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Lambach, Daniel

Article

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Daniel Lambach

Research Centre Normative Orders, Goethe-Universität Frankfurt, Germany; lambach@normativeorders.net

Abstract
The international system of states displays an inherent drive to territorialize the global commons. But territorialization is not a continuous process—it occurs in episodes. In this article, I use one case from ocean governance, the expansion of territory into near-shore areas of the seas, to advance a twofold argument about the nature of these episodes. First, I argue that the root causes of this drive to territorialize "empty space" are located in global politics, norms, and economics. Second, a territorializing episode occurs when there are impelling economic incentives, and when great powers are unable or unwilling to oppose territorialization. However, this can lead to different outcomes: sovereign territories, functional territories, or internationalized territories. Oceanic space has seen a series of these territorializing episodes since the end of the Second World War and functional territorialization has become more prevalent over time.

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1. Introduction

Global commons are shared resources in spaces beyond national jurisdiction: the oceans and seabed, the atmosphere, outer space, and the poles (Buck, 1998). This definition of the global commons is analytical, not practical, as the concept is a political construct without a clear legal definition, and the term is thus contested in its application and delimitation (Cumbers, 2015). In contrast to concepts of the commons that focus on the common use of shared resources (e.g., Wijkman, 1982), this article emphasizes the commons' spatial dimension. Analyses of the global commons are primarily concerned with the effectiveness of different forms of governance. In economics, the dominant position is that of the "tragedy of the commons," according to which the overuse of a commons can only be prevented by the enclosure of the commons either through privatization or nationalization. However, global commons research, building on insights from Ostrom's (1990) "Governing the Commons"

project, shows that international regimes can also effectively manage shared resources.

However, these works of literature rarely address the more fundamental question of which regulatory models are chosen by the international community in the first place. For example, some parts of the global commons have been parceled into sovereign territories under the control of some states, e.g., national airspace. For other parts, their status as global commons was enshrined in international treaties. For example, the UN Convention on the Law of the Sea (UNCLOS) constructed the seabed outside state territorial waters as the "common heritage of humankind," and the Outer Space Treaty declared outer space to be "a matter for all humankind" (Feichtner, 2019; Mickelson, 2019). Some of these spaces have been placed under internationalized management, such as the deep seabed under the International Seabed Authority (ISA).

While sovereign territorialization and international regulation were long considered the only options (e.g.,

Wolfrum, 1984), a third option has evolved in the post-World War II era: *functional* territorialization, i.e., the creation of territories which do not endow states with fully sovereign claims over space but limited rights and obligations. Functional territorialization is usually done on the basis of international agreements. It is thus an intermediate form that blends elements of the two classical options, namely the creation of spatially delimited state control rights and the origin of these rights in international regimes. In fact, functional territorialization has replaced sovereign territorialization in state practice without getting much notice from scholars or the public.

This article develops a theoretical framework of territorialization dynamics in the global commons. The framework offers conjectures about the causes of a secular drive to territorialize spaces that are considered "empty" and gives an explanation of the timing of territorialization episodes and why some global commons have remained unterritorialized until today. Using evidence from ocean governance, I will chart the shift from sovereign to functional territorialization and the concurrent change of the maritime global commons, where this process is well documented empirically, as I discuss in another article (Lambach, 2021): "Since the middle of the 20th century, states have continually sought to push back frontiers at sea in order to exploit all available resources" (Houghton & Rochette, 2014, p. 81). A territorialization perspective represents the high seas not as a blank slate but as a complex patchwork of partly overlapping regulatory spaces. This article first reviews the literature on spatial arrangements within ocean governance regimes. It then presents the theoretical framework of territorialization episodes of the global commons. The final part discusses the case study of how near-shore areas of the seas were progressively territorialized. The focus here is on the Cod Wars as a paradigmatic case where the rules were contested by which these territories are assigned.

2. Review of the Literature

The past decades have seen a surge of interest in how spaces in the oceans are made. From early works outlining political geographies of the seas (Glassner, 1990; Steinberg, 2001), the literature has expanded and branched out to cover a great variety of phenomena, from the role of capitalism in the enclosure of the oceans (Campling & Colás, 2017; Mansfield, 2004), their legal geographies (Constantinou & Hadjimichael, 2020; Ntona & Schröder, 2020), zoning practices (Ryan, 2015) such as marine spatial planning and conservation territories (Gray, 2018), and spatial ontologies in ocean governance more generally (Lambach, 2021; Peters, 2020).

There are several works that discuss the "global commons" character of the oceans and the seabed. The majority of these focus either on effective resource management and institutional design (Hall, 1998;

Mansfield, 2004), legal constructions and protections of the commons (Constantinou & Hadjimichael, 2020; Kopela, 2016), or the commons as arenas for great power competition (Freeman, 2016). This literature is, with few exceptions, most concerned with the output of the prevailing regimes of ocean governance, rather than with how these regimes emerge and change or how policy choices are made within them. However, the spatial arrangement of the oceans conditions and is conditioned by the regime complex governing the seas. Even though research on environmental regimes is helpful, it pays little attention to the spatial aspects of governance (e.g., Oberthür & Gehring, 2006). Regime research in general seems to have moved away from the global commons towards other concepts like the earth system (Biermann & Kim, 2020). Older works are more helpful in this regard. For example, Wolf (1991) highlights the importance of normative and institutional dynamics in regime formation, while Young (1994) emphasizes the importance of "institutional bargaining." An important conclusion of this work is that states do not necessarily act in an economically utility-maximizing manner in regime formation, but that their behavior is also influenced by social norms and institutions. However, few works explicitly discuss how the spatial governance of the global commons evolves over time.

The work by Rüdiger Wolfrum, an international lawyer, is particularly interesting in this regard. Against the background of legal developments especially in maritime and space law over the 1970s and 1980s, Wolfrum (1984, p. 2) expected a gradual "internationalization" of the global commons in the sense of an "order that is in the service of state equality and is characterized by a high degree of interstate institutionalized cooperation" (translated by the author). However, contrary to Wolfrum's expectations, cooperation regimes since then have not evolved towards genuine international authority. Instead, these regimes often rely on functional territories to delegate the implementation of international orders to states.

3. Theoretical Approach

This article proceeds from the assumption that international society views "ungoverned" or "empty" spaces as fundamentally incompatible with the territorial foundations of the international system (Taylor, 1995). This is particularly evident on land, where all *terra nullius* has long since been parcelized, enclosed, and governed, but the same process can also be witnessed, to varying degrees, in non-terrestrial environments like the oceans, the deep seabed, the poles, and outer space (for a comparative analysis, see Lambach & Diehl, 2021). In this section, I will first offer certain conjectures as to the causes of this territorialization drive. As I will argue in a second step, this drive is not continuous but occurs in episodes whose timing is conditioned by technological affordances, economic incentives, and great power politics.

3.1. Causes of Territorialization

This article treats territory as the product of social construction (Agnew & Corbridge, 1995; Sack, 1986). Territory refers to all bounded and controlled space, not just sovereign space. Territorialization, therefore, is the process by which (uncontrolled) space is transformed into (controlled) territory. This article distinguishes three different forms of territoriality: first, sovereign territory, which is the territory over which a state claims sovereignty; second, functional territory, where a state enjoys certain prerogatives short of full sovereignty, usually on the basis of some international agreement; and third, internationalized territory, which are spaces outside of state control by virtue of being *res communis* (owned by everyone), although this category is restricted to those cases where such a designation is formalized through an international regime, such as the deep seabed's designation as a common heritage of mankind (Mickelson, 2019). Internationalized territory is distinguished from unclaimed space (*res nullius*), which is legally owned by no one, e.g., the high seas. Territorialization involves a change in the territorial status of space and consists of the deterritorialization of existing spatialities and their reterritorialization in some other form as old territorial orders are dissolved and replaced by new arrangements (Popescu, 2010). This brings out the contested nature of territorialization that becomes visible when different territorial projects collide. Territorialization is rarely reversed (with only the Antarctic being a partial counterexample). Once territories are created, they stick around.

The causes of this territorialization dynamic are twofold. The first set of causes is based on the global economy's drive for the valorization of underutilized resources. Territorialization also implies propertization (Maier, 2016, p. 8). In practical terms, territorialization is undertaken by "economically nationalist" (Helleiner, 2002) states who remain key economic actors even in neoliberal capitalism. There is insufficient space to map out the interplay between states and non-state actors but in very brief terms, territorialization always involves non-state actors in some capacity, such as inventors, financiers, traders, intermediaries, etc. Non-state actors provide capital, technical expertise, and, in some cases, legitimacy to territorialization projects. But, despite the specific network of actors, the opening-up of new resources beyond the sovereign container incentivizes economic nationalists to seek access and make these resources available for capitalist exploitation that benefits their country through techniques of enclosure.

However, states are economic nationalists not purely for economic reasons but also due to status and security concerns (Vogler, 2012, p. 70). Access to and control over global commons is a marker of great power status. In discussions about the creation of exclusive economic zones (EEZs), developing countries argued for control over natural resources they considered rightfully theirs,

not just with reference to economic benefits but also to sovereignty and recognition. As research on international status and prestige highlights, "the social value of given resources is neither immanent nor self-evident, but historically contingent and socially defined" (Pouliot, 2014, p. 195). This concern with status and recognition is the second set of causes of the territorialization drive. One of the most important mechanisms here is the mutual recognition of sovereignty in international society. That is why states form a "recognition regime" (Griffiths, 2016) that organizes relations of mutual recognition to safeguard states' ontological security. This is why international society views non-state spaces as anathema and has developed a norm of territorial statehood (Lambach, 2020). Taylor (1995, p. 3) describes this norm as "the presumption that every section of occupied land across the world is the sovereign territory of some state." This mechanism is clearly more evident on land, which has been completely parceled up among sovereign containers, but this territorial ontology of the world also applies to the seas and informs area-based ocean management tools, such as marine spatial planning which draws heavily on terrestrial models (Peters, 2020).

The normative presumption of an international system centered around exclusive territoriality is enshrined in a variety of international norms. For example, multiple scholars have identified the emergence of territorial norms such as an anti-annexation norm, a norm of border fixity, and international legal norms such as *uti possidetis juris* as evidence of norms stabilizing and legitimizing the concept of the territorial state (Anstis & Zacher, 2010; Atzili, 2011). On the one hand, these norms are the basis upon which international institutions and regimes are constructed; on the other, institutions concretize and give shape to norms. For the oceans, UNCLOS is a case in point: It institutionalized sovereign territories (the territorial sea) and created new forms of functional territory (the EEZ) that then filtered into the normative superstructure.

Although the normative structure of international society thus predisposes states towards territorialization, great powers sometimes prevent or obstruct it, as in the case of Antarctica, where sovereign claims were frozen, or (for a very long time) the oceans, where leading maritime nations, Great Britain in particular, defended the freedom of the seas. This article takes an English School approach to great power behavior. The English School of international relations balances the power-seeking behavior of states with a respect for shared norms and accepts that global politics are structured by international institutions that regulate behavior. From this perspective, great powers are leaders among states and legitimize their exalted status "by accepting special responsibilities as well as claiming special rights" (Cui & Buzan, 2016, p. 182). Great powers may oppose territorialization for two reasons. First, great powers tend to be status quo oriented. Second, great powers profit most from unregulated situations. There is substantial

literature in strategic studies discussing how the "command of the commons" underpins US hegemony (Posen, 2003). This became visible during the negotiations leading to UNCLOS where superpowers prioritized access for their warships and submarines to EEZs and international straits (Vogler, 2012, p. 65; see also Freeman, 2016).

It is the combination of the capitalist drive to valorize unused spaces and the normative pressure not to tolerate non-state spaces, tempered by great power politics that drive the territorialization of space that is considered "ungoverned" or "empty." Today, territory is generally not created and acquired by force and flag-planting. These practices were more common in imperial times, although—as legal historians have pointed out (Fitzmaurice, 2014; Korman, 1996)—there were manifold modes of territorial acquisition even then. Nowadays, the norm complex against taking and annexing territory by force is quite robust. Hence, territorialization rarely manifests itself as a military conflict. Although territorial disputes are a major cause of international conflict (Owsiak et al., 2016), the vast majority of territorial disputes never escalate. As Østhagen (2021) demonstrates, almost 40% of maritime boundaries are disputed yet very few of these ever include a single act of violence, much less an outright war (see also Prescott & Schofield, 2005). Riddervold and Newsome (2021) argue that international relations in the global commons are generally more cooperative than in other contexts. In present international society, territorial claims over *res nullius* are typically expressed and resolved through negotiation, cartographic representation, legal developments, and administrative procedures.
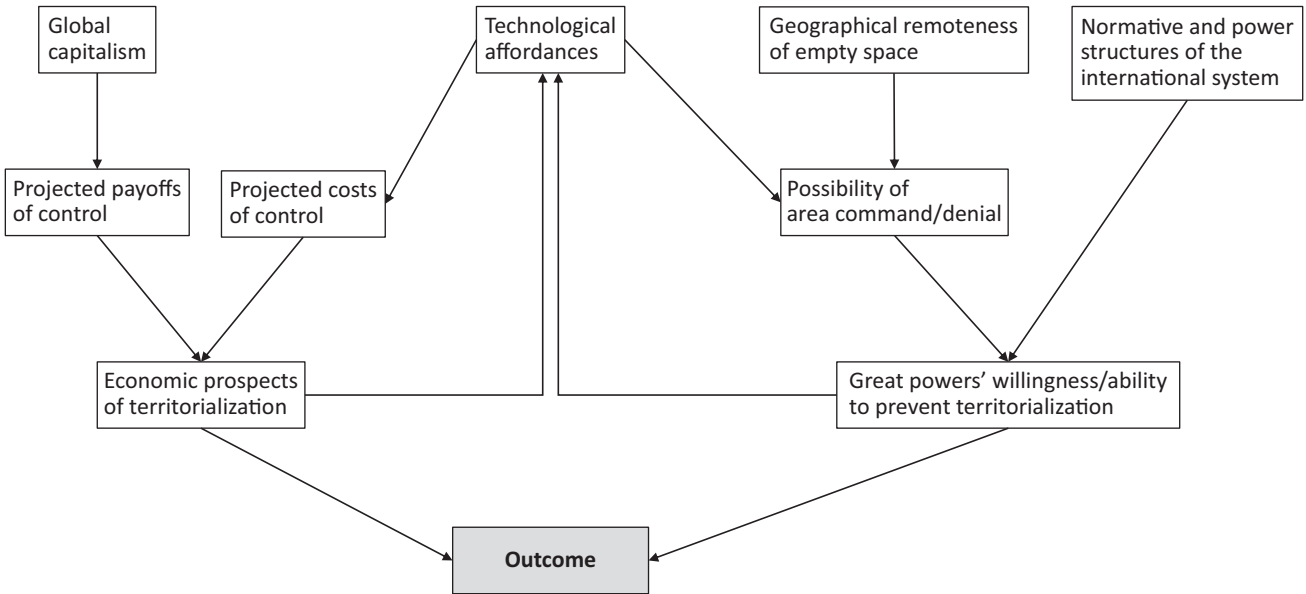
3.2. Territorializing Episodes

I assume that the factors mentioned in the preceding step are more or less constant, absent any changes in the normative structure of international society. And yet, there are ample examples of global commons being left un-territorialized for centuries. National airspace was only formalized in the 1944 Chicago Agreement (Butler, 2001), and national claims for oceanic space beyond the territorial sea were only made possible through the creation of EEZs in UNCLOS. Based on the theoretical premises above, only great power obstruction could explain this timing, but this is insufficient by itself. The non-territorialization of outer space prior to the 1960s had little to do with great power obstruction but rather with the fact that nobody could access, use, or claim space beyond the Earth's atmosphere.

I argue that the timing of territorialization episodes is affected by situational possibilities and incentives, which are to a large degree shaped by technological affordances, i.e., technologies' facilitating or constraining impact on "the tasks that users can possibly perform with it" (Adler-Nissen & Drieschova, 2019, p. 534). Technology is understood broadly as consisting of artifacts as well as systems of management and structures of knowledge in which the use of these artifacts is embedded (Brooks, 1980). Among technologies, we might further distinguish "artifacts" (devices, tools, instruments) from "techniques," i.e., practices or ways of doing things (Elden, 2010; Peters, 2020). In this sense, science and law are techniques or, more accurately, sets of techniques. Actors assemble and utilize technological devices through techniques while techniques give purpose to artifacts. In economic terms, the availability of technology determines the cost-effectiveness of commercial exploitation. The same is true for other kinds of control which are likewise dependent on techniques of rule. Technology is not exogenous to social relations but emerges and develops within social settings. In short, when actors wish to territorialize space, they will support the development of appropriate technologies if these are not already available.

The state of available technology affects the calculus of actors and thereby the timing of territorializing episodes. But economic incentives and great-power interests are also not fixed. The economic prospects of a particular territorialization regime are determined by structures of global capitalism, most obviously through world market prices for resources to be extracted from a territory. Absent such prospects, states may have the capabilities but lack the motivation to territorialize a space, although as stated above, economic prospects are not only viewed as purely commercial assets but also in terms of international status and security benefits. Politically, great power motivations for or against territorialization may shift over time, as Butler (2001) demonstrates for negotiations over the global airspace regime. Great powers have substantial powers of area command or area denial, i.e., the capability to obstruct others' use of a space (Posen, 2003, p. 8). This is not simply about military power: Great powers can also offer competing representations of a space, ignore boundaries, and threaten retaliation or sanctions against states that put forward competing claims. Both of these conditions interact with technological affordances. Technology determines the costs of controlling and exploiting a space as well as possibilities for area control. Where states want to make a territorial claim they will stimulate the development of technologies that lower costs, e.g., by funding research. But all of these conditions are somewhat malleable since states exercise substantial agency in shaping them. For instance, what constitutes an impelling incentive is not just down to pure economics but a subjective assessment of likely future payoffs which will also change as circumstances evolve.

The two conditions of impelling economic prospects and an absence of great power obstruction are jointly necessary for a territorialization episode (see Figure 1). If either is missing, a space will remain unterritorialized for the time being. However, it is less clear why some governance solutions involve sovereign territorialization, whereas others employ functional or internationalized territorialization. As a preliminary assumption,

Figure 1. Conditions of territorializing episodes.

I argue that this is mostly determined by *when* a territorializing episode occurred as different eras are characterized by different normative environments and great power configurations, as I discuss elsewhere (Lambach & Diehl, 2021). While the sovereign territorialization of global commons was still the norm until the 20th century, no new examples of this can be found after the 1944 Chicago Agreement. A similar period also saw the cascades of territorial claims over parts of Antarctica (1908–1942) and comparable claims over the Arctic based on the now-disused sector theory (McKitterick, 1939). This was the final phase of sovereign territorialization. Territorialization episodes after this period were functional or internationalized, with the expansion of the territorial sea in the 1982 UNCLOS only being a partial exception (see next section).

4. Oceanic Territorialization

This section discusses an empirical illustration of the theoretical argument presented above. The material covers the creeping territorialization and the evolving governance regimes of near-shore oceanic space, especially the territorial sea and the EEZ (Section 4.1). This area was chosen because it provides ample evidence and can be considered a crucial case for theoretical claims about maritime territorialization due to its central importance for state activity in and on the oceans. Within this larger complex, the case of the Cod Wars will be analyzed as it provides a microcosm of wider developments (Section 4.2). The aim here is to specifically illustrate the framework of territorializing episodes (Section 3.2), not so much the general causes of territorialization (Section 3.1). The latter are more difficult to establish, mostly rest on ontological assumptions about international relations, and are therefore less amenable

to empirical study. Hence, the focus will be on identifying the economic prospects and great power positions preceding territorialization episodes and how these are conditioned by technological change and shifts in global politics, norms, and economics.

4.1. The Territorialization of Near-Shore Areas

The oceans have traditionally been governed according to Hugo Grotius' principle of *mare liberum*, although this has always competed with other norms (Zacher & McConnell, 1990). The only historical exception to this was the traditional practice of states claiming sovereignty over their coastal waters (Fenn, 1926), the limits of which were settled at three nautical miles in the 18th century based on the (historiographically contested) "cannon-shot rule" (Kent, 1954). But in the 20th century, this practice, never properly codified, began to fray. First, states claimed rights over resources in the continental shelf extending beyond their territorial waters. Some also claimed special rights in the 12-mile area just beyond the territorial sea, e.g., for purposes of law enforcement. Starting in 1947, several Latin American states such as Chile, Ecuador, and Peru claimed 200-mile territorial waters (Stone, 1955). Other countries followed suit and during the period of 1950 to 1982, a wide variety of territorial waters claims, from two to 200 miles, could be found.

This expansion of claims was mainly a response to the industrialization of fishing, the intensification of distant-water fishing by trawler fleets from industrialized countries, and the resulting decline in fish stocks. In theoretical terms, technological change raised the economic stakes, especially for poorer countries dependent on marine resources. In addition, great powers were more amenable to a territorialization of the seas in the post-World War II period. Great Britain, long the

dominant seapower and a staunch defender of the *mare liberum* (Freeman, 2016, p. 20), had declined. The positions of the two new superpowers, the US and the Soviet Union, were rather mixed. The US also championed the freedom of the seas but President Truman, in a 1945 declaration, nonetheless claimed special rights over seabed resources and fisheries in coastal areas around the US (Watt, 1979), which inspired the 1947 Latin American claims. Similarly, the Soviet Union was one of the first states to claim a 12-mile zone in 1927 (Bar-Noi, 2015, p. 198), although its policy later shifted towards a more pro-*mare liberum* stance as Soviet naval capabilities and its fishing fleet expanded (Freeman, 2016, pp. 21–22; Österblom & Folke, 2015). In addition, both great powers were vying for support from developing countries in the unfolding Cold War, so their opposition to maritime territorial claims, which were popular in Third World countries, was muted.

Many states that claimed larger territorial waters did not necessarily want *sovereign* authority over them, especially since these huge areas were almost impossible to control anyway. While new technologies made distant-water fishing possible, comparable technologies to actually *control* areas far from shore were lacking. Rather, states were looking for exclusive rights over marine resources, especially fish stocks. However, at that time there was no instrument of international law through which such a claim could have been institutionalized. In 1956, the UN International Law Commission advised that claims beyond 12 miles were not in accordance with the law of the sea. The First UN Conference on the Law of the Sea (UNCLS) in 1958 produced a series of agreements but failed to agree on the limits of territorial waters. The Second UNCLS (1960) also narrowly failed to reach an agreement on a six-mile limit. Territorial disputes, pollution and conflicts over seabed resources kept the discussion about ocean governance going which eventually led to the Third UNCLS, starting in 1973, kickstarting a nine-year negotiation process culminating in UNCLOS (1982).

Territorial waters are defined in UNCLOS as the coastal waters of a state stretching 12 nautical miles (22.2 km) from the coastal baseline. The territorial sea is treated as an extension of the sovereign territory of the state, giving it near-absolute control over this space, with the exception of certain navigational rights for foreign ships. This represents the last case of sovereign territorialization in the global commons (Lambach & Diehl, 2021). However, it is, for several reasons, a special case that is not a counterexample to the general trend towards functional or internationalized territorialization. First and foremost, it is an institutionalization of the long-standing norm that states have a right to sovereignty over their coastal waters (Kent, 1954). In this respect, UNCLOS did not create new sovereign territory, but merely institutionalized a proven concept, albeit with a greater spatial extent than in previous practice. The expansion from three to 12 nautical miles ended a 45-year long phase of

norm contestation that had already begun in 1927 when the Soviet Union became the first state to claim a 12-mile zone (Bar-Noi, 2015, p. 198).

In addition to the expansion of the territorial sea, UNCLOS also created a functional territory in the form of the EEZ to accommodate the resource claims of coastal states. The EEZ directly adjoins the territorial sea and extends up to 200 nautical miles from the coast. There, states enjoy "sovereign rights for the purpose of exploring and exploiting, conserving and managing the living and non-living natural resources of the waters above the seabed, the seabed and its subsoil" (Article 56 of the UNCLOS) and for further economic exploitation. The EEZ is a prime example of a functional territory, where an international regime assigns and guarantees certain rights and obligations short of sovereignty to particular states. The great powers did not object to this legal innovation. While the US did not ratify UNCLOS, it mainly objected to the internationalized territorialization of the deep seabed and its governance through the ISA and US President Reagan still unilaterally declared a US EEZ in March 1983.

4.2. The Cod Wars

The Cod Wars between Iceland and the UK provide an interesting microcosm of this larger territorializing episode (Hellmann & Herborth, 2008; Steinsson, 2016, 2017). British vessels had long fished in the waters close to the Icelandic coast. Icelandic attempts to claim fishing grounds beyond their three-mile territorial sea had been rebuffed in the 19th century but after independence from Denmark in 1944 and following the precedents set by other countries (Jóhannesson, 2004, p. 545), Iceland extended its territorial claims. Iceland was initially bound by the Anglo-Danish Territorial Waters Treaty of 1901, which stipulated a three-mile limit. However, once the 50-year timeframe of the treaty was over, Iceland unilaterally expanded its territorial waters, first to four miles and using a more favorable baseline calculation (1952) and then to 12 miles (1958). After the first expansion had already led to a tense conflict between Iceland and the UK, the second set off the First Cod War. British naval vessels accompanied their fishing fleet into disputed areas and there were several standoffs at sea, with shots fired between Icelandic patrol boats and British trawlers and navy vessels. The first Cod War was settled in 1961 with an agreement that was very favorable for Iceland. Two further Cod Wars (1972–1973 and 1975–1976) occurred over Icelandic claims for fishing rights in what was to become its EEZ, again with Icelandic victories (Steinsson, 2017). However, while the Cod Wars are best known for ships from ostensibly allied nations taking potshots at each other, the majority of the conflict played out through treaties, diplomacy, and international law, while the maritime showdown only represented the tip of the iceberg. The First Cod War in particular was deeply entangled with the debates surrounding the First UNCLS.

To explain the timing of this territorialization episode beyond the legal obstacle of the Anglo-Danish Treaty, to which Iceland was bound until 1951, we need to look at prevailing economic incentives, the development and availability of technological artefacts and techniques, and how this dispute was embedded in great power politics, all of which contributed to making an expansion of territorial claims possible and attractive to Iceland. The economic incentives are most easily understood. Fishing has always been a vital sector of the Icelandic economy and was the country's most important export industry in the 1950s (Ingimundarson, 2003; Tomasson, 1976). Given the growing concerns about overfishing, a collapse of fish stocks would have endangered the national economy (Jóhannesson, 2004, p. 547). But the territorial claims had additional significance for Iceland beyond purely economic concerns, "such as the nation's cultural and economic survival" (Mitchell, 1976, p. 134).

Various technological developments made control over the expanded territorial waters feasible. The first was the development of patrolling capability through the Icelandic Coast Guard (whose Icelandic name, Landhelgisgæsla Íslands, directly translates to "Territorial Waters Guard"). The Coast Guard had only been founded in 1926, although single vessels had been used for coastal protection since the 1900s. By the time of the First Cod War, the Coast Guard had grown to six patrol vessels and one flying boat. This might still seem a small number for such a large oceanic area. Furthermore, only the flagship was powerful enough to arrest and tow an infringing trawler: "The head of the coast guard, Pétur Sigurdsson, quietly admitted that his vessels were 'utterly incapable' of providing credible law enforcement inside the new line" (Jóhannesson, 2004, p. 559). However, these boats provided affordances beyond their immediate material capabilities. Usually, fishing interdiction did not depend on the ability to project force:

> In normal circumstances an Icelandic gunboat which caught a vessel inside the fishing limit would order it to stop and fire a blank shot across its bows if the demand was ignored. This almost always worked because the trawler skippers knew that they could not get supplies and service in Icelandic ports if they tried to escape the authorities. (Jóhannesson, 2004, p. 560)

New techniques also provided important affordances to the Icelandic government beyond the direct control over maritime space. For one, scientific data on fish stocks was an important instrument in the dispute, with Iceland and the UK producing different estimates about overfishing risks (Mitchell, 1976, p. 137). For another, international legal opinion and methods of boundary delimitation were employed to legitimize the extension of territorial waters. Iceland used a more favorable method of establishing the baseline laid out in the International Court of Justice decision in the "Fisheries Case" (*United Kingdom v. Norway*, 1951) to justify its 1952 expansion to

a four-mile area (Jóhannesson, 2004, p. 546). The deliberations at the 1958 and 1960 UNCLSs bolstered Iceland's position further. As Brown (1973, p. 69) notes, Iceland fought a "consistent and intensive campaign" in the two UNCLSs conferences for a 12-mile limit. After the failure of the conferences to agree on this limit, the Icelandic government was able to justify unilateral action without endangering its reputation in the international community (Mitchell, 1976, p. 138; Tomasson, 1976).

Iceland's relations with the great powers were another crucial facilitating condition. With Iceland being a founding member of NATO, Iceland's territorial claims could have been effectively precluded by a veto from Washington, which never came. In large parts, this was due to the precarity of Iceland's commitment to the Western alliance, and the large strategic importance in the North Atlantic the country represented. NATO accession and the maintenance of the US airbase at Keflavik were "highly contentious in Icelandic politics" (Steinsson, 2017, p. 604). Several Icelandic governments, especially those consisting of left-wing parties, were not shy about questioning NATO membership and the future of Keflavik if the perceived hostilities by the UK were to continue. When the UK, Iceland's second-largest trading partner after the US, boycotted Icelandic fish exports after the 1952 expansion, Iceland quickly signed a bilateral trade agreement with the USSR, which made the Soviet Union "the largest single importer of Icelandic fish" (Mitchell, 1976, p. 128) by 1955. The Soviet Union exploited this split in the Western Alliance as much as it could, cozying up to Iceland's government, which caused the US to increase fish imports from Iceland as well (Jóhannesson, 2004, pp. 548–549).

There is little evidence that the US saw Icelandic crisis behavior particularly favorably—quite the opposite: The US agreed with the British position in principle. However, it was reluctant to pressure Iceland: "The USA tried to not involve itself in any way due to fears that its direct involvement would inevitably link the US base or Iceland's NATO membership to the outcomes of the disputes" (Steinsson, 2016, p. 265). And when the Icelandic government threatened to withdraw from NATO and close the Keflavik airbase during the Second Cod War, the US pressured the UK rather than Iceland to seek a compromise (Mitchell, 1976). In short, with Iceland engaging in brinksmanship and leveraging its position well, it managed to get both superpowers to support, or at least not oppose its territorial claims.

5. Conclusion

This article has argued that in the current international society, the global commons are subject to infrequent episodes of territorialization. These episodes occur when (a) there are impelling economic prospects of territorialization, and (b) great powers are unable or unwilling to prevent territorialization. All of these factors are influenced by the availability of technology that makes

cost-efficient modes of control feasible as well as the underlying economic, normative, and power structures of the international system. The case study lends support to the framework explaining the timing of territorialization episodes. It is less capable of assessing the causal assumptions outlined in Section 3.1 which are hard to test. Due to their systemic nature and multidimensional character, causes do not translate easily into observable implications at the case level. A more thorough operationalization and detailed process tracing would be necessary to better substantiate these claims. Nonetheless, the article adds a more detailed treatment of spatial governance dynamics to the literature on global commons.

Regarding the literature on ocean governance, the article offers additional support to theories of a "zoning" (Ryan, 2015) of the seas. The oceans display a trajectory towards more functional territorialization. Elsewhere I have identified 15 different kinds of functional territory that cover parts of the high seas and the deep seabed. Most of these territories are for conservation purposes (e.g., whale sanctuaries, vulnerable marine ecosystems, areas of particular environmental interest), others are created for the sustainable use of marine resources (regional fishery bodies, regional seas) or for improving safety at sea (NAVAREAs and METAREAs, and search and rescue regions; Lambach, 2021). Given the irreversibility of territorialization, further episodes of oceanic space being parceled up into functional or internationalized territories are to be expected, for instance as a result of the still ongoing negotiations for a Biodiversity Beyond National Jurisdiction Treaty which is expected to create a mechanism for designating marine protected areas on the high seas (Tiller et al., 2019). Whether this represents a cause for celebration or alarm depends on how one assesses the legitimacy and effectiveness of territorialized modes of governance compared to other forms that are less reliant on spatialized instruments, and what impact is expected from the economic valorization of oceanic space on environmental protection and sustainability (Peters, 2020).

The theoretical framework outlined in this article should also be applicable to other global commons beyond the high seas (Lambach & Diehl, 2021). The deep seabed offers an intriguing example of internationalized territorialization in the form of the ISA, the timing of which can be explained through the brief explosion of interest in seabed mining in the 1970s and the development of new submarine technology (Traavik, 1974). The airspace regime emerged in the early 20th century in response to the massive expansion of commercial and military aviation and opted for sovereign territorialization, although other options more akin to the freedom of the seas were also discussed as potential solutions (Butler, 2001). Outer space followed a similar trajectory of technologically enabled use leading to the emergence of an internationalized governance regime, mostly because there were (and still are) no technologies for cost-efficient control over segments of outer space (Paliouras, 2014). Antarctica is an interesting case of sovereign claims that could not be put into practice due to the prohibitive costs of control, which were later superseded by an international regime principally driven by superpowers who wished to avoid a territorial scramble—or at least, a territorial scramble in which they started from behind (Yao, 2021). In each case, we can see that technologically created accessibility and usability of a global commons went hand-in-hand with demands for commercial exploitation and great power interest in the military uses of this space. Great powers, whether through action or inaction, were instrumental in shaping regime outcomes. We can also see that sovereign territorialization was commonplace in the first part of the 20th century while functional and internationalized forms are more common in the latter half. I attribute these to a normative shift in the international system that emphasizes multilateral cooperation over earlier ideas that international problems are best solved through sovereign prerogatives and independent action of states. However, these propositions require more detailed empirical work to substantiate. In particular, I expect that the materiality of these spaces affects how they can be interacted with, territorialized, exploited, and governed (Peters et al., 2018).

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Conflict of Interests

The author declares no conflict of interests.

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About the Author

Daniel Lambach holds a PhD (Dr. rer. pol.) in political science from the University of Cologne. He is currently a Heisenberg fellow at the Research Centre Normative Orders, Goethe-Universität Frankfurt, funded by the Deutsche Forschungsgemeinschaft (Grant No. LA 1847/14-1). He is also a *Privatdozent* at the Faculty of Social Sciences and a senior associate fellow at the Institute for Development and Peace, both at the University of Duisburg-Essen. Photo credit: Research Centre Normative Orders.