthens. Disputants are more likely to rely upon adjudication when managing maritime claims involving EEZ territory (0.86%) than when managing land (0.13%), river (0.66%), or non-EEZ maritime claims (0.27%). Furthermore, the reliance on multilateral negotiations climbs for non-EEZ maritime claims (to 2.39%). In other words, the aggregate classification of maritime claims masks the fact that disputants treat EEZ claims differently *within the same regime*. Disputants favor multilateral negotiations and adjudication when

⁶¹ Zawahri and Mitchell 2011.

managing maritime claims, much as our argument predicts. Nonetheless, they select between these two strategies according to whether the maritime claim concerns EEZ or non-EEZ space.

Third, a regime may also govern the management of land claims. Disputants are more likely to manage land claims via arbitration (0.55%), a peace conference (0.40%), or militarized means (3.24%) than either river (0.00%, 0.13%, and 2.36% respectively) or maritime claims (0.12%, 0.03%, and 2.79% respectively). We proposed, however, that maritime claims over an EEZ might behave like land claims. When we split maritime claims into those that involve an EEZ and those that do not, this is precisely what we find. Disputants manage EEZ claims much more frequently than non-EEZ claims, something also found with land relative to other claims. Yet the comparison becomes even starker when we reconsider arbitration and militarized actions. *All* arbitration of maritime claims occurs within claims that concern an EEZ. Furthermore, disputants rely upon military means more frequently when managing EEZ, as opposed to non-EEZ, maritime claims.⁶² Each of these findings suggests that disputants treat claims like land ones.

Cumulatively, these findings offer initial support for our argument. Conflict management regimes appear to exist, with disputants favoring fact-finding and related strategies to manage river claims, multilateral negotiations and adjudication to manage maritime claims, and arbitration and military means to manage land (and perhaps EEZ maritime claims). Nonetheless, we require additional analysis to confirm these preliminary conclusions.

Multivariate Regression Results

⁶² We only include peace conferences and MIDs here for descriptive purposes. We omit these from the analysis below to retain the focus on peaceful conflict management.

Tables 2 and 3 display a series of logistic regression models designed to further investigate the possibility that conflict management regimes develop around claim types. Table 2 examines the effects of claim type on *any* kind of peaceful conflict management (Model 1). As one moves from left to right across Table 2, we subsequently disaggregate the conflict management (dependent) variable(s) further. The final columns of Table 2 then contain an analysis of IGO intervention. In Table 3, we disaggregate binding and non-binding third-party conflict management. Throughout all of the models presented in Tables 2 and 3, land claims serve as the reference category for the included claim types.

<< Tables 2 and 3 about here >>

The first hint that conflict management regimes form around claim type emerges when we consider maritime claims – which are divided into those that involve an EEZ and those that do not. Six findings appear particularly noteworthy. First, regardless of whether a maritime claim involves an EEZ or not, maritime claims are less likely than land claims to experience conflict management (Model 1, Table 2).⁶³ When we disaggregate conflict management, however, we discover that bilateral negotiations drive this aggregate finding. Disputing states are significantly less likely to employ bilateral negotiations to manage a maritime claim (with or without an EEZ) as opposed to a land claim (Model 2, Table 2). Furthermore, it appears that maritime claims are significantly more likely than land claims to experience conflict management from regional (for both EEZ and non-EEZ claims; Model 6, Table 2) and global (for EEZ claims; Model 7, Table 2) IGOs. These findings cumulatively point toward a regime in which maritime claims are handled more in multilateral, formal institutional settings and less in bilateral ones – much as our regime argument predicts.

⁶³ This matches the findings in Hensel et al. 2008.

The maritime regime story gets more nuanced in Table 3, as our remaining three findings indicate. First, disputants *never* use fact-finding to manage maritime claims, regardless of whether the claim involves an EEZ (Model 2). This strongly supports our supposition that fact-finding serves as the cornerstone of a river claim regime, a point we return to below. Second, both types of maritime claims are more likely than land claims to involve multilateral negotiations (Model 6). Combined with the earlier finding on bilateral negotiations, we once again see a regime in which states employ more multilateral and less bilateral conflict management strategies.

Finally, the treatment of EEZ and non-EEZ maritime claims diverges in two ways. EEZ maritime claims are more likely than land claims to involve good offices, while non-EEZ claims are *less* likely than land claims to involve good offices (Model 1). A similar divergence appears in the individual strategies that comprise binding third-party conflict management. Disputants are more likely to pursue adjudication when handling their EEZ maritime claims as opposed to their land ones (Model 5). Yet they also *never* use arbitration to address their non-EEZ maritime claims (Model 4). These two findings provide clear support for disaggregating maritime claims into territorial and non-territorial issue types.⁶⁴

Before turning to river claims, we note one additional finding. We proposed earlier that EEZ maritime claims should theoretically be managed similarly to land claims. On this score, the evidence is decidedly mixed. On the one hand, EEZ maritime claims are sometimes treated differently than land claims; these maritime claims experience bilateral negotiations less frequently than land claims and good offices, adjudication, multilateral negotiations, and regional and global IGO involvement more often than territorial claims (sometimes at the 0.10 level; see above). On the other hand, when we consider aggregate categories of third-party conflict

⁶⁴ In fact, aggregating EEZ and non-EEZ maritime claims masks the findings presented here.

management (all forms, as well as non-binding and binding; Models 3-5 Table 2), we find that EEZ maritime claims are treated no differently than land claims, while non-EEZ maritime claims are. Such evidence is admittedly weak, especially since our more detailed analysis (Table 3) suggests the management of EEZ maritime and land claims differ in some ways. We conclude here that the evidence is not strongly supportive of our earlier theoretical prediction, although it is clear that disputants handle maritime claims involving an EEZ differently (in some ways) than those that do not.

River claims display an entirely different pattern of conflict management – one consistent with a distinct regime. Five findings support this conclusion. First, river claims are more likely than land claims to experience conflict management (broadly defined; Model 1, Table 2). This is entirely opposite the finding for maritime claims. Second, when we begin disaggregating the broad categorization of all conflict management strategies, we see that, unlike with maritime claims, third-party conflict management drives our aggregate finding. River claims are no more likely than land claims to experience bilateral negotiations, but *significantly* more likely than land claims to involve third-party conflict management (Model 3, Table 2) – especially of the non-binding kind (Models 4-5, Table 2).

Third, when we further disaggregate non-binding third-party conflict management, we discover that disputants are more likely to use good offices and fact-finding to manage their river claims, as opposed to their land claims (Models 1-2, Table 3). This latter finding is distinctive, for disputants *never* use fact-finding in maritime claims, but rely upon it significantly more frequently in river claims. Fourth, disputants *never* use arbitration in river claims and resort to adjudication more often in river claims than land claims (Models 4-5, Table 3). If we combine this finding on arbitration with the one noted above for maritime claims, arbitration appears to be

primarily a tool for *land* claims (or EEZ maritime claims, which might be similar to land claims), and this characteristic may serve as the centerpiece for a distinct land claim regime.

Finally, the management of river claims may be more multilateral than land claims, but in a way that is much more limited than we found with maritime claims. Regional IGOs perform conflict management more frequently in river claims than land claims (Model 6, Table 1), but global IGOs are no more or less likely to peacefully manage river as opposed to land claims (Model 7, Table 1). Furthermore, multilateral negotiations are no more or less likely in river claims than land ones (Model 6, Table 3). In the end, if a regime exists for managing river claims, this regime seems to be defined by two overarching characteristics: a preference for non-binding third-party conflict management (particularly fact-finding) and a limited multilateral framework (regional, but not global in nature).

One additional point is worth noting. Our earlier theoretical discussion said little about mediation's role in the (potentially) different conflict management regimes that might develop to handle land, river, and maritime claims. This omission was purposive. Our research suggests that, unlike fact-finding or regional/global IGO involvement, mediation does not feature prominently in one issue claim type's conflict management regime. The results of our analysis support this expectation (Model 3, Table 3). Mediation is no more or less likely to occur during a river or maritime claim (regardless of whether the claim concerns an EEZ), as opposed to a land claim. This offers further support to our larger argument: distinct conflict management regimes form to handle claims over different issue types, and state behavior reinforces these regimes.

The control variables in Tables 2-5 behave largely as expected.⁶⁵ First, more salient claims generally receive more conflict management attempts – particularly bilateral negotiations, good offices, and multilateral negotiations. More salient claims are also more likely to involve

⁶⁵ For similar results, see Hensel et al. 2008; Gent and Shannon 2010, 2011.

regional IGOs, though not global ones. Second, as a claim experiences more militarized interstate disputes or failed peaceful conflict management attempts in its recent past, it is generally more likely to receive additional conflict management. This finding holds across many individual conflict management strategies (albeit with some variation). Furthermore, recent efforts at violent and non-violent conflict management increase the likelihood that regional and global IGOs will intervene to manage the claim. Third, disputing dyads in which both states are democratic resort more frequently to certain conflict management strategies than similar dyads containing at least one non-democracy. In particular, jointly democratic dyads are more likely to be assisted by global IGOs and to employ both negotiations and binding third-party conflict management (particularly, adjudication) when managing their claims. Such findings align well with democratic peace research.⁶⁶

Fourth, relative capabilities consistently affect the use of conflict management. As the power between the disputing states becomes increasingly asymmetric (i.e., as the stronger side gains a larger share of the dyad's resources), the likelihood declines that the disputants will experience conflict management of any kind – bilateral negotiation, as well as non-binding and binding third-party conflict management. When we break apart these latter aggregate categories, we find that increasingly asymmetric dyads are less likely to experience mediation, arbitration, and adjudication, but no more or less likely to experience good offices or fact-finding. These findings merit additional attention, but they suggest that stronger states are hesitant to employ strategies in which they lose too much control over the negotiation process or outcome. This explanation also accords well with the additional finding that more asymmetric dyads are less likely to experience the involvement of a global IGO. The strong seemingly want greater control over the management of their claims – much as our argument predicts. Finally, claim duration

⁶⁶ See Russett and Oneal 2001.

has intermittent, differing effects on conflict management. On the one hand, claims that last longer are less likely to experience non-binding third-party conflict management, particularly multilateral negotiations, and the involvement of global IGOs. On the other hand, claims that persist are more likely to experience arbitration and good offices.

Substantive Effects

In order to understand the substantive effects of claim type on conflict management behavior, Table 4 presents a series of predicted probabilities for each of the dependent variables discussed above.⁶⁷ Because land claims serve as the reference category in the above models, the “base model” (first column) predicts conflict management within land claims. We hold all remaining control variables at their mean values. This approximates a dyad in which the disputing states are unlikely to be both democratic and the stronger state in the dyad controls roughly 84% of the dyad’s relative capabilities. Furthermore, this representative dyad disputes a claim of moderate salience (6.4 on ICOW’s 12 point salience index) and has managed their claim via roughly one MID (approximately 10 years prior to the claim-dyad-year in question) and 1-4 (failed) peaceful conflict management attempts (approximately 5-10 years prior to the claim-dyad-year in question).

<< Table 4 about here >>

The probability that a dyad with these base characteristics will experience peaceful conflict management of any type in its land claim in a given claim-dyad-year is 0.1239. River claims experience a significantly higher probability of such conflict management (26%), while maritime claims of both the non-EEZ and EEZ varieties experience a significantly lower likelihood of this conflict management (33% and 18% respectively). “Statistically significant”

⁶⁷ We derive predicted probabilities from the (re)logit models in Tables 2-3. See Tomz, King, and Zeng 2003.

means here that the confidence intervals associated with the probability estimates (in parentheses under the point estimates in Table 4) do not overlap.⁶⁸ To facilitate reading, significant increases and decreases over the baseline model (land) are bolded in Table 4.

A review of the substantive findings in Table 4 offers further confirmation of our regime story, and we highlight four such findings. First, the management of maritime claims (both those that involve an EEZ and those that do not) is less bilateral and more multilateral than the management of territorial claims, as we noted earlier. Maritime claims are significantly less likely than land ones (26-44%) to involve the use of bilateral negotiations in a given claim-dyad-year. Furthermore, when such claims involve no EEZ space, they are also significantly more likely than land claims (355%) to employ multilateral negotiations in a given claim-dyad-year and significantly less likely to involve either good offices (a 93% decrease) or binding third-party conflict management (a 60% decrease). These findings support our argument that the regime surrounding the management of maritime claims encourages more multilateral behavior.

Second, the involvement of intergovernmental organizations (IGOs) is significantly higher within all non-land claims. In particular, for any given claim-dyad-year, a river claim is 745% more likely to experience conflict management by a regional IGO than a land claim – a significant difference. The probability of regional IGO involvement is also significantly larger (285-420%) within maritime claims (both non-EEZ and EEZ claims). This supports our argument that the conflict management regime surrounding non-land claims is more institutionalized than that for territorial ones. Yet we also proposed a slight difference between the institutionalization of river and maritime claim management. We argue that institutions surrounding river claims tend to be more regional, while those involving maritime claims have become more global. The data in Table 4 confirm this. Maritime claims involving EEZ space are

⁶⁸ We use 90% confidence intervals because our hypotheses are directional; this puts 5% uncertainty in each tail.

significantly more likely than land claims (181%) to experience conflict management from a global IGO. River claims and non-EEZ maritime claims do not experience a similar, statistically significant effect that differentiates their management from that of land claims.

Third, we proposed that disputants might manage maritime claims that contest EEZ space similarly to land claims, since both involve questions of interstate boundaries. Maritime claims involving an EEZ share some similarities with their non-EEZ counterparts – especially with respect to bilateral negotiations and the involvement of IGOs. Yet in all other ways – especially the use of third-party conflict management strategies – the management of EEZ maritime claims cannot be distinguished from the management of land claims. Disputants with EEZ maritime claims are *not* significantly more likely to manage their claim via good offices, fact-finding, mediation, multilateral negotiations, arbitration, or adjudication than those with land claims. Differences in specific conflict management behavior only appear between non-EEZ maritime and land claims.

Fourth, the management of river claims also seems to follow its own regime. In particular, disputants rely upon third-party conflict management significantly more often when managing river, as opposed to land, claims (72%). This finding seems particularly driven by fact-finding missions; disputants are significantly more likely to use these missions in river claims than in land claims.⁶⁹ This, combined with the fact that maritime claims never use fact-finding missions, suggests that this strategy helps form the centerpiece of the river claims management regime. Nevertheless, river claims also see a heightened use of good offices and mediation as well. Although these increases are not statistically significant on their own, they may cumulatively contribute to the finding that the probability of non-binding third-party conflict management is significantly higher within a river claim-dyad-year than a land one (86%).

⁶⁹ This percentage increase is large, primarily because fact-finding is rare.

As a final note, we address two remaining points. First, as noted earlier, the use of mediation does not significantly vary across issue claim types. In some ways, this is expected. Neither the territorial nor river nor maritime regimes privilege mediation at the expense of other strategies despite mediation being one of the most commonly employed strategies in international conflict management. This offers further evidence that conflict management regimes form around issue claim type and guide state behavior. Absent encouragement or constraint from regimes, actors do not vary their use of mediation by claim type. Second, the maritime claim regime predicts greater use of binding third-party conflict management. Although the empirical results support such a claim, the substantive results do not. This certainly runs counter to our expectations. Nonetheless, the findings cumulatively suggest strong support for the existence of conflict management regimes that vary by issue type.

Conclusion

States have many peaceful strategies available to manage their territorial disputes. Yet their use of these strategies seems to vary markedly depending on the territorial claim type being managed (i.e., land, river, or maritime) – a fact underscored by the usage of fact-finding missions only utilized when river claims are involved. The full extent of this variation remains understudied – primarily because researchers have so far generally focused instead upon broad, aggregate categories of conflict management efforts (e.g., binding or non-binding third-party conflict management), rather than the individual strategies that comprise these categories.

Mindful of such empirical puzzles and a need for further theorizing, we advance an argument that explains variation in the management of different issue claim types through three characteristics: state interests, transaction costs, and relative power. When state interests and

power asymmetries are higher and when transaction costs are lower, states prefer conflict management strategies that afford them greater control over the settlement process and the substantive terms of settlement. In turn, this incentive for control, along with the (dis)incentive for additional actors to become involved in a claim type's management, drives the creation of conflict management regimes – i.e., socially constructed institutions containing a set of behavioral standards for managing claim types.⁷⁰ Thus, if claim types produce variation in state interests, transaction costs, and/or relative power, then our argument predicts that distinct regimes will form around each claim type.

Our empirical analysis offers broad support to this argument. As predicted, states prefer to maintain as much control as possible when managing land claims, which leads them to favor bilateral negotiations and eschew third-party involvement. Furthermore, when they permit third-party involvement, states with land claims often find a balance between settling the claim and maintaining control over the negotiation process and outcome (e.g., by favoring arbitration, as opposed to adjudication). River claims, however, receive entirely different treatment. These claims often involve more actors, which opens the door to more multilateral processes. Yet they are not truly *global* concerns. States therefore construct regional institutions for their management, and these institutions focus upon third-party non-binding conflict management, particularly fact-finding designed to understand behavior along rivers. Finally, maritime claims possess clear global implications and interests. This offers the strongest environment for multilateral processes and encourages states to build global institutions with highly developed dispute management systems.

Importantly, the claim type matters for how it is managed. For example, when states face a maritime claim that contains characteristics similar to traditional “land border” issues (i.e.,

⁷⁰ Finnemore and Sikkink 1998; Keohane 1984; Ruggie 1998

control of resources in exclusive economic zones), they manage these claims in ways that look like the management of their land claims. In contrast, when such characteristics are absent in a maritime claim, states are more likely to manage the claim in ways that *differ* from their management of land claims. Each of these findings suggests that states build regimes in response to their interests, the disputed issue characteristics, and concerns about transaction costs. They also imply that states most often manage their claims in ways consistent with the relevant regime's guidelines.

Future research might expand the work done here by addressing two questions. First, does conflict management *succeed* more often at settling claims with the strategies favored by a relevant regime than with un-favored ones? Second, do regimes encourage certain *sequences* of conflict management strategies – e.g., bilateral negotiations first and fact-finding missions second? Pursuit of these questions will further merge research programs in conflict management, international institutions, and contentious issues.⁷¹ Nonetheless, we believe this study advances our knowledge in two important ways. On the one hand, it clearly demonstrates that conflict management regimes form to manage the most contentious interstate issues (i.e., territorial disputes) and that the design of these regimes varies predictably. On the other hand, it offers insight into how we might expect states to manage their contemporary contentious land, river, and maritime claims.

⁷¹ For good examples of this merging, see Simmons 2002; 2005.

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Figure 1. Organization of Conflict Management Strategies (Dependent Variables)

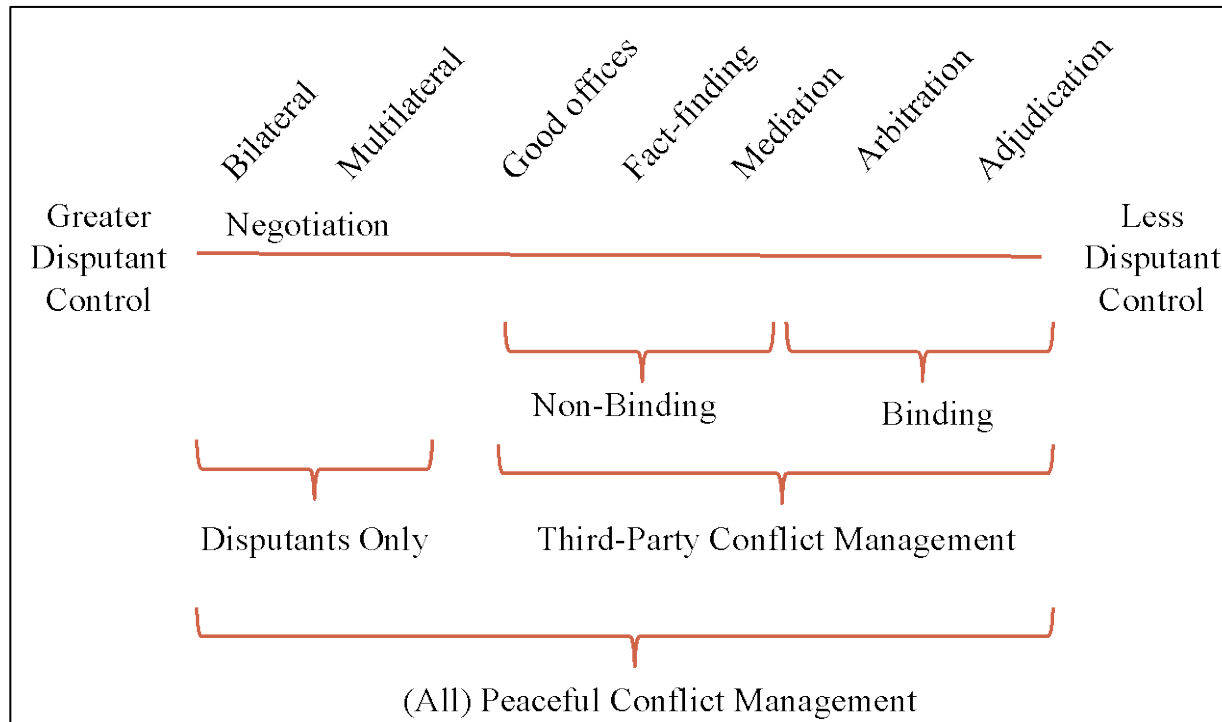


Table 1. Conflict Management in Land, River, and Maritime Claims, 1816-2001

	Land claims		River Claims		Maritime Claims					
					EEZ Maritime		Non-EEZ Maritime		All Maritime	
	Number of dyad-claim-years	% dyad-claim-years	Number of dyad-claim-years	% dyad-claim-years	Number of dyad-claim-years	% dyad-claim-years	Number of dyad-claim-years	% dyad-claim-years	Number of dyad-claim-years	% dyad-claim-years
<i>All peaceful attempts</i>	819	13.53	150	19.69	200	14.37	146	7.94	346	10.71
Bilateral negotiation	626	10.35	107	14.04	139	9.99	98	5.33	237	7.34
Multilateral negotiation	30	0.50	10	1.31	22	1.58	44	2.39	66	2.04
<i>All third-party attempts</i>	226	3.73	56	7.35	86	6.18	56	3.05	142	4.39
<i>Third-party non-binding attempts</i>	187	3.09	51	6.69	72	5.17	53	2.88	125	3.87
Good offices	69	1.14	15	1.97	33	2.37	1	0.05	34	1.05
Fact-finding	7	0.12	10	1.31	0	0.00	0	0.00	0	0.00
Mediation	75	1.24	15	1.97	15	1.08	8	0.44	23	0.71
<i>Third-party binding attempts</i>	41	0.68	5	0.66	16	1.15	5	0.27	21	0.65
Arbitration	33	0.55	0	0.00	4	0.29	0	0.00	4	0.12
Adjudication	8	0.13	5	0.66	12	0.86	5	0.27	17	0.53
<i>Additional attempts</i>										
Peace conference	24	0.40	1	0.13	1	0.07	0	0.00	1	0.03
MID	196	3.24	18	2.36	42	3.02	48	2.61	90	2.79
<i>Total claim-dyad-years</i>	6,051		762		1,392		1,839		3,231	

Notes: a) Aggregate categories appear in italics (see Figure 1). b) Sub-categories may not add to aggregate categories, as the aggregate category captures whether one *or more* conflict management attempt occurred. c) Percentages will not add to 100%, as most claim-dyad-years experience no management attempts – either violent or peaceful.

Table 2. The Management of Land, River, and (EEZ/non-EEZ) Maritime Claims, 1816-2001

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7
Rare events logistic regression	No	No	No	No	No	Yes	Yes
Dependent variable	All peaceful conflict management	Bilateral conflict management/ negotiations	All third-party conflict management	Non-binding third-party conflict management	Binding third-party conflict management	Regional IGO	Global IGO
Non-EEZ maritime claim	-0.4486*** (0.1029)	-0.6255*** (0.1222)	0.1152 (0.1584)	0.2941* (0.1643)	-0.9215* (0.5282)	1.6500*** (0.3276)	-0.2809 (0.5788)
EEZ maritime claim	-0.2246** (0.1015)	-0.3295*** (0.1143)	0.2417 (0.1634)	0.2524 (0.1821)	0.1574 (0.3140)	1.3594*** (0.3704)	1.0349*** (0.3822)
River claim	0.2696** (0.1111)	0.1715 (0.1233)	0.5627*** (0.1693)	0.6410*** (0.1805)	-0.0617 (0.4787)	2.1516*** (0.3404)	0.7538 (0.4881)
Claim salience	0.0701*** (0.0144)	0.0654*** (0.0161)	0.0750*** (0.0249)	0.1089*** (0.0270)	-0.0856 (0.0553)	0.1056*** (0.0402)	0.0023 (0.0673)
Recent MIDs	0.3263*** (0.0601)	0.0483 (0.0688)	0.6220*** (0.0699)	0.6418*** (0.0730)	0.5278*** (0.1454)	0.5075** (0.1972)	0.3717** (0.1657)
Recent failed peaceful attempts	0.4742*** (0.0320)	0.4195*** (0.0310)	0.3467*** (0.0372)	0.3768*** (0.0389)	0.0619 (0.0974)	0.1667** (0.0726)	0.3288*** (0.0625)
Joint democracy	0.3031*** (0.0764)	0.3991*** (0.0843)	-0.0139 (0.1333)	-0.1327 (0.1478)	0.5684** (0.2733)	-0.0241 (0.3063)	0.8650** (0.3349)
Relative capabilities	-0.9005*** (0.2175)	-0.6323** (0.2473)	-1.5889*** (0.3564)	-1.0772*** (0.3920)	-4.1655*** (0.8431)	-1.3791 (0.9801)	-1.8659* (1.0444)
Claim duration	-0.0014 (0.0012)	0.0003 (0.0013)	-0.0051** (0.0023)	-0.0067** (0.0028)	0.0011 (0.0038)	-0.0072 (0.0064)	0.0039 (0.0049)
Constant	-1.9314*** (0.2284)	-2.4098*** (0.2598)	-2.7516*** 0.3727	-3.5801*** (0.4167)	-1.5233* (0.7769)	-5.6590*** (1.0066)	-4.7468*** (1.1041)
Obs.	9,943	9,943	9,943	9,943	9,943	9,943	9,943
Wald/LR χ^2	547.75***	396.38***	440.88***	444.43***	66.66***	Not available	Not available

Notes: a) Robust standard errors presented in parentheses; b) * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 3. Detailed Breakdown of Third-Party Management of Land, River, and (EEZ/non-EEZ) Maritime Claims, 1816-2001

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Rare events logistic regression	No	Yes	No	Yes	Yes	No
Dependent variable	Good offices	Fact-finding	Mediation	Arbitration	Adjudication	Multilateral negotiations
Non-EEZ maritime claim	-0.26612*** (1.0156)	Perfect predictor of no fact-finding [†]	-0.2778 (0.3786)	Perfect predictor of no arbitration [†]	0.4232 (0.6320)	1.5406*** (0.2300)
EEZ maritime claim	0.5396* (0.2877)	Perfect predictor of no fact-finding [†]	-0.1212 (0.3148)	0.0092 (0.5503)	1.0207** (0.5055)	0.6004* (0.3424)
River claim	0.6808** (0.3203)	2.9658*** (0.6702)	0.4685 (0.3103)	Perfect predictor of no arbitration [†]	1.2937** (0.5900)	0.4067 (0.3715)
Claim salience	0.1544*** (0.0485)	0.0364 (0.0938)	-0.0046 (0.0429)	-0.1330* (0.0732)	-0.0415 (0.0894)	0.1344*** (0.0487)
Recent MIDs	0.6000*** (0.1096)	1.2928*** (0.2245)	0.6393*** (0.0895)	0.5844*** (0.1500)	0.2784 (0.3664)	0.4092** (0.1912)
Recent failed peaceful attempts	0.3694*** (0.0462)	0.2089** (0.0826)	0.4038*** (0.0481)	0.2131* (0.1237)	-0.0439 (0.1729)	0.1866** (0.0884)
Joint democracy	0.1054 (0.2451)	0.6521 (0.5648)	-0.7077** (0.2908)	-0.5241 (0.4508)	1.4083*** (0.4069)	-0.0864 (0.2454)
Relative capabilities	0.5501 (0.7592)	2.5991 (2.9737)	-3.9428*** (0.6510)	-3.9044*** (0.9155)	-4.8409*** (1.4962)	0.1982 (0.6876)
Claim duration	0.0062* (0.0033)	-0.0156 (0.0119)	-0.0007 (0.0039)	0.0097*** (0.0037)	-0.0071 (0.0106)	-0.0417*** (0.0103)
Constant	-6.8065*** (0.8096)	-9.9866*** (3.2624)	-1.7950*** (0.6417)	-2.1373*** (0.7707)	-2.5969* (1.4499)	-5.6070*** (0.6907)
Obs.	9,943	9,943	9,943	9,943	9,943	9,943
Wald/LR χ^2	245.37***	Not available	288.93***	Not available	Not available	127.59***

Notes: a) Robust standard errors presented in parentheses; b) * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$; † perfect predictors are dropped from the rare events logistic regression before running it.

Table 4. Substantive Effects of Claim Type on Peaceful Conflict Management

Probability of:	Land Claims (Base Model)	River Claims	Maritime Claims	
			No EEZ Involved	EEZ Involved
<i>All peaceful conflict management</i>	0.1239 (0.1166-0.1312)	+ 26%	-33%	-18%
Bilateral negotiations	0.0974 (0.0908-0.1039)	+17%	-44%	-26%
Multilateral negotiations	0.0033 (0.0019-0.0046)	+48%	+355%	+79%
<i>All third-party conflict management</i>	0.0287 (0.0253-0.0321)	+72%	+12%	+26%
<i>Non-binding third-party conflict management</i>	0.0226 (0.0197-0.0256)	+86%	+33%	+28%
Good offices	0.0074 (0.0057-0.0091)	+96%	-93%	+70%
Fact-finding	0.0005 (0.0002-0.0014)	+1,860%		
Mediation	0.0063 (0.0047-0.0079)	+60%	-24%	-11%
<i>Binding third-party conflict management</i>	0.0050 (0.0036-0.0065)	-6%	-60%	+18%
Arbitration	0.0027 (0.0018-0.0041)	-	-	+0%
Adjudication	0.0012 (0.0006-0.0023)	+258%	+42%	+175%
<i>Intergovernmental Organizations</i>				
Regional IGO	0.0020 (0.0013-0.0034)	+745%	+420%	+285%
Global IGO	0.0031 (0.0021-0.0046)	+116%	-26%	+181%

Notes: a) 90% confidence interval bounds are listed in parentheses; b) statistically significant increases over the base model are bolded.