

Protecting Trade by Legalizing Political Disputes: Why Countries Bring Cases to the International Court of Justice

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How does economic interdependence shape political relations? We show a new pathway to support a commercial peace in which economic interdependence changes strategies for conflict management. The uncertainty arising from political disputes between countries can depress trade flows. As states seek to protect trade from such negative effects, they are more likely to bring their disputes to legal venues. We assess this argument by analyzing why countries bring cases to the International Court of Justice (ICJ). Using data on 190 countries from 1960 to 2013, we find that countries are more likely to file ICJ cases against important trading partners than against states with low levels of shared trade. We conclude that economic interdependence changes the incentives for *how* states resolve their disputes.

Introduction

Over the last seventy years, three broad trends have characterized international politics: an increase in economic interdependence between states, a growing number of international institutions, and a decrease in interstate war. Deepening exchanges between countries make states more vulnerable to disruptions in ongoing cooperation (Keohane and Nye 1977). This vulnerability creates a demand for international institutions to constrain powerful states and preserve cooperative outcomes. As interdependence and institutionalized cooperation increase, they may be linked to a decrease in war (Mansfield and Pevehouse 2000; Russett and Oneal 2001). A significant body of literature tests the relationship between bilateral trade and conflict, with mixed findings.¹ Studies also show a correlation between membership in international organizations and avoidance of conflict.² But despite substantial work on this topic, the relationship between economic interdependence, institutions, and conflict remains ambiguous. How does economic interdependence shape political relations between states?

In this article, we examine the impact of economic interdependence on dispute resolution through a study of the International Court of Justice (ICJ). The ICJ is one of the oldest international courts: established by the Charter of the United Nations in 1945, it began work the following

year. Its long history and jurisdiction over many types of disputes make it ideal for analyzing how trade ties affect a country's decision to seek third-party adjudication. We find that countries with stronger trading relationships are more willing to settle disputes through the court. This demonstrates a new pathway through which economic interdependence fosters peaceful relations—it encourages states to use legalized forms of dispute settlement.

At first glance, it seems surprising that countries ever use legal venues to solve disputes. A court cannot change the underlying power distribution between states. Realist theory suggests that international law has no independent power in international affairs (Mearsheimer 1994; Goldsmith and Posner 2005). Indeed, the ICJ seems to have been designed with this perspective in mind. For the ICJ to hear a case, both parties to a dispute must either have accepted the jurisdiction of the court or have agreed to submit the specific dispute to the court for a judgment. Even after the court hears a case, states can essentially ignore its ruling since it cannot enforce its judgment.

Despite these limitations, governments have turned to the ICJ for third-party dispute resolution on a range of issues, including territorial claims, political asylum, and environmental damage. Ninety-two countries ranging widely in income and military capacity have participated in 134 ICJ cases since the court's inception. While this represents a small number relative to the total number of economic disputes addressed in the World Trade Organization (WTO) or investment arbitration bodies, it nonetheless constitutes an important area of cooperation. Moreover, if one considers the frequency of usage given a potential dispute, the ICJ record looks strong. For example, territorial disputes constitute the most common reason that states file cases at the ICJ. Over the period from 1960 to 2000, Huth, Croco, and Appel (2011) document 82 unique territorial disputes, and countries filed cases at the ICJ relating to 18 of them—a surprising 22 percent frequency when comparing filed cases to identified potential cases. The ICJ is a significant venue for interstate disputes, forming a key component in the legal structure of the international system.

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¹ See Barbieri 2002; Mansfield and Pollins 2003; Keshk, Reuveny, and Pollins 2004; Koo 2010; Hegre, Oneal, and Russett 2010; Copeland 2015.

² See Boehmer, Gartzke, and Nordstrom 2004; Bearce and Bondanella 2007; Mitchell and Hensel 2007; Kinne 2013.

We argue that states use the ICJ to protect trade flows. Intense political disputes create uncertainty, which can inhibit economic exchange. Legal action isolates the problem, minimizing the potential adverse effects on trade flows. Although delegating to an international court is not without costs—states incur high legal fees and risk the possibility of an unfavorable court ruling—these costs are offset by the economic gains from protecting an important trading relationship. Some disputes, of course, involve such high stakes that political or strategic costs outweigh all other considerations, just as some trading relationships are so essential that even major disputes may not disrupt ties. On average, however, we argue that governments with higher trade dependence are more likely to decide that gambling on a court decision makes them better off than risking spillover to trade.

Surprisingly, with the exception of studies about economic policy disputes, research on international adjudication gives scarce attention to the role of economic interests. Instead, scholars emphasize the importance of domestic political institutions, which encourage states engaged in territorial disputes to pursue adjudication as a means to overcome veto players or avoid blame (Simmons 2002; Allee and Huth 2006a). Others examine the legal context within a country or specific to the dispute. Mitchell and Powell (2011), for example, argue that domestic legal tradition shapes ICJ usage rates, while Huth, Croco, and Appel (2011) suggest that the strength of the legal claim shapes a country's decision to delegate dispute settlement to a legal venue. These theories offer compelling insights, but ignore economic relations. Our theory aims to fill this gap by highlighting the connection between trade and international adjudication.

We assess the empirical implications of our argument through a comprehensive analysis of ICJ filing decisions. We analyze the filing pattern observable in data on more than 190 countries from 1960 to 2013.³ We identify potential disputes by modeling country characteristics that are associated with the dispute-generating process. We first select a politically relevant sample of countries that are likely to have frequent interaction as neighbors or great powers. Second, we use matching techniques to further subset to those with similar propensities for trade. We test our theory by estimating how trade dependence, measured as bilateral trade share of total trade for a potential applicant, changes the likelihood that a state files an ICJ case against its trade partner. Using a logistic regression, we estimate the effect of trade dependence on the probability of filing in a pooled cross-section time series analysis. We also apply conditional logit estimation to focus on variation in selection of respondents among those states that file an ICJ case. Our results show that higher trade dependence increases a country's likelihood of filing a case against a trade partner. These findings suggest interdependence changes political relations as trading states become more likely to work out their problems in court.

Trade, Conflict, and Adjudication

We argue that countries turn to international adjudication to protect trade flows under conditions of strong economic interdependence. This argument is built on two key assumptions. First, states believe that an international dispute over territory, fishing rights, or another salient issue could harm

trade. Second, states view international adjudication as an effective way to end the dispute. Given the risk of harm to economic relations and the potential for courts to contribute to conflict resolution, states with high trade value vested in a relationship will be more willing to undertake costly litigation. This section elaborates on the general conditions of our theory and then explains why the ICJ is a good venue for testing the relationship between economic interdependence and international adjudication.

The Adverse Impact of Conflict on Trade

The premise that conflict disrupts trade is central to the theory of commercial peace. Russett and Oneal (2001) draw on the work of philosopher Immanuel Kant to argue that interdependence deters conflict by raising its costs. According to this reasoning, war interrupts trade while peace promotes stable commerce, leading states to calculate that the gains of peace are significant compared to the costs of war.⁴ Other perspectives focus on the informational role of interdependence to lower uncertainty between states (Reed 2003). Gartzke, Li, and Boehmer (2001) contend economic interdependence allows states to signal their resolve through their willingness to bear the economic costs of confrontation.⁵

A host of empirical studies supports the idea that conflict reduces trade (Keshk, Reuveny, and Pollins 2004; Long 2008). Several potential channels connect trade and conflict, including direct damage to infrastructure and transportation resulting from actual conflict, sanctions policies, and informal discrimination by governments or private actors. Glick and Taylor (2010) find that the effect of war on trade is significant and persistent. At a lower level, political tensions may also suppress trade (Pollins 1989; Fuchs and Klann 2013). Consumer boycotts and financial market reactions in some cases have led to adverse market impact (Fisman, Hamao, and Wang 2014; Heilmann 2016; Pandya 2016). Simmons (2005) finds that territorial disputes have a sizable negative impact on trade even in the absence of militarized action.

Others suggest states anticipate the potential adverse impact of conflict on trade, and therefore trade less to begin with if they think that war is likely. In such a scenario, the marginal economic costs of war should be insufficient to change a state's calculation for going to war (Morrow 1999; Barbieri 2002). Gowa and Hicks (2017) contend that trade is largely diverted through third-party channels, which compensate for having less direct trade with the adversary.

We assume that leaders and business constituencies on average believe that conflict damages trade relations. Political conflict could lead governments to adopt sanctions against an adversary or to restrict financial flows. Violence likely disrupts trading routes and slows the movement of goods. The potential for adverse financial market reactions and consumer response adds further unpredictability about the risk of spillover from political disagreement into economic harm. Substitution through third parties could alleviate the harm, but this would still increase trade costs. The expected harm to trade motivates states to pursue the resolution of disputes.

⁴Empirically, findings are mixed on this point. Barbieri and Levy (1999) find that most wars do not have a significant impact on trade, especially in the long term, while Levy and Barbieri (2004) suggest the effect of war on trade may depend on whether goods are strategically important.

⁵See Mansfield and Pollins (2003); Mansfield and Pevehouse (2000); Maoz (2009); Kinne (2012); Lupu and Traag (2012); Hafner-Burton and Montgomery (2012).

³Our analysis begins in 1960 because IMF data on bilateral trade is not available before this date.

Adjudication as a Conflict Resolution Mechanism

When states want to resolve an interstate dispute, why would they choose adjudication rather than negotiations, economic sanctions, or militarized action? In some cases, the decision follows an episode of military conflict as part of an effort to normalize relations. In other disputes, countries may turn to a legal venue to prevent a problem from ever reaching the stage that could produce serious political tensions or threats of force.

The literature offers three broad types of explanations for why states pursue adjudication: legitimacy, informational benefits, and domestic obstacles to settlement. At the systemic level, international norms support peaceful conflict resolution. Some contend that rule of law has come to shape the identities of states, forming norms about appropriate action in both the domestic and international spheres (Finnemore and Sikkink (1998, 902). When international law has been established through fair procedures and offers coherent principles, it forms a legitimate source of authority in international affairs that generates an independent “compliance pull” on state behavior (Franck 1990, 65). International courts combine both legitimacy and authority as they help states solve specific disputes about how to interpret international law; the growing role for international courts in international affairs represents an important trend (Alter 2014; Alter, Helfer, and Madsen 2016). Integration with national courts has reinforced states’ use of the European Court of Justice (ECJ), which stands out for its expansive caseload and impact on state behavior (Alter 1998). The ICJ has achieved a relatively strong record of compliance with rulings (Schulte 2004; Llamzon 2007; Mitchell and Hensel 2007; Johns 2012).

Legal settlement can help states coordinate policies through the provision of information. Compared to bilateral negotiations or nonbinding third-party arbitration, adjudication conveys a government’s willingness to reach an agreement (Helfer and Slaughter 2005; Gent and Shannon 2010). Having taken the public step to initiate legal action, a government would appear inconsistent and incur a reputational penalty if it also took unilateral measures such as sanctions or military actions before the legal process had reached a conclusion. This shapes the diplomatic context because participants know that the matter will neither escalate into violence nor disappear through neglect. A court ruling offers a focal point amidst uncertainty about how to interpret the terms of an agreement (Ginsburg and McAdams 2004; Huth, Croco, and Appel 2011). As the record-keeper of past actions, courts support systems of tit-for-tat and reputational enforcement (Milgrom, North, and Weingast 1990; Carrubba 2005; Mitchell and Hensel 2007). In these informational theories of courts, states may comply with court rulings in the absence of coercive measures or the threat of sanctions because the reputational costs of non-compliance are too high. Rather than simply interpret law, courts coordinate expectations about enforcement. Johns (2012) models the circumstances whereby mobilization of third-party actions in support of a court ruling generates endogenous enforcement that can affect outcomes. In this way, multilateral enforcement makes an international court different from the pressure available in bilateral negotiations.

International courts also offer a way for states to frame settlements to appeal to domestic audiences (Fang 2008). Simmons notes that even when the same deal could be reached in negotiations or through a court decision, a negotiated settlement could be viewed as a sign of weakness while legal resolution would be a positive signal for future cooperation

(Simmons 2002, 834). This dynamic occurs because “domestic groups will find it more attractive to make concessions to a disinterested institution than to a political adversary” (Simmons 2002, 834). In research on several prominent ICJ cases, Fischer (1982, 271) emphasizes the court has helped governments to save face. Consequently, those governments unable to reach agreements over domestic opposition may find it easier to do so with the involvement of a third-party ruling. Allee and Huth (2006a) show that governments with higher levels of domestic political constraints are more likely to choose adjudication over negotiation for settling territorial disputes. Domestic political constraints also increase the probability of filing complaints at the WTO (Davis 2012). The mobilization of domestic groups plays a critical role in litigation patterns at the ECJ (Alter and Vargas 2000).

Using courts is not without costs. Hiring lawyers and going through formal proceedings raises financial costs and absorbs time. Litigation can crowd out diplomatic settlements if it directs diplomatic attention to the legal battle instead of continued negotiations (Simmons 2014; Johns 2015). In some cases, the secrecy and flexibility of informal diplomatic agreements might better serve the interests of states (Abbott and Snidal 2000, 445).

Most importantly, third-party adjudication risks an unpredictable ruling. The ICJ has surprised observers in critical cases, including Liberia and Ethiopia’s territorial dispute with South Africa in the early 1960s and Mexico’s consular relations case against the United States in 2004 (Johns 2015). And while a losing party may always choose to defy a negative ruling, such actions can be costly when international courts are widely viewed as legitimate. Legalization thus presents a tradeoff—strengthening international courts may increase their power, but will also increase the likelihood that states exit the regime after losing (Johns 2015). A prominent example of this occurred when the United States withdrew from ICJ compulsory jurisdiction in 1986, provoked by the court’s ruling that US support for Nicaragua’s insurgency violated customary international law and required war reparations (International Court of Justice 2018). This type of institutional exit can destabilize the legal system and offers little recourse to the complaining party. Disputants thus face a double risk: losing the ruling, or winning but finding it to be an empty victory.

Losing a case at an international court may also make a country less likely to use this venue in the future. Wiegand and Powell (2011) argue that states strategically choose between different methods of conflict resolution based on past experiences with particular forums. The effect of previous experience may be contingent on a country’s domestic rule-of-law (Powell and Wiegand 2014). High rule-of-law countries may view courts that render biased decisions as less legitimate (Powell 2013b) or face higher domestic costs for noncompliance (Simmons 2002). Legal traditions will also make some countries more sensitive to interaction within an international court (Mitchell and Powell 2011; Powell 2013a, 2015).

Despite these concerns, countries may still calculate that losing in an international court is better than ongoing conflict, a militarized dispute, or bilateral negotiations because international courts provide opportunities to lessen the domestic repercussions of a loss. International adjudication allows leaders to shift blame to the court (Gent and Shannon 2010). Moreover, when a panel of judges issues a mixed ruling, even a losing country may be able to positively reference some part of the final judgment (Fischer 1982).

The cost-benefit analysis of adjudication must incorporate both the effectiveness at resolving the issue and the wider

consequences for the relationship between states. [Abbott and Snidal \(2000, 433\)](#) suggest that “states that seek to minimize political conflict in relations with other states or in particular issue areas should favor hard legalization, for it sublimates such conflict into legal argument.” [Dixon \(1996\)](#) compares seven types of third-party conflict management and finds that adjudication is very successful in promoting peaceful settlements. Even prior to a decision, the legal process isolates the dispute in a way that reduces spillover into other issues. Indeed, states often declare the importance of maintaining harmonious relations as a goal for bringing cases to the ICJ ([Fischer 1982, 273](#)). For example, the UK Foreign Office justified its 1949 complaint against Norway over fisheries rights and disputed maritime boundaries as necessary “in order to avoid further legal differences” ([Beckett 1949, 12](#)) and “in the interest of good relations between Britain and Norway” (*Britain v. Norway: Fishery Dispute for World Court 1949*). Our paper suggests the need to protect trade flows tips many in favor of going to court as a strategy to preserve the bilateral relationship.

The Economic Rationale for Turning to Law

Economic stakes increase the potential costs of war and ongoing political tensions between states. When a bilateral dispute arises, some governments will discount the risk of economic harm in pursuit of the most favorable settlements. Others will compromise to protect bilateral ties. In the midst of a crisis, it can be difficult for foreign governments and economic actors to distinguish between these two types. By filing a legal complaint, a country signals to domestic and foreign companies and to the adversary that it values the bilateral trading relationship more than a favorable but costly resolution to the dispute.

Economic interdependence raises the potential costs of unresolved disputes because either sanctions or military action could harm bilateral trade. [Bohmelt \(2010\)](#) finds economic interdependence increases the likelihood that conflict participants seek third-party dispute settlement because countries recognize the ongoing opportunity cost of military conflict for their economic ties. Economic ties also increase the potential benefits of adjudication, as there are now domestic coalitions in both countries that might be willing to expand economic relationships if they receive a credible signal that conflict will not disrupt trade. [Lee and Mitchell \(2012, 9\)](#) note cases where business groups and multinational firms have lobbied governments to use international courts to achieve peaceful dispute settlement.

Compared with military action, sanctions, or even bilateral negotiations, taking a dispute to an international court sends a strong signal that a government is credibly committed to peaceful dispute settlement. [Mitchell and Powell \(2011\)](#) argue that accepting compulsory jurisdiction of the court conveys that a country is law-abiding. Using the court offers additional information. Economic conditions can shape whether countries decide to engage in this signaling behavior. In countries with higher levels of trade dependence, economic actors are more likely to be concerned about the effects of a prolonged dispute. By filing a case, the government signals to economic actors that their interests are safe from future escalation or expansion of the dispute. Government reassurance targets domestic companies, which have invested in import/export relationships, and also foreign companies considering expansion into the partner country’s market. This reasoning is consistent with evidence that greater FDI levels between states reduce the incidence of militarized actions in the context of territorial

disputes ([Lee and Mitchell 2012](#)). The forward-looking dynamic can be seen in evidence that foreign investment declines in the presence of territorial disputes, but less so when there is a strong legal claim that indicates the matter will be solved by law and not force ([Carter, Wellhausen, and Huth 2016](#)).

International courts routinely manage conflict in a way that limits negative spillovers into the economic realm. Legalization in the trade regime has sought to contain disputes by restricting the frequency and scope of retaliation ([Lawrence 2003](#)). Diplomatic and economic interests shape when states bring cases to the WTO (see [Pelc 2010](#); [Davis 2012](#); [Bown and Reynolds 2015](#)). While the role of economic actors in shaping the resolution of economic disputes is not surprising, they also have a stake in how noneconomic disputes are settled. Interdependence strengthens the power of economic actors who want disputes to be resolved in a way that reduces the negative externalities for trade. In Europe, where interdependence is at its highest, governments have opted for the most legalized form of cooperation and rejected inter-state countermeasures like trade retaliation to enforce compliance ([Keohane, Moravcsik, and Slaughter 2000](#); [Phelan 2015](#)). Higher levels of intra-European trade show a positive correlation with use of the ECJ ([Stone Sweet and Brunell 1998, 72](#)).

Bringing a dispute to an international court also conveys information about a country’s strategy toward dispute resolution should future disagreements arise. Managing expectations about the trajectory for bilateral trade is critical to overall political relations between states and shapes the risk of future war ([Copeland 2015](#)). Both the outbreak of war and the anticipation of possible war can suppress trade flows ([Long 2008](#)). Economic actors are attuned to how disputes are likely to be resolved. [Simmons \(2005\)](#) argues that territorial disputes harm trade because of the uncertainty generated about the future, such that simply having a disputed border claim depresses trade relative to those with agreed upon borders.⁶ For the state filing a complaint, it gains the dual benefit of reassuring economic actors about the impact of the current dispute and sending a credible signal that future issues will be resolved in a similar manner. Such reassurance may spur economic cooperation.

The ICJ case between Qatar and Bahrain illustrates the parallel process of resolving a dispute at the ICJ and moving forward with enhanced economic cooperation. Qatar and Bahrain’s dispute over a set of islands and coastal land dates back to 1936, and was an ongoing source of tension for the two countries. The dispute led to several military confrontations and affected political and economic relations in the entire region, leading the Gulf Cooperation Council to attempt to mediate disagreements between both parties. [Powell \(2016, 116\)](#) cites the failure of prior reconciliation attempts and the economic repercussions of the dispute as motivating factors that led Qatar to submit the case to the ICJ in 1991. Bahrain agreed to adjudication five years later. The ICJ process had an immediate effect on cooperation. As the two countries continued to try and resolve the dispute in parallel to the ICJ process, relations between the countries improved. Bahrain and Qatar were able to establish diplomatic relations, increase cooperation on joint projects, and pursue new types of economic cooperation. By the time that the ICJ issued its ruling in 2001, dividing the set of disputed islands between the two countries, they had already established a joint committee to promote bilateral economic re-

⁶See [Carter and Goemans \(2014\)](#) and [Schultz \(2015\)](#) on how status of border shapes trade flows.

lations. Shortly after the ruling they signed a natural gas importation agreement—an accomplishment that would have been impossible a decade earlier (Wiegand, 2012).

A similar process of dispute resolution and expanding economic cooperation occurred between El Salvador and Honduras. In 1986, these countries jointly filed an ICJ case over an ongoing border dispute. The Court's ruling in 1992 allocated two-thirds of the territory to Honduras, even redistributing land populated by citizens of El Salvador, but mandated the countries share control over the Gulf of Fonseca (Bleichert 1992). The countries respected the decision; at the same time, they were moving forward on economic integration and saw rising trade flows (O'Keefe 2009, 304). In subsequent years, minor skirmishes and a renewed appeal to the ICJ by El Salvador were resolved while upholding the 1992 ruling. Llamzon (2007, 828) concludes that "the ICJ judgment has had a significant, almost outcome-determinative effect on the ground, succeeding in reducing political tensions significantly." This example represents the hardest type of judgment involving transfer of territorial control with a residential population with a past war over the issue.

Adjudication is also used by states with disputes that cause political tension but fall far short of the threshold for war. Although territorial disputes are often the most publicized international incidents, countries confronting a political dispute often manipulate economic ties as a tool of influence (Baldwin 1985; Carnegie 2014). Whether through direct trade sanctions or more subtle forms of economic discrimination, governments take actions to punish adversaries.⁷ But these are not one-way costs. Making economic actors change their contracts for political reasons is suboptimal for business interests on both sides of the dispute. In the capitalist peace, Gartzke, Li, and Boehmer (2001) theorize that economic interdependence allows states to avoid war by self-inflicting economic harm to signal resolve. States unwilling to pay the economic cost of coercive economic diplomacy, however, may instead turn to adjudication. Filing a complaint helps to insulate trade relations from political tensions by providing information about intentions.

Countries are most likely to be concerned about the potential for a political dispute to harm trade in the middle range of economic interdependence. When trade dependence is extremely high, governments will avoid political conflicts that could interfere with the relationship. When trade dependence is extremely low, governments have few economic incentives to protect the relationship. In the middle range, however, concern about the potential for a political dispute to harm trade may lead the government to use international adjudication.

We examine the relationship between economic interdependence and international adjudication through an analysis of how trade dependence affects the probability that a country files an ICJ case against its trading partner. The diverse portfolio of the ICJ allows us to probe the micro-foundations of our argument across different types of cases. By limiting our empirical test to a legal venue with universal membership, we eliminate concerns about economic ties driving selection into court jurisdiction or institutional design, as might be the case in regional institutions or private arbitration venues.

Empirically, we measure trade dependence as the ratio of bilateral trade to total trade, and estimate its impact on the

probability that a country files an ICJ case against its trading partner. High trade dependence with one partner increases the risk that interstate tensions could threaten large trade flows and require opening new trade routes. Lower bilateral share of trade mitigates the costs of tensions with that country given that there would be less affected trade volume and more options for switching trade flows to existing trade partners.

H1: *Higher levels of trade dependence with another country will increase the likelihood that a state will initiate a complaint at the ICJ.*

The Caseload of the International Court of Justice

Any country may file a case at the ICJ as long as the court has jurisdiction over the matter. Although the ICJ has rendered judgments on many different types of issues, the court only accepts cases if states voluntarily submit to its authority. This process occurs in one of three ways. First, a state can submit a unilateral declaration recognizing the jurisdiction of the court (Appendix Table 1). This allows any other state that has also unilaterally accepted ICJ jurisdiction to bring a case against the state in question. To protect against granting the ICJ expansive authority, most states attach reservations to their acceptance in order to exclude specific disputes. States that have submitted unilateral declarations accepting ICJ jurisdiction may still object to the cases brought against them.⁸ Many of the ICJ cases face the strongest legal argumentation over the question of jurisdiction.

States can also grant the ICJ jurisdiction over disputes through treaties or special agreements. More than 300 bilateral agreements and multilateral treaties and conventions have provisions conferring jurisdiction on the ICJ.⁹ The Vienna Convention on Consular Relations, for example, includes an optional protocol that empowers the ICJ to rule on consular disputes. Paraguay, Germany, and Mexico have all filed claims against the United States under this provision to protest the arrests and executions of their nationals. In some cases, alternative adjudication forums may work in tandem with the ICJ; the UN Convention on the Law of the Sea, for example, allows countries to submit cases to its own tribunal, to the ICJ, or to both venues (Mitchell and Owsiak 2017). If the ICJ does not already hold jurisdiction over a matter, states may submit a dispute through a special agreement, as provided for in Article 36 of the ICJ statute. Since the court's inception, states have brought 17 cases through special agreements.

Most ICJ cases can be broadly categorized as focusing on one of six topics: aerial incidents, border or maritime delimitation, diplomatic or consular relations, use of force, property rights, or decolonization (Johns 2015).¹⁰ A seventh miscellaneous category accounts for about one-fifth of all disputes and includes issues such as the Court's 2010 ruling in which it determined that an environmental impact

⁸ If both countries have accepted jurisdiction, an applicant may file a case over the objections of a respondent. This occurred in 1984, when Nicaragua brought a case against the United States regarding US training of rebel fighters in Nicaragua (ICJ 1984). In 1986, the ICJ ruled that the United States owed Nicaragua war reparations, leading the United States to withdraw from compulsory jurisdiction.

⁹ The majority of these agreements are not economic in nature. For a complete list of treaties with compromissory clauses that confer jurisdiction on the court, see <http://www.icj-cij.org/en/treaties>, accessed April 11, 2018.

¹⁰ Ginsburg and McAdams (2004) use a slightly different categorization that omits aerial incidents and decolonialization; however, they still find territorial disputes are the most common type of dispute.

⁷ On the tendency for states to trade more with allies, see Gowa (1994) and Mansfield and Bronson (1997), and on sanctions literature see Martin (1992) and Drezner (2000).

Table 1. ICJ cases by dispute type

	Number	Percent
Aerial incident	14	10
Borders/maritime delimitation	39	29
Diplomatic or consular relations	14	10
Use of force	23	17
Property rights	17	13
Trusteeship or decolonization	5	3
Other	24	18
Total cases	134	100

All categorizations through 2009 are from [Johns \(2015\)](#); we have used this same typology to code all ICJ cases as of October 31, 2014.

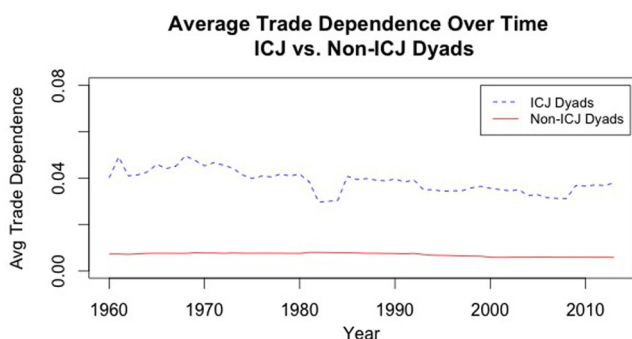


Figure 1. The figure shows the average level of trade dependence for each year, comparing dyads that have ever participated in an ICJ case with dyads that have never gone to the ICJ.

assessment was required by international customary law.¹¹ Table 1 shows the number and percentage of ICJ disputes in each of these categories.

Since 1947, 68 countries have filed 134 cases at the ICJ.¹² Although filing an ICJ case can be expensive, the countries that file disputes vary in income and political configuration (see Appendix Table 2). Higher income countries are more likely to bring disputes, but more than one-third of cases have been filed by low- or lower-middle income countries. On average, countries have filed about two cases per year at the court (Appendix Figure 1).

Empirical Analysis of ICJ Case Initiation

Our central hypothesis is that countries are more likely to file ICJ cases against important trading partners than against other states. To test our hypothesis, we construct two samples, examining the impact of trade dependence on ICJ filing among dyads that share a common border or include a great power, and among dyads with similar propensities to trade. We use pooled logistic regression with standard errors clustered at the dyad level and, as a robustness check, also examine this relationship with conditional logistic regression.

First, at a descriptive level we examine the correlation of trade dependence with ICJ initiation. Looking at the period from 1960 to 2013, we compare dyads where a country has filed an ICJ case against another state at one time with dyads that have never sent a dispute to the ICJ. As Figure 1 shows,

the average level of trade dependence in ICJ dyads is significantly higher than in non-ICJ dyads.

Another way to examine this relationship is to focus exclusively on dyads that have participated in an ICJ case. If our theory is correct, within-dyad trade dependence should be higher for the filing country than for respondent country. A comparison of sample means confirms that there is a statistically significant difference in trade dependence between applicants and respondents: for filing countries, the average level of trade dependence is 0.061, while the average level of trade dependence for respondents is 0.022 (p -value: 0.017). Additional support comes from an analysis of jointly filed cases; for these dyads, there is no statistically significant difference in trade dependence between the two countries.¹³ While this descriptive evidence provides tentative support for our hypothesis, we conduct a more comprehensive analysis to fully assess the relationship.

Data and Measurement

We establish a universe of potential ICJ disputes by focusing on “politically relevant dyads,” which are those dyads that contain contiguous states or at least one great power.¹⁴ This set of countries should have more comparable potential disputes, which helps to address the concern that the underlying dispute-generating process may bias the results. By focusing on contiguity, we condition on the importance of territorial disputes within the ICJ caseload where we observe that nearly 30 percent of ICJ cases pertain to border or maritime delimitation. More generally, geographic proximity has been seen as a strong predictor for conflict (see [Bremer 1992](#); [Reiter and Stam 2003](#)). Even when cases are not categorized as territorial disputes, they often occur between neighboring countries, such as the Argentina-Uruguay dispute about pollution and environmental rights. Standard trade models predict a positive relationship between distance/contiguity and trade. In addition to contiguous dyads, we include great powers because their engagement in world affairs so often extends beyond their borders. Countries frequently bring cases against current or former great powers for issues ranging from decolonization to consular relations. Great powers also initiate cases to defend their expansive foreign policy interests.

As an extension, we apply matching procedures to select comparable potential cases. [Ho et al. \(2007\)](#) suggest pre-processing data with matching produces more accurate and less model-dependent analysis. Our goal is to compare countries that have similar propensities for trade based on common characteristics used to predict trade levels. Since our theory suggests the opportunity cost of lost trade would be more likely to motivate filing an ICJ case at middle levels of trade dependence, we focus on those observations clustered around the median value of trade dependence. Testing our hypothesis on this matched sample generates more confidence that the difference in ICJ filing patterns can be attributed to trade and not some other factor correlated with trade such as location or income.

We use coarsened exact matching to create a subset of observations that are similar in terms of contiguity, applicant and respondent GDP, democracy, and alliances. This approach compares observations with trade dependence values in the second quartile (0.0007 to 0.008) to observations with trade dependence values in the third quartile (0.008 to

¹¹ See ICJ. “Pulp Mills on the River Uruguay (Argentina v. Uruguay): Overview of the Case.” <http://www.icj-cij.org/en/case/135>, accessed April 15, 2018.

¹² This number is accurate as of October 31, 2014.

¹³ Average trade dependence for the country listed first on the case file is 0.079, while average trade dependence for the country listed second is 0.061 (p -value: 0.74).

¹⁴ Contiguity and great power codings from the Correlates of War (COW) project. For details, see supplementary information.

0.034).¹⁵ Matching significantly improves the balance of the sample—prior to matching, the mean difference in propensity scores between observations in the second and third quartile is 0.268, whereas after matching, the mean difference is 0.0048 (see Appendix Table 3).

Our data focus on ICJ cases that occurred between 1960 and 2013. Our politically relevant dyad sample has 100,603 observations.¹⁶ ICJ filing is extremely rare—there are only 64 cases in the politically relevant dyad sample for this period, for an incidence of 0.06 percent. The matched sample includes 37,245 observations and 29 cases, for an incidence of 0.08 percent.¹⁷

Our unit of observation is the directed dyad-year. The conflict literature commonly applies directed dyad analysis to allow for the possibility that either side in the dispute may influence the likelihood of conflict initiation (Morrow 1999; Reiter and Stam 2003; Hegre 2004). We follow this approach because we are interested in understanding why countries choose to file disputes at the ICJ. We emphasize filing rather than the case disposition for several reasons. First, the decision to file lies clearly within the control of governments, which are the key actors in our theory. Some applicant states file a dispute over the objections of the respondent country; in such situations, a country's ICJ application only becomes an official case if the ICJ determines there is an ostensible basis for jurisdiction.¹⁸ Even a dismissed complaint, however, may shape politics within or between the countries. Second, the filing state initiates discussions on the matter and is more interested in seeking legalized dispute resolution, even when some form of consent is given by the respondent state. Analyzing dyadic data without distinguishing between the applicant and respondent would miss these dynamics. Finally, the substance of the ruling itself is not determinative of the outcome given that states engage in substantial bargaining before, during, and after the ruling (Johns 2012, 259).

Our dependent variable, ICJ Filing, is coded 1 if the applicant in the dyad files a claim against the respondent in a given year, and 0 otherwise. Approximately 15 percent of ICJ cases are joint filings, where countries jointly bring a case to the ICJ under a special agreement. In such cases, we code our dependent variable as equal to one for both directions of the dyad. This approach to joint filings is similar to the territorial dispute literature coding both states as challengers for some conflicts.

Our main explanatory variable is the level of trade dependence. We focus on the importance of the trading relationship to the applicant country, since our dependent variable is tied to whether the applicant files a case against a particular respondent. For this reason, we calculate trade dependence as the total amount of bilateral trade divided by the total volume of trade for the applicant country.¹⁹ Trade dependence is a continuous variable that ranges from 0 to 0.9 (or, in percentage terms, 0 to 90 percent), but as can be seen in Figure 1, the average level of trade dependence for both dyads that have participated in an ICJ case and those that

have not is under 10 percent. We take the natural log of all non-zero values of trade dependence because the distribution is highly skewed.²⁰ As a result, the quantity of interest is the percent change in trade dependence, rather than the absolute change.²¹ This variable form captures our theorization of the relationship between trade dependence and ICJ filing as nonlinear—across dyads with low levels of trade dependence, relatively small differences may indicate emerging economic relationships, whereas at high levels of trade dependence, small increases are unlikely to change a country's underlying incentives for filing a case.

The politically relevant sample includes a number of dyads with no trading relationship. We hypothesize that not just the presence, but also the absence of any trading relationship between countries might have a distinct effect on the likelihood of a country filing a case against another at the ICJ. Schultz (2015) has documented the potential for missing trade data to be a function of underlying disputes between countries. For this reason, we include the variable Zero Trade Dependence, which indicates there is no bilateral trade for a given dyad-year and therefore trade dependence is equal to 0. Zero trade dependence is a dichotomous variable, coded 1 for all observations with zero bilateral trade and 0 for all others.

A country's capacity could also affect its likelihood of filing a case against another at the ICJ. Differences in capacity affect the likelihood of countries bringing disputes to the WTO (Guzman and Simmons 2005). A country's diplomatic capacity could affect its ability to pursue alternative pathways of settling disputes, while a country's legal capacity might affect its willingness to use international courts like the ICJ. We assume that level of economic development correlates positively with capacity, and include the controls GDP—Applicant and GDP—Respondent.

We control for several aspects of a country's historical relationship with the ICJ. Existing scholarship shows that countries with previous experience in an international court are more likely to file cases subsequently (Davis and Bermeo 2009; Wiegand and Powell 2011). We include the variable ICJ Experience, which indicates whether a country has previously participated in an ICJ case either as an applicant or respondent. This litigation count focuses on experience as a capacity measure, but does not differentiate in terms of wins and losses.²²

Countries that have issued unilateral declarations accepting ICJ jurisdiction may be more likely to bring cases to the ICJ. This could occur because accepting ICJ jurisdiction indicates an underlying predisposition toward legal forms of dispute resolution, or because countries may accept ICJ jurisdiction in anticipation of possible conflicts with other states. We include the variables ICJ Declaration—Applicant and ICJ Declaration—Respondent as dichotomous indicators of whether a country has accepted ICJ compulsory jurisdiction in a given year.²³

The Cold War shaped international politics in ways that may have affected which countries filed cases at the ICJ.

¹⁵ For details on matching, see the Appendix. Our results are robust to alternative matching specifications (see Appendix Table 6).

¹⁶ In the analysis presented below, we drop observations where trade data are missing; our results are robust, however, to the inclusion of a missingness indicator for observations that are missing trade data.

¹⁷ We also show results in the supplementary information for analysis of an unrestricted sample of 810,242 observations that includes 82 ICJ cases for an incidence of .01 percent.

¹⁸ Prior to 1978, a country could bring a case against another without consent and absent any basis of jurisdiction.

¹⁹ Trade data is from IMF Direction of Trade Statistics.

²⁰ Instead of taking the natural log of 0, which is undefined, the logged trade dependence value for countries with zero trade dependence is set at 0 and we include a separate variable indicating a country has zero trade dependence.

²¹ Logging trade dependence ensures that small changes in trade dependence at lower levels have more impact than similarly sized changes in trade dependence at higher levels.

²² We do not have data on the wins and losses across all ICJ cases. The rulings are not classified as such in the public record, and it would be difficult to categorize rulings in meaningful terms of victory for some of the more ambiguous types of cases and mixed rulings.

²³ Our data through 2002 is drawn from Mitchell and Powell (2011); the remainder of data is coded from the ICJ annual yearbook and website.

The United States, for example, filed nine cases during the Cold War, mostly against the Soviet Union and Soviet satellite states, but has not filed any cases since 1987. In the early period of the court, major powers were applicants in close to 50 percent of cases but have rarely filed after the end of Cold War (Posner 2004). Instead, many post-Cold War cases are filed by developing countries against major powers. To account for the possible changing patterns of usage, we include the dichotomous variable Cold War, which is equal to 1 up through 1991.

There are a number of country-specific attributes that might affect a country's likelihood of filing a case against another at the ICJ. Proponents of democratic peace theory suggest that democratic countries do not fight each other because elections and transparency increase the political costs of war for leaders (Russett and Oneal 2001); if democratic dyads are less likely to go to war, they may be more likely to use international dispute settlement mechanisms like the ICJ. Raymond (1994) finds democratic dyads are more likely to submit cases to binding third-party settlement. To test this alternative explanation, we include a control Democratic Dyad, which is equal to 1 if both countries in a dyad-year are democracies and 0 otherwise.²⁴ Domestic political structure may also have an independent effect on a country's propensity toward legal dispute resolution (Allee and Huth 2006b); we include additional controls for the applicant and respondent's polity score. All democracy variables are drawn from the Polity IV dataset, which codes countries along a 21-point scale ranging from -10 is equivalent (most autocratic) to 10 (most democratic).²⁵

Alliance structure should change the costs and benefits of filing a case at the ICJ. When crises arise between allies, countries are clearly less likely to resort to war or coercive actions like sanctions to try and resolve the dispute. For this reason, an alliance between two countries should increase the likelihood of a dispute going to the ICJ. We control for this possibility by including the variable Alliance, which is drawn from the Correlates of War dataset. This variable is equal to 1 if any kind of formal alliance exists between two countries, and 0 otherwise.²⁶

The balance of power within a dyad could also affect decisions about whether to file a case at the ICJ. Weaker countries might be more inclined to file cases against strong countries since they have fewer outside options; on the other hand, the most powerful states may be less likely to file since they have more strategic tools at their disposal. To measure power imbalance, we include GDP Asymmetry, which is a ratio of the GDP of the applicant country divided by the sum of the GDPs of the applicant and respondent countries.

We analyze the impact of trade dependence on the likelihood of ICJ filing by pooling observations and estimating a logistic regression model with standard errors clustered at the dyad level. This allows us to focus on our question of who files cases. An alternative approach would ask how changes of interdependence within a dyad influence the timing for ICJ initiation and implement a dyad-fixed effects specification to address the question of when states file. The nature of trade dependence, however, makes it problematic to predict the timing of legal action based on changes of trade dependence. Levels of trade dependence within specific dyads change slowly over time, which makes it less likely

that trade dependence in the year of filing will be significantly higher than the average level of trade dependence.²⁷ Additionally, a dyad-fixed effects specification would not allow us to explore our key relationship of interest—how trade dependence shapes the overall approach to dispute resolution across dyads.

One concern is that there could be omitted variables related to the filing country's particular culture and historical experience that might affect its propensity to use the ICJ. A country's attitude toward international law, for example, or its historical experience with international adjudication, are difficult to measure yet could influence whether the government decides to file a case. As a robustness check, we control for these country-specific characteristics through a conditional logit model, which allows us to incorporate country-fixed effects and analyze why applicant countries are more likely to file against some states than others. Because conditional logit examines differences in filing patterns within states, it requires us to drop all dyads where the applicant country has never filed a dispute in the ICJ. As a result, the sample is more limited and appropriate only for testing whether, within the set of countries that have filed cases with the ICJ, countries are more likely to file against partners when they have higher trade dependence.

In all regressions, we include a time cubic polynomial to model time dependence, as recommended by Carter and Signorino (2010). We lag variables by one year to account for the possibility of simultaneity, which would make it difficult to observe the relationship between the explanatory variables and a country filing a case at the ICJ. One could expect broader endogeneity given that country pairs with deep-rooted tensions such as Pakistan and India have lower levels of trade. This direction of endogeneity would bias against finding support for our hypothesis by suppressing trade between the dyads most likely to have conflicts that could lead to an ICJ complaint. Only if both ongoing political conflicts and potential ICJ disputes have a positive relationship with trade dependence would the bias generate a risk of spurious correlation.

Results: Politically Relevant Dyads and Matched Sample

The results provide strong support for the relationship between trade dependence and ICJ filing. Table 2 shows the results of the analysis for the politically relevant dyad sample. In all specifications, trade dependence has a positive and statistically significant effect on the likelihood that a country files a case in the ICJ. Dyads with zero trade dependence are less likely to have an ICJ dispute, although statistical significance varies across specifications. Other economic factors have mixed effects—while the filing country's economic size and GDP asymmetry are insignificant, the results provide tentative evidence that countries are less likely to file against countries with larger economies. These mixed findings may reflect the diverse ICJ caseload, which includes cases initiated by poor African states as well as those challenging major powers. Democracy if anything inhibits filing an ICJ complaint, although democracies are on average more likely to be targeted by a complaint. Other control variables are consistent with expectations about legal experience: those states that have filed in the past may file again as repeat litigators, and those that have accepted the jurisdiction of the court

²⁴ We code "democracy" as a polity score of six or higher in a given year.

²⁵ We use the Polity IV data, updated through 2013 and supplemented with data from Gleditsch (2013).

²⁶ Data through 2008 from Gibler (2008). We have extended the 2008 codings up through 2013.

²⁷ In a dyad-fixed effects specification, coefficients measure deviation from the overall within-dyad average of particular variables. Tests of this specification of within-dyad comparison do not show any relationship between trade dependence and the likelihood of filing a case at the ICJ.

Table 2. The determinants of ICJ filing 1960–2013 (politically relevant dyad sample)

	<i>Dependent variable: ICJ filing</i>			
	(1)	(2)	(3)	(4)
Trade dependence (log)	0.440*** (0.101)	0.248** (0.124)	0.359*** (0.088)	0.183* (0.095)
Zero trade dependence	-3.466*** (1.174)	-1.834 (1.180)	-3.115*** (1.111)	-1.737 (1.135)
GDP-applicant (log)	-0.092 (0.066)	-0.055 (0.097)	0.078 (0.545)	0.002 (0.606)
GDP (respondent log)	-0.195*** (0.060)	-0.226*** (0.084)	-0.181*** (0.056)	-0.075 (0.113)
ICJ experience	0.738** (0.301)	0.472* (0.270)		
ICJ declaration—applicant		0.643** (0.267)		0.016 (0.458)
ICJ declaration—respondent		0.132 (0.288)		0.232 (0.284)
Cold War indicator		0.207 (0.535)		0.355 (0.533)
Polity—applicant		-0.032 (0.024)		-0.018 (0.042)
Polity—respondent		0.052* (0.027)		0.043 (0.030)
Democratic dyad		-0.136 (0.376)		-0.158 (0.452)
Alliance		1.278*** (0.311)		1.672*** (0.362)
GDP asymmetry		-0.872 (0.968)		0.143 (1.023)
Time	0.019** (0.009)	0.031* (0.018)	0.025 (0.018)	0.038 (0.029)
Constant	0.931 (1.997)	-0.976 (2.139)		
Observations	100,603	92,387	36,942	34,953
Wald test			24.400*** (df = 5)	47.450*** (df = 13)
Score (logrank) test			25.247*** (df = 5)	54.837*** (df = 13)

Note: * $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$.

The analysis is based on a sample of dyads that are contiguous or include a major power. Models 1 and 2 show estimates of logistic regression with standard errors clustered at the dyad level. Models 3 and 4 show estimates of conditional logistic regression incorporating country-fixed effects, which limits the sample to dyads where a country has filed an ICJ complaint.

in advance are also more likely to avail themselves of its services. Finally, states are significantly more likely to file cases against their allies, perhaps because security arrangements provide additional incentives to seek out solutions to ongoing disputes.

Since logistic regression coefficients are not easily interpretable, we calculate predicted probabilities of filing at the ICJ over a range of values for trade dependence.²⁸ Figure 2 shows the effect of trade dependence on the predicted probability of filing over values that range from 0.001 percent trade dependence to 3.1 percent trade dependence (the third quartile). The effect of trade dependence on ICJ filing levels off as trade dependence approaches higher values, suggesting that when disputes arise among countries with very high levels of trade dependence, they may be more successful at using alternative channels of dispute resolution.

In the logistic regression, three variables stand out as particularly important in affecting ICJ filing: trade dependence, an ICJ declaration by the filing country, and alliances. We compare the size of these effects by calculating how changes in these variables affect the predicted probability of ICJ filing.²⁹ Moving from one of the smallest values of trade dependence (0.01 percent) to one standard deviation above the median (3.1 percent) increases the predicted probability of filing from 0.01 to 0.06 percent. This effect is slightly smaller than a dyad switching from non-allies to allies (0.02 to 0.09 percent) and is larger than the effect of a country submitting an ICJ declaration (0.03 to 0.05 percent). Figure 3 shows these results.

Our results are consistent when estimating the same models on the matched sample. Table 3 shows that trade dependence has a positive and statistically significant effect across all four specifications for this second sample. Support for our hypothesis in this subset demonstrates that trade represents a distinct form of interaction that induces higher prob-

²⁸To calculate predicted probabilities, we use a Monte Carlo simulation that samples model parameters 1,000 times from a distribution based on the estimated point estimates and variances from our regression. For consistency, we set the indicator variable for dyads without any bilateral trade to zero.

²⁹We calculate predicted probabilities using a Monte Carlo simulation as described above.

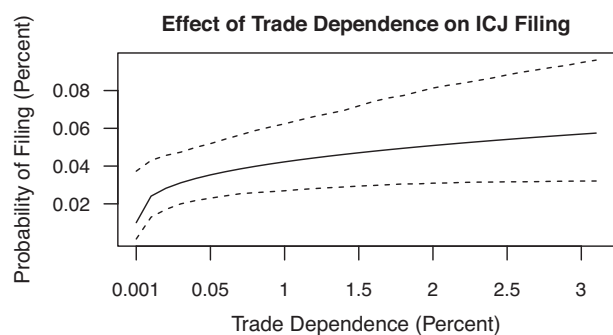


Figure 2. The figure shows point estimates and 95 percent confidence intervals for the predicted probability of filing a claim at the ICJ at different levels of trade dependence, calculated from Model 2 in Table 2. Trade dependence and probability of filing are shown as percent.

ability of adjudication even among those countries that are similar on characteristics that correlate with trade levels. By design, there is insufficient variation among other covariates for it to be meaningful to interpret control variables in the matched sample.

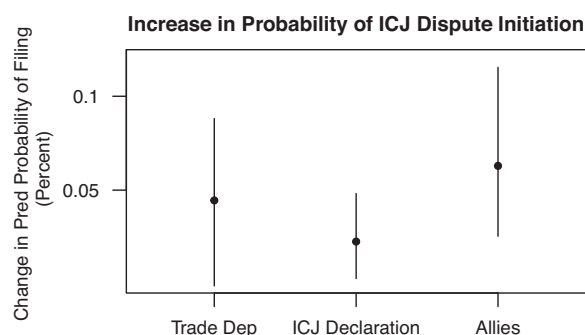


Figure 3. The figure shows point estimates and 95 percent confidence intervals for the change in the probability of filing at case at the ICJ, based on Model 2 in Table 2. Figure shows first difference estimates of the change in predicted probability, moving either from 0.01 percent trade dependence to 3.1 percent (one standard deviation above the median) or from 0 to 1 (ICJ declaration and allies).

Alternative Model Specifications

In keeping with other aspects of international politics, including the outbreak of war or the filing of cases at the

Table 3. The determinants of ICJ filing 1960–2013 (matched sample)

	<i>Dependent variable: ICJ filing</i>			
	(1)	(2)	(3)	(4)
Trade dependence (log)	0.271*** (0.101)	0.285** (0.113)	0.314** (0.150)	0.336* (0.174)
GDP-applicant (log)	-0.088 (0.089)	0.028 (0.159)	-0.103 (0.085)	0.109 (0.215)
GDP (respondent log)	-0.605*** (0.130)	-0.483** (0.237)	-0.232*** (0.076)	-0.269 (0.238)
ICJ experience	0.980** (0.407)	0.893** (0.388)	-0.989** (0.438)	-1.084** (0.451)
ICJ jurisdiction—applicant		0.533 (0.396)		0.617 (0.393)
ICJ jurisdiction—respondent		0.170 (0.396)		0.310 (0.426)
Cold War indicator		0.275 (0.805)		0.129 (0.745)
Polity—applicant		-0.028 (0.036)		-0.042 (0.040)
Polity—respondent		0.039 (0.038)		0.024 (0.040)
Democratic dyad		-0.415 (0.646)		-0.571 (0.649)
Alliance		0.937 (0.732)		1.113* (0.586)
GDP asymmetry		-1.187 (1.403)		-1.323 (1.684)
Time	0.023* (0.012)	0.034 (0.022)	0.067*** (0.019)	0.078** (0.034)
Observations	37,245	37,245	6,818	6,818
Wald test			25.120*** (df = 5)	33.850*** (df = 13)
Score (logrank) test			28.481*** (df = 5)	43.009*** (df = 13)

Note: * $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$.

Table 2 analysis is repeated here on a preprocessed sample of dyads that are similar on the basis of income, contiguity, democracy, and alliance. Models 1 and 2 show estimates of logistic regression with standard errors clustered at the dyad level. Models 3 and 4 show estimates of conditional logistic regression incorporating country fixed effects, which limits the sample to dyads where a country has filed an ICJ complaint.

WTO, ICJ filing is a rare event compared to the universe of all possible cases. This is potentially a problem for empirical estimation; King and Zeng (2001) suggest that statistical procedures such as logistic regression can underestimate the effect of a coefficient when scholars do not adjust for the low probability of an event occurring. We estimate our baseline and full model (Models 1 and 2 in Tables 2 and 3) for the politically relevant dyads sample and the matched sample using a rare-event logistic regression. The results displayed in Appendix Table 4 support our central findings.

Given the small number of ICJ cases filed, there is a possibility that outliers could disproportionately influence the estimation of the regression coefficients. This is particularly likely to be true in the politically relevant dyad sample, where the data is not preprocessed to match on relevant covariates. To address this concern, we conduct an influential point analysis, identifying all observations that are overly influential for calculating the coefficient for trade dependence.³⁰ We then exclude these observations from our analysis and re-run our models for the politically relevant dyad sample (Appendix Table 5). Even when these influential points are omitted, trade dependence has a positive and statistically significant effect on ICJ filing. We also observe consistent results when we estimate the models on an unrestricted sample that includes all ICJ cases for which data is available without limiting on politically relevant dyads (Supplementary Information, Table 1).

One possible concern is that the results might be sensitive to our parametric specification of trade dependence, which we use to address the highly skewed distribution of the underlying data. To test this possibility while still taking into account the skewed distribution of trade dependence, we preprocess the sample using covariate balancing generalized propensity score matching for a continuous variable, as proposed in Fong, Hazlett, and Imai (2018). After building a matched sample, we run logistic regression with trade dependence unlogged (Model 1 in Appendix Table 6) and logged (Model 2 in Appendix Table 6). In both specifications, trade dependence has a positive and statistically significant effect.

We consider two alternative measures for our key explanatory variable, the economic importance of a trading relationship. We calculate trade dependence as a variable measuring the total level of bilateral trade divided by the GDP of the applicant country. We also estimate a model including the total level of bilateral trade, rather than trade dependence. The results are shown in Appendix Tables 7 and 8 and support our key finding that the value of the trade relationship to the applicant is a positive predictor of filing an ICJ complaint.

Other models include additional control variables. Mitchell and Powell (2011) and Powell (2013a) highlight the role of domestic legal tradition in explaining when countries use international courts. We add indicator variables for common law, civil law, and Islamic law countries. These variables are insignificant in all models, and so we did not include them in main results (Supplementary Information, Table 2).³¹ The importance of legal tradition may largely operate through its effect on which countries accept

ICJ jurisdiction, which is an important control variable in our models.

The role of geography to shape both trade and potential ICJ disputes looms large. We explore the role of regional indicators by examining whether countries in particular regions have a higher propensity to file ICJ complaints. We include indicators for the region of the applicant for seven regions: East Asia, South Asia, sub-Saharan Africa, Central Asia, Europe, North America, and Latin America, omitting the indicator for Middle East to prevent collinearity. Trade dependence continues to have a positive and significant effect on ICJ filing in these specifications (Appendix Table 9).

Conclusion

This paper highlights a new pathway for a theory of commercial peace in which trade dependence affects how countries solve their disputes. In particular, trade encourages the use of the ICJ. In the midst of a conflict, states face uncertain political relations and risk that an escalating dispute could spill over to harm trade. Through adjudication, states isolate their conflict within a legal paradigm. We find clear evidence that trade ties correlate with a higher tendency for a country to bring a dispute to the ICJ. This relationship between economic interdependence and ICJ filing holds for the subset of dyads that share a border or include a major power, and also for dyads with similar propensities to trade.

While our analysis focuses on the ICJ as the court with the most expansive jurisdiction, the central logic of our theory applies equally to other arbitration venues such as the International Tribunal for the Law of the Sea. The use of third-party adjudication arises within an environment shaped by power relations among states and the evolving international judiciary (Alter 2011; Grynaviski and Hsieh 2015). We highlight the need for scholars to give attention to how economic interests influence the ways in which states approach the use of courts. From a policy perspective, our findings suggest that measures to improve trading relationships may contribute not just to economic growth, but also to global stability by creating incentives for future leaders to peacefully settle disputes through international courts.

The decision to use a court depends on both the specific issue at hand and the value of preserving a broader relationship. When a state delegates to an international court the authority to settle a sensitive matter, this action demonstrates to economic actors that subsequent disputes are likely to have a rule-based settlement. For the governments involved in a dispute, trying to resolve one problem in court can yield an ongoing stream of benefits from stable relations and growing trade. Future research should explore how economic actors view the use of courts for international dispute settlement. Scholars might also consider whether decision-makers see international courts as providing opportunities for building a reputation for law-based behavior. Empirical analyses on the effectiveness of courts should assess a wide range of possible outcomes, including measures of improved political and economic relations between the parties.

Our findings tie into the emerging body of literature that explores how transnational interactions about economic policy shape domestic politics and global engagement.³² In line with the “new interdependence approach” (Farrell and

³⁰ “Overly influential” is a measure of distance, based on studentized residual, and indicates when the absolute value of the difference in betas between running an observation with an observation included and excluded is greater than 0.2.

³¹ We note that our test differs from the empirics in Mitchell and Powell (2011), which uses a dyadic indicator of legal tradition. We also use a dichotomous indicator of legal tradition that aggregates across Islamic Law countries as applicants, and shows no systematic pattern. But there is considerable variation within Islamic Law that may affect whether it is complementary or contradictory with

international law by issue and by country, as discussed in Powell (2015). These important nuances are not captured in our study.

³² See, for example, Posner (2009), Raustiala (2009), Buthe and Mattli (2011), or Farrell and Newman (2015), as well as foundational work by Keohane and Nye (1977).

Newman 2014), we highlight how trade between states empowers domestic coalitions that prefer the peaceful settlement of cross-national disputes and increases incentives for international adjudication. Our results suggest the impact of economic interdependence is not confined exclusively to strong institutions like the European Union. Future research could expand this focus to other international courts. Additionally, we need to examine the impact of interdependence on the decisions by states to make diplomatic claims about issues in the first place. Scholars may also consider broadening the concept of economic interdependence to foreign direct investment. Such research should explore how both economic stakes and rule-of-law concerns could make different actors support a court because they view it as legitimate.

Ultimately, the ICJ only reviews a small number of cases, and the origins of these disputes lie in a complex mix of context-specific historical and legal conditions. Nevertheless, by changing how a country evaluates the possible risks of an ongoing dispute, trade stakes can make governments seek alternative ways to settle a conflict. For some, trade ties are enough to tip the balance toward filing a complaint before a court that can be unpredictable in its rulings and weak in its enforcement. Why do countries file? Because even a loss may be seen as a win if it helps to resolve a troublesome problem and spurs trade growth. Suing a trade partner is not an act of cooperation, but it is better than many alternatives.

Supplemental Information

Please find additional materials for the appendix, supplementary information on coding, and replication materials available at the following website <https://www.princeton.edu/~cldavis/research/index.html> and at the *International Studies Quarterly* data archive.

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