



**Laidlaw Scholars Undergraduate Leadership and Research Programme**  
**Research Paper**

**Navigating Maritime Sovereignty at the Dixon Entrance**

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## Introduction

Canada and the United States share three lengthy coastlines in which notwithstanding their long history, there remain several undefined maritime boundaries, including the Dixon Entrance, off the coast of Alaska and British Columbia (BC). These contested offshore zones illustrate the tension between international legal frameworks and national historical policies and practices and left unresolved can catalyze disputes resulting from different conceptions of the two States' respective territorial claims.<sup>1</sup> The result would be the creation of multiple sets of overlapping claims.<sup>2</sup> The absence of formalized boundary delimitations poses a challenge to economic development and potentially undermines regional security and friendly relations between the two countries.<sup>3</sup> From the perspective of customary international law, which acts as the legal basis for boundary delimitation, one must consider how contemporary legal developments may influence the future application of the law.

As many legal commentators have noted, Canada and the United States' inability to agree upon shared maritime boundaries represents a sharp divergence from the relatively placid relations that, at least until very recently, the two States have shared over the past two centuries.<sup>4</sup> Canada and the U.S. have engaged with each other on a score of sensitive issues, such as shared waterways, the management of the Great Lakes, and so on, but to date have proved either incapable or unwilling to attempt a comprehensive resolution of their maritime boundaries. The boundary dispute over the Dixon Entrance is reflective of the intricate relationship between the politics of national sovereignty in both countries and their respective interest in the control and potential exploration of offshore natural resources.<sup>5</sup>

In this paper, I do not address the question of what the delimitation of the Dixon Entrance might actually look like. This requires an enormous amount of work by historians, geographers, and international lawyers specialized in the highly technical work of negotiating or litigating maritime boundary delimitation disputes. I seek to examine why the two States have historically failed to produce a settled maritime boundary at the Dixon Entrance. A consideration of this history helps to consolidate a better understanding of how State conduct has evolved over time. I

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<sup>1</sup> Clive Schofield, "The Trouble with Islands: The Definition and Role of Islands and Rocks in Maritime Boundary Delimitation," in *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea*, ed. Seoung-Yong Hong and Jon M. Van Dyke, Publications on Ocean Development (Brill, 2009), 65:19, <https://doi-org.myaccess.library.utoronto.ca/10.1163/ej.9789004173439.i-308.13>.

<sup>2</sup> Schofield, "The Trouble with Islands: The Definition and Role of Islands and Rocks in Maritime Boundary Delimitation," 19.

<sup>3</sup> Yunus Emre Acikgonul and Edward R. Lucas, "Developments in Maritime Delimitation Law over the Last Decade: Emerging Principles in Modern Case Law," *Canadian Yearbook of International Law* 57, no. 3 (2020): 161.

<sup>4</sup> Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World*, 2nd ed. (Martinus Nijhoff Publishers, 2004), 421, <https://doi-org.myaccess.library.utoronto.ca/10.1163/9789047406204>.

<sup>5</sup> Ted L. McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada* (Oxford University Press, 2009), 196, [https://librarysearch.library.utoronto.ca/permalink/01UTORONTO\\_INST/fedca1/cdi\\_proquest\\_ebookcentral\\_EBC4703871](https://librarysearch.library.utoronto.ca/permalink/01UTORONTO_INST/fedca1/cdi_proquest_ebookcentral_EBC4703871).

also consider Canada's constitutional obligations to the Haida Nation, an indigenous community situated directly south of the Dixon Entrance.

My research—though oriented towards public policy rather than international law—attempts to understand the different political factors that have informed the current stasis around the delimitation of the Dixon Entrance. I will endeavor to explore disciplinary contributions from public policy, international law, and historical research to understand the complex set of relations on exhibit between Canada and the U.S. at the Dixon Entrance.

## **Methodology**

The substantive writing process of this paper was preceded by a rigorous literature review of pertinent academic sources. I intended to adhere to this methodology to acquire a detailed understanding of this peculiar episode of maritime conduct between Canada and the U.S. My literature review was divided between the primary research questions that I sought to resolve.

I first considered historical materials to gain a better understanding of the historical positions that Canada and the U.S. have adopted on the matter. I predominantly considered published academic papers on questions of previous maritime practice and maritime law. I also consulted more recent materials for the questions in relation to Canada's legal obligations vis-à-vis the Haida Nation on Haida Gwaii. I consulted federal and provincial legal publications on the legal rights extended to the Haida Nation as a result of Canada and B.C.'s recognition of Aboriginal title.

The research methodology of this paper was an engagement with qualitative sources, conducted primarily by tracing themes of academic literature and argumentation that has been of influence in this area of maritime law. This methodology involved the critical analysis of legal texts, case law, and historical documents to understand the evolution of relevant legal principles and historical dynamics. By identifying contextual factors that precipitated historical events around the Dixon Entrance, I aimed to reveal how the past shapes current practices in the region. Through this analysis, the study seeks to highlight both broader historical context and pivotal specific moments that continue to influence the contemporary legal situation. The ongoing disputes evidenced at the State practice level underscore the complex nexus between domestic and municipal policies, international diplomacy, and the application of international maritime law.

I conducted the preponderance of my literature review through resources accessible from the library systems of the University of Toronto and the University of British Columbia.

## **Background on Competing Claims**

Canada and the United States currently share a number of contested divisions of their respective maritime territories: the Beaufort Sea, the Lincoln Sea, the Machias Seal Island, the line west of the terminus of the Juan de Fuca Strait and, finally, to the west of the Dixon

Entrance, both on the Pacific coast.<sup>6</sup> At these points, historical national usage practices have precipitated competing claims to maritime boundaries asserted by different States.<sup>7</sup> These maritime boundaries are important to delineate in order to establish appropriate boundaries between these States. The failure to delimit shared maritime boundaries is attached to potential economic and security ramifications in the area.<sup>8</sup>

The two boundaries shared by Canada and the U.S. that have been delimited required referral to extraneous legal systems. An early boundary of the Juan de Fuca Strait was presided over by the German Emperor, Count Bismarck, in 1872.<sup>9</sup> The *Gulf of Maine Case* was only resolved upon the intervention of the Chamber of the International Court of Justice (ICJ) in 1984.<sup>10</sup> The agreement to resort to the ICJ occurred because of mutual unwillingness to make voluntary concessions on State positions in relation to the differing views as to where the maritime boundary should be drawn.<sup>11</sup> It was thought desirable that in such circumstances the matter should be referred to the ICJ for third-party peaceable dispute settlement.

This led to the Court's first maritime boundary delimitation case under the rules promulgated in the United Nations Convention on the Law of the Sea (UNCLOS).<sup>12</sup> (Although the U.S. is not a party to that treaty, it accepts that certain rules contained in it that deal with the offshore jurisdiction of States are declaratory of the rules of customary international law that bind all States.<sup>13</sup>) A central feature of the UNCLOS principles is that the point of departure for maritime boundary delimitation is to begin with the concept of equidistance between the two national territories.<sup>14</sup> Equidistance is then considered having regard to other features such as the distinctive coastlines of the two States as well as any islands that clearly belong to one or the other and for which the proposed boundary must make an accommodation (i.e., is there one or more reasons to deviate from an equidistance line?). In addition, the concept of equity plays a role. In the *Gulf of Maine Case*, the ICJ drew attention to the Chamber's overarching desire to establish an equitable character of delimitation.<sup>15</sup>

The Dixon Entrance is a maritime passage in the Pacific Ocean that lies offshore of the terminus of the Canada-U.S. land border, specifically the delineation between the Alaskan Panhandle and the province of BC. Both Canada and the U.S. assert contesting claims to the

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<sup>6</sup> Michael Byers and Andreas Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," *Canadian Yearbook of International Law* 54, no. 1 (2017): 2.

<sup>7</sup> Robin R. Churchill, "The 1982 United Nations Convention on the Law of the Sea," in *The Oxford Handbook of the Law of the Sea*, ed. Donald R. Rothwell et al. (Oxford University Press, 2015), 254–55.

<sup>8</sup> Acikgonul and Lucas, "Developments in Maritime Delimitation Law over the Last Decade: Emerging Principles in Modern Case Law," 161.

<sup>9</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 421.

<sup>10</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 421.

<sup>11</sup> Byers and Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," 9.

<sup>12</sup> Stuart Kaye, "Lessons Learned From The Gulf Of Maine Case: The Development Of Maritime Boundary Delimitation Jurisprudence Since UNCLOS III," *Ocean and Coastal Law Journal* 14, no. 1 (2008): 74.

<sup>13</sup> Malcolm D. Evans, *International Law*, 5th ed. (Oxford University Press, 2018), 637.

<sup>14</sup> Kaye, "Lessons Learned From The Gulf Of Maine Case: The Development Of Maritime Boundary Delimitation Jurisprudence Since UNCLOS III," 81.

<sup>15</sup> Kaye, "Lessons Learned From The Gulf Of Maine Case: The Development Of Maritime Boundary Delimitation Jurisprudence Since UNCLOS III," 88.

sheltered strait, which forms a part of the ‘Inside Passage’ shipping route—that is, the north-



Lauren Thomas, *Map of Dixon Entrance*, ArcGIS, 2025.

south maritime route that is substantially sheltered by islands offshore of Alaska, by Haida Gwaii to the south, and further south of that archipelago, by Vancouver Island.<sup>16</sup> Located directly north of Haida Gwaii (formerly known as the Queen Charlotte Islands) and south of Alaska, the Dixon Entrance is an area of symbolic convergence between competing State-to-State level territorial assertions and the unresolved claims levelled by the Haida Nation against Canada for recognition of its historic use and occupation of the Haida Gwaii archipelago.<sup>17</sup> Sparsely populated parts of Alaska, namely the Prince of Wales and Dall Islands, border the Dixon Entrance to the north.<sup>18</sup> Canada’s Haida Gwaii archipelago and Hecate Strait lie directly south of the Dixon Entrance.<sup>19</sup> The contested area of the Dixon Entrance amounts to approximately 80 kilometers in width and 50 kilometers in length, by all accounts a relatively meagre size of maritime territory.<sup>20</sup> Even more interestingly, although approximately 800 square nautical miles is contested, two small maritime areas around the Dixon Entrance are yet unclaimed by either party.<sup>21</sup>

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<sup>16</sup> Diane Selkirk, “The Little-Known US-Canada Border War,” *BBC*, December 16, 2019, <https://www.bbc.com/travel/article/20191215-the-little-known-us-canada-border-war>; The Editors of Encyclopaedia Britannica, “Inside Passage,” in *Encyclopedia Britannica*, October 18, 2023, <https://www.britannica.com/place/Inside-Passage>.

<sup>17</sup> Timothy A. Schouls, *The Spaces in Between: Indigenous Sovereignty Within the Canadian State* (University of Toronto Press, 2024), 205–7.

<sup>18</sup> U.S. Coast, *Dixon Entrance* (National Oceanic and Atmospheric Administration, 2025), 118–43, [https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp8/CPB8\\_C04\\_WEB.pdf](https://nauticalcharts.noaa.gov/publications/coast-pilot/files/cp8/CPB8_C04_WEB.pdf).

<sup>19</sup> U.S. Coast, *Dixon Entrance*.

<sup>20</sup> Selkirk, “The Little-Known US-Canada Border War.”

<sup>21</sup> David H. Gray, “Canada’s Unresolved Maritime Boundaries,” *Geomatica* 49, no. 2 (1994): 131–44.

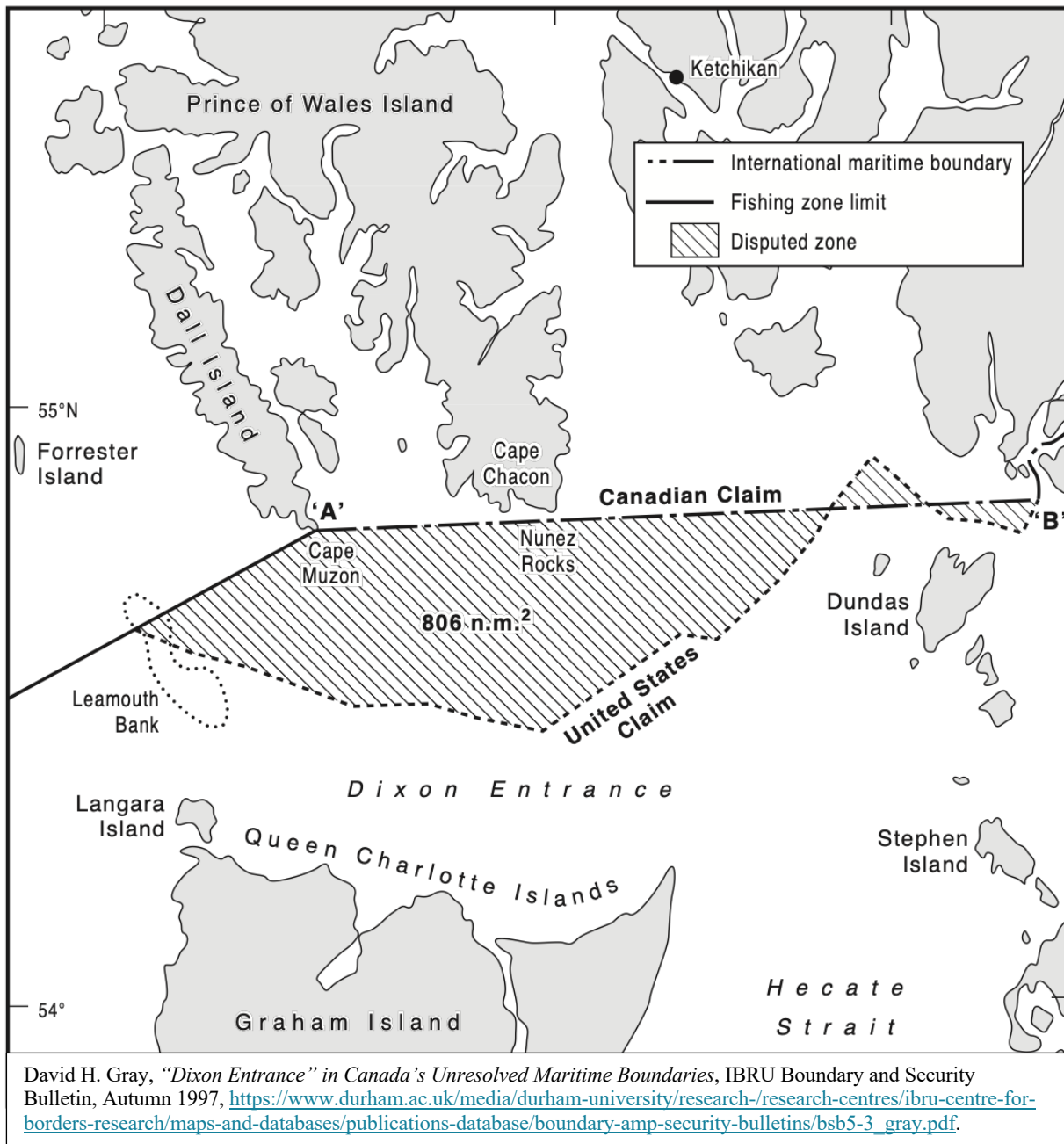
Disputes over the possession of the Dixon Entrance emanate from a 1903 arbitral award obtained in the *Alaska Boundary Dispute*.<sup>22</sup> A tribunal of American, British, and Canadian jurists was established to resolve the land boundary between Canada and the U.S. resulting from its recognition of the latter's claim to the Panhandle, after its transference from Russian possession in the 19<sup>th</sup> century.<sup>23</sup> The tribunal, to Canada's chagrin, found that the boundary between Canada and the U.S. extended from 'Point A' at Cape Muzon to 'Point B.' This line was intended to delineate the southern reach of U.S. territory, at the most westerly point on the southernmost area of Alaska's Prince of Wales archipelago, from the province of BC.<sup>24</sup>

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<sup>22</sup> Gray, "Canada's Unresolved Maritime Boundaries," 132.

<sup>23</sup> Gray, "Canada's Unresolved Maritime Boundaries," 132.

<sup>24</sup> Gray, "Canada's Unresolved Maritime Boundaries," 132.



Canada and the U.S. attach different importance to the legal implications of the A-B line. The A-B line reflected the then-applicable international law rules; the award being rendered in 1903, well before the development of modern boundary delimitation rules. More specifically, the A-B line predated the extension of national maritime jurisdictions out to the high seas and the development of exclusive economic zones (EEZ) as recognized by UNCLOS.<sup>25</sup> Even without the U.S. becoming a party to the Convention, UNCLOS has influenced State expectations as

<sup>25</sup> R. Churchill, "The 1982 United Nations Convention on the Law of the Sea," 28.

regarding the principles of maritime delimitation under international law. For one, under UNCLOS, a coastal State possesses sovereign rights “with regard to other activities for the economic exploitation and exploration” of its maritime territory.<sup>26</sup> UNCLOS also provides guidance on maritime delimitation proceedings; speaking generally, States expect that maritime delimitation agreements will be determined in a principled fashion.<sup>27</sup> The U.S. has notably failed to ratify UNCLOS; however, it participated in the negotiation of the Convention and much of UNCLOS can now be considered to reflect customary international law, binding States regardless of expressed acceptance of the treaty regime.<sup>28</sup>

Canada accepts that the A-B line is the established land and maritime boundary between the two States.<sup>29</sup> It is on this ground that Canada objects to the U.S. proposal that the application of the principle of equidistance should be employed at the Dixon Entrance. Canada argues that the Dixon Entrance and Hecate Strait are internal waters.<sup>30</sup> An internal water is defined in UNCLOS as inclusive of “waters on the landward side of the baseline of the territorial sea” of a State.<sup>31</sup> A coastal State exercises sovereignty over its internal waters, subject to UNCLOS and other relevant provisions of international law.<sup>32</sup> A coastal State is permitted to require foreign flag-State ships to request permission before entering such waters, thus providing another indication into the importance of delimiting the boundary between the U.S. and Canada.<sup>33</sup>

The U.S. argues that the A-B line demarcates the extent of the land boundaries shared by the two States, but not the maritime boundary. The U.S. alternatively advances the argument that the A.B line demonstrates the extent of the land boundaries shared by the two States. The U.S. has called for the implementation of an equidistance line across the Dixon Entrance, bifurcating the sea passage to create respective maritime title.<sup>34</sup> Canada has objected to the application of the equidistance regime at the Dixon Entrance, criticizing it as “[in]appropriate” in light of the implicit historical conduct of both States.<sup>35</sup> Under the argumentation advanced by the U.S., the division of the Dixon Entrance would be located approximately 20 kilometers below the A-B line.<sup>36</sup>

Canada’s interpretation of the legal consequences of the A-B line would confer the preponderance of the Dixon Entrance to Canada. If the A-B line were to be confirmed as the maritime boundary between the two States, the U.S. would be “deprive[d] ... of any territorial

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<sup>26</sup> James Crawford, *Brownlie’s Principles of Public International Law*, 9th ed. (Oxford University Press, 2019), 260.

<sup>27</sup> Crawford, *Brownlie’s Principles of Public International Law*, 267.

<sup>28</sup> Evans, *International Law*, 637.

<sup>29</sup> Gray, “Canada’s Unresolved Maritime Boundaries,” 132.

<sup>30</sup> Gray, “Canada’s Unresolved Maritime Boundaries,” 133; McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 166.

<sup>31</sup> United Nations, “United Nations Convention on the Law of the Sea,” United Nations, Article 8, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

<sup>32</sup> United Nations, “United Nations Convention on the Law of the Sea,” Article 2.

<sup>33</sup> United Nations, “United Nations Convention on the Law of the Sea,” Article 25.

<sup>34</sup> Selkirk, “The Little-Known US-Canada Border War”; Gray, “Canada’s Unresolved Maritime Boundaries,” 133; Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 19.

<sup>35</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 418.

<sup>36</sup> Selkirk, “The Little-Known US-Canada Border War.”

waters within the Dixon Entrance adjacent to Cape Muzon on Dall Island, and severely restrict[ed] [in] the territorial sea area adjacent to Cape Charon on Prince of Wales Island.”<sup>37</sup>

An equidistance line is a fundamental principle of international maritime law that is employed to delimit the territorial seas and EEZ of two or more States.<sup>38</sup> Equidistance lines ensure that States respect the median line between relevant baseline points.<sup>39</sup> An equidistance line, however, can be deemed inapplicable in certain cases when it may produce a consequence at variance with historic title or other relevant circumstances.<sup>40</sup> In the absence of such a scenario, the equidistance regime has achieved a status of customary international law through recognition from the ICJ and subsequent State practice.<sup>41</sup> Under current understandings of maritime law, in negotiations between affected States, the application of an equidistance regime is not mandatory but rather up to the discretion of the State parties.<sup>42</sup> As Crawford observes, “States are free as between themselves to apply equidistance or to depart from it, to trade space for access to resources, and to give full, partial, or no effect to small features.”<sup>43</sup>

Canada and the U.S. hold relatively similar understandings of the maritime boundary seaward of the Dixon Entrance.<sup>44</sup> Both States accept the equidistance principle to the west of the Dixon Entrance, with the noted exception of Canada using Point A as its point of departure.<sup>45</sup> By contrast, the U.S. employs the most westerly point of its proposed delineation (just to the north of Leamouth Bank) as the terminus of the seaward boundary).

Some argue that this indeterminacy will persist until Canada surrenders its position that the A-B line is a settled delimitation of both the land and maritime boundary between the two States in the Dixon Entrance.<sup>46</sup> It remains evident that any compromise from the two States’ established position on the matter will result in the concession of fisheries and security matters, and, perhaps more existentially, the creation of a precedent for other, similar maritime disputes.<sup>47</sup>

## Historical Analysis

Historically, there have been disagreements and disputes over maritime boundaries between Canada and the U.S., reflected by an inability thus far to agree to the precise delimitation of their respective maritime areas.<sup>48</sup> The issues that predated the 1903 arbitral

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<sup>37</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 165.

<sup>38</sup> United Nations, “United Nations Convention on the Law of the Sea,” art. 15.

<sup>39</sup> United Nations, “United Nations Convention on the Law of the Sea,” art. 15.

<sup>40</sup> United Nations, “United Nations Convention on the Law of the Sea,” art. 15.

<sup>41</sup> Evans, *International Law*, 662.

<sup>42</sup> Crawford, *Brownlie’s Principles of Public International Law*, 270.

<sup>43</sup> Crawford, *Brownlie’s Principles of Public International Law*, 270.

<sup>44</sup> Gray, “Canada’s Unresolved Maritime Boundaries,” 134.

<sup>45</sup> Gray, “Canada’s Unresolved Maritime Boundaries,” 134.

<sup>46</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 426.

<sup>47</sup> Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 22.

<sup>48</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 3; Christopher Kirkey, “Delineating Maritime Boundaries: The 1977-78 Canada-U.S. Beaufort Sea Continental Shelf Delimitation Boundary Negotiations,” *Canadian Review of American Studies* 25, no. 2 (1995): 62.

decision resulted from conflicts over access to fishing grounds.<sup>49</sup> The most vital resources accessible in the Dixon Entrance are groundfish and particularly salmon stocks that move between U.S. and Canadian waters as they migrate back to their spawning grounds in rivers that fall wholly within the U.S. or Canada or which flow through both countries' territories (the Yukon River being one such example).<sup>50</sup> In this sense, conflicts over natural resources have been inflated to a diplomatic stasis between two uncompromising States.

The arbitral tribunal of 1903 was convened in order to substantially refine the terms of a 19<sup>th</sup> century Anglo-Russian treaty.<sup>51</sup> This initial treaty sought to determine the maritime area claimed by Great Britain and the Russia Empire at a time when their respective colonial possessions co-existed in the north-western corner of North America.<sup>52</sup> That treaty was renegotiated after the U.S. agreed to purchase Alaska from the Russian Empire in 1867, and it was that treaty which formed the basis for the competing views of its signatories as to what the delineation of the land boundary between Alaska and BC meant for their respective maritime interests.<sup>53</sup> The legal decision reached in the 1903 arbitral tribunal has provided the foundations of the current disjuncture between the Canadian and American positions on the matter of the Dixon Entrance.<sup>54</sup>

A provisional agreement negotiated in 1945 saw both States agree to fishing and navigation rights "outside of the respective three-nautical mile territorial seas."<sup>55</sup> BC's provincial government, however, was unwilling to acquiesce to this state of affairs, withdrawing from this agreement that would see both States respect an equidistance boundary.<sup>56</sup>

Canada continued to assert its sovereignty over the Dixon Entrance in the following decades.<sup>57</sup> In the mid-1960s, the frequency of Japanese and Russian fishing expeditions around the Hecate Strait and Dixon Entrance areas began to increase, prompting warnings from Canadian authorities as to Canada's claim that they were fishing in Canadian waters.<sup>58</sup> Canada has continued to advance the claim that the Dixon Entrance constitutes an historic internal water that gives rise to Canada's right to restrict the navigational freedoms of other flag-State ships.<sup>59</sup> From that point on, both Japan and Russia reduced their respective fleets' expeditions in the Dixon Entrance to negligible levels.<sup>60</sup>

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<sup>49</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 1.

<sup>50</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 166.

<sup>51</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 418–19.

<sup>52</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 418–19.

<sup>53</sup> Prescott and Schofield, *The Maritime Political Boundaries of the World*, 418–19.

<sup>54</sup> Byers and Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," 60.

<sup>55</sup> Byers and Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," 20.

<sup>56</sup> Byers and Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," 20.

<sup>57</sup> G.B. Bourne and D. M. McRae, "Maritime Jurisdiction in the Dixon Entrance: The Alaska Boundary Re-Examined," *Canadian Yearbook of International Law* 14, no. 1 (n.d.): 216.

<sup>58</sup> Bourne and McRae, "Maritime Jurisdiction in the Dixon Entrance: The Alaska Boundary Re-Examined," 216.

<sup>59</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 207.

<sup>60</sup> Bourne and McRae, "Maritime Jurisdiction in the Dixon Entrance: The Alaska Boundary Re-Examined," 216.

In 1977, Canada and the U.S. expressed a willingness to engage in maritime delimitation negotiations to address several areas of contested territory.<sup>61</sup> Canada sought to negotiate a ‘package deal,’ an attempt that was wholly rejected by the U.S.<sup>62</sup> Canada’s maritime positions in relation to the Beaufort Sea and the Dixon Entrance were anchored to ‘hard points;’ alternatively, in the cases of the Juan de Fuca Strait, the Gulf of Maine, and the area seaward of the Dixon Entrance, adherence to the equidistance regime would produce more favourable outcomes for Canada.<sup>63</sup> Canada did not want to jeopardize its prospects of achieving an advantageous settlement in certain regions by compromising its legal position in others. Recognizing Canada’s internally inconsistent maritime positions (i.e., advocating different approaches depending upon the different circumstances of each delimitation), the U.S. preferred a settlement of its maritime disputes in successive fashion.<sup>64</sup> Ultimately, the maritime jurisdictional issues shared by Canada and the U.S. remained unsettled due to both States being unwilling to concede their sovereign interests.<sup>65</sup>

Since this point, the enforcement of Canadian sovereignty over the Dixon Entrance has not been absolute. There has been considerable evidence of U.S. fishing vessels fishing in the Dixon Entrance with little to no Canadian enforcement of national fishing regulations.<sup>66</sup> Despite Canada’s efforts to argue that the Dixon Entrance are Canadian internal waters, the three-nautical-mile limit has not been adhered to by U.S. fishing operations for decades.<sup>67</sup> In the early 1980s, both countries agreed to respect flag State enforcement of fisheries in the disputed territory.<sup>68</sup> Conduct relating to fisheries and fishing vessels has been far from pacific in some cases. There are reports of Canadian fishing expeditions—conducted in what Canada claims to be its sovereign maritime territory—being apprehended by U.S. fishery protection and enforcement agencies.<sup>69</sup>

The 1990 Canada-U.S. Fisheries Enforcement Agreement was intended to equally penalize States for illegal fishing operations.<sup>70</sup> In conformity with maritime law, Canada and the

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<sup>61</sup> Kirkey, “Delineating Maritime Boundaries: The 1977-78 Canada-U.S. Beaufort Sea Continental Shelf Delimitation Boundary Negotiations,” 62; Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 5, 20; McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 118.

<sup>62</sup> Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 20.

<sup>63</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 118; Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 60.

<sup>64</sup> Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 20.

<sup>65</sup> Kirkey, “Delineating Maritime Boundaries: The 1977-78 Canada-U.S. Beaufort Sea Continental Shelf Delimitation Boundary Negotiations,” 59.

<sup>66</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 270.

<sup>67</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 166.

<sup>68</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 285.

<sup>69</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 221.

<sup>70</sup> McDorman, *Salt Water Neighbours: International Ocean Law Relations Between the United States and Canada*, 285–86.

U.S. reaffirmed the primacy of sovereignty over internal waters and territorial seas.<sup>71</sup> In these zones, both countries acknowledged the existence of “sovereign rights for the purpose of exploration, exploitation, conservation and management of the living marine resources” present at the Dixon Entrance.<sup>72</sup>

## Current Obligations of the Government of Canada

One of the most salient considerations for the Government of Canada in proceeding with maritime negotiations around the Dixon Entrance must be the consideration of the Haida Nation. Haida Gwaii, the archipelago directly south of the Dixon Entrance, is home to a historical and robust indigenous community, the Haida Nation, whose occupation of the archipelago dates back tens of thousands of years.<sup>73</sup> Under Canadian law, the Government of Canada has a duty to consult indigenous communities in matters pertaining to land and water usage.<sup>74</sup> Section 35 of the *Canadian Charter of Rights and Freedoms* recognizes and affirms the pre-existing and lasting rights conferred to Aboriginal and indigenous communities in relation to land claims.<sup>75</sup>

If Canada and the U.S. were to engage in renewed discussions over maritime delimitation, it would be incumbent upon the Canadian government to consult with the Haida Nation.<sup>76</sup> As expressed by the *Gaayhllxid Giihlagalgang Haida Title Lands Agreement*—reached between the Haida Nation and the province of British Columbia—land and resource decisions administered by the provincial government would be made consonant with the principles of Haida living and being.<sup>77</sup> As such, while Canada possesses the international right and legal personality to engage in maritime delimitation, the Haida are entitled to articulate their own interests in relation to the use of the Dixon Entrance. The “overlapping jurisdictional and

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<sup>71</sup> Government of the United States of America and Government of Canada, “Agreement Between the Government of Canada and the Government of the United States of America on Fisheries Enforcement,” Government of Canada, 1991, <https://www.treaty-accord.gc.ca/text-texte.aspx?id=101427&lang=eng>.

<sup>72</sup> Government of the United States of America and Government of Canada, “Agreement Between the Government of Canada and the Government of the United States of America on Fisheries Enforcement.”

<sup>73</sup> Danielle DiNovelli-Lang, “The Haida Gwaii Lesson: A Strategic Playbook for Indigenous Sovereignty,” *American Ethnologist* 45, no. 3 (2018): 445–46; Daryl Fedje et al., “Karst Caves in Haida Gwaii: Archaeology and Paleontology at the Pleistocene-Holocene Transition,” *Quaternary Science Reviews* 272 (November 2021), <https://doi.org/10.1016/j.quascirev.2021.107221>.

<sup>74</sup> Byers and Østhagen, “Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?,” 18.

<sup>75</sup> Constitution Act, 1982 (1982). <https://laws-lois.justice.gc.ca/eng/const/page-12.html>.

<sup>76</sup> DiNovelli-Lang, “The Haida Gwaii Lesson: A Strategic Playbook for Indigenous Sovereignty,” 446.

<sup>77</sup> Haida Nation and Government of British Columbia, *Gaayhllxid Giihlagalgang “Rising Tide:” Haida Title Lands Agreement* (Government of British Columbia, 2024), 1–12, [https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/final\\_gaayhllxid\\_giihlagalgang\\_rising\\_tide\\_haida\\_title\\_lands\\_agreement.pdf](https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/final_gaayhllxid_giihlagalgang_rising_tide_haida_title_lands_agreement.pdf); Government of British Columbia, “Provincial Agreement on Haida Aboriginal Title,” Government of British Columbia, February 19, 2025, <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/first-nations-a-z-listing/haida-nation-council-of/haida-title-agreement>.

sovereignty claims” present between Canada and the U.S. would be subject to the application of another layer of internal complexity insofar as Canada, as a sovereign actor, is concerned.<sup>78</sup>

An agreement achieved between the Haida Nation and the Government of British Columbia in 2024 granted Haida Aboriginal Title throughout Haida Gwaii.<sup>79</sup> Aboriginal title makes reference to the “strongest form of Aboriginal right” recognized under the 1982 Canadian *Constitution Act*.<sup>80</sup> Relevantly, the provision of Aboriginal title “does not displace Crown title or undermine Crown [or federal] sovereignty.”<sup>81</sup> As such, decisions relating to Aboriginal title land are to be engaged in through multiple levels of decision-making, from the localized indigenous experience up to the Canadian federal level. More recently, after extended negotiations between the Haida Nation and provincial and federal authorities, the Haida Nation was conveyed the right to “exercise its jurisdiction on Haida Gwaii in accordance with inherent Haida titles and laws.”<sup>82</sup> This is expected to occur concurrently with the exercise of provincial and federal authority, leading to unresolved questions about the legal personality of the Haida Nation.<sup>83</sup> Now that the Haida Nation enjoys legal title to the land, there could be questions raised about whether or not this confers upon the community a right to participate in maritime delimitation agreements that have an impact on the archipelago.

In the intermediate period between the transference of rights guaranteed by the province of British Columbia to the Haida government, certain provincial laws continue to be applied.<sup>84</sup> In future, both the Haida Nation and the government of British Columbia have expressed willingness to engage in a collaborative process to “guide decisions about land and resources on Haida Gwaii.”<sup>85</sup> Under the terms of this new agreement, the ‘land’ of Haida Gwaii makes reference to “foreshore and land covered by water,” an imprecise formulation that is not necessarily inclusive of the area proximate to the Dixon Entrance.<sup>86</sup> This has since been clarified to confirm that “the Haida have Aboriginal title over all of the islands’ lands, beds of freshwater bodies, and foreshores to the low-tide mark.”<sup>87</sup> Under the current terms of the agreement

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<sup>78</sup> Schofield, “The Trouble with Islands: The Definition and Role of Islands and Rocks in Maritime Boundary Delimitation,” 19.

<sup>79</sup> Government of British Columbia, “Provincial Agreement on Haida Aboriginal Title.”

<sup>80</sup> Robin M. Junger et al., “More Than Meets the Eye: The Legal Implications of British Columbia’s Agreement to Recognize Aboriginal Title Over Haida Gwaii,” *McMillan*, April 23, 2024, <https://mcmillan.ca/insights/publications/more-than-meets-the-eye-the-legal-implications-of-british-columbias-agreement-to-recognize-aboriginal-title-over-haida-gwaii/>.

<sup>81</sup> Junger et al., “More Than Meets the Eye: The Legal Implications of British Columbia’s Agreement to Recognize Aboriginal Title Over Haida Gwaii.”

<sup>82</sup> Haida Nation and Government of British Columbia, *Gaayhllxid Giihlagalgang “Rising Tide:” Haida Title Lands Agreement*.

<sup>83</sup> Haida Nation and Government of British Columbia, *Gaayhllxid Giihlagalgang “Rising Tide:” Haida Title Lands Agreement*.

<sup>84</sup> Government of British Columbia, “Provincial Agreement on Haida Aboriginal Title.”

<sup>85</sup> Government of British Columbia, “Provincial Agreement on Haida Aboriginal Title.”

<sup>86</sup> Lieutenant Governor in Council of British Columbia, “Haida Gwaii Reconciliation Act,” Government of British Columbia, June 3, 2010, [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/10017\\_01](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/10017_01).

<sup>87</sup> The Canadian Press, “Canada Recognizes Aboriginal Title over Haida Gwaii in Historic Agreement,” *Canadian Broadcasting Corporation* (British Columbia), February 17, 2025, <https://www.cbc.ca/news/canada/british-columbia/haida-gwaii-aboriginal-title-federal-agreement-1.7461151>.

between the Haida Nation and BC, land and resource management decisions will be determined by the latter, before being rendered consistent with the principles of Aboriginal title.<sup>88</sup>

Certain authorities and responsibilities that have been specifically vested in the Province include “income tax, marine matters, including the water column and navigation,” prompting considerations about the influence of maritime delimitation discussions on Haida authority.<sup>89</sup> Importantly, one stipulation of this agreement was that it does not detract or derogate from the federal powers over maritime areas around Haida Gwaii.<sup>90</sup> What is relevant to establish in the case of the Dixon Entrance is whether or not the Haida Nation enjoys the legal status necessary for inclusion in discussions of maritime delimitation. While it is understood that Canada possesses the sovereign right to engage in maritime delimitation negotiations, it is not inconceivable that the Haida Nation or the Province could prolong such discussions if they are unsatisfactory to those interests.

I embarked on this research project interested by two ongoing and—seemingly, at the time—interrelated dynamics: the persistent negotiations between the Haida Nation and the Provincial Government of BC and federal Government of Canada. I was fascinated by the prospect of disentangling how Canada’s internal, constitutional duties to the Haida may challenge its successful resolution of maritime delimitation with the U.S. at the Dixon Entrance. As such, there seemed to be a set of rich intersections between the multiple levels of Canadian government, the U.S., and the Haida Nation.

As it turned out, I came to understand that in more recent understandings of the agreement between the federal and provincial governments and the Haida Nation, the Haida have accepted that the extent of their maritime jurisdiction ends at the low-water mark. Beyond that, it is Canada that possesses responsibility for fisheries and other such related issues. It is Canada as a sovereign state that has a claim to whatever rights appertain to Canada under international law in relation to maritime delimitation. Within Canada, there is an accommodation between whatever duties exist in the Canadian Crown vis-à-vis the Haida and Canada’s ability to act as a State in international law. In other words, Canada has continued to have its domestic responsibilities under the Constitution, but the agreement reached with the Haida recognized that whatever rights, as appertaining to the Haida under Aboriginal title, did not go so far as to impinge on Canada’s ability to negotiate maritime boundaries with the U.S. After having spent a great deal of time researching this issue, what was remarkable was the relative paucity of opinions on this issue. Given that the Haida were and are a sea-faring nation, it is inconceivable that they did not fish in U.S. waters.

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<sup>88</sup> Haida Nation and Government of British Columbia, *Gaayhllxid Gihlagalgang “Rising Tide:” Haida Title Lands Agreement*.

<sup>89</sup> Haida Nation and Government of British Columbia, *Gaayhllxid Gihlagalgang “Rising Tide:” Haida Title Lands Agreement*.

<sup>90</sup> Haida Nation and Government of British Columbia, *Gaayhllxid Gihlagalgang “Rising Tide:” Haida Title Lands Agreement*.

## Wider Geopolitical Implications

Notwithstanding the discord that these extant delimitation disputes have occasionally generated between the two States, both countries have demonstrated an ability to work around and accommodate their diverging opinions on the territorial status of the Dixon Entrance. In short, they have agreed to disagree. That said, the question of the territorial status of the Dixon Entrance does relate to several salient political considerations.

For example, a moratorium on offshore oil and gas production on Canada's west coast has inhibited exploratory ventures in the Dixon Entrance. It is possible that this area could possess significant hydrocarbon resources.<sup>91</sup> U.S. submarines also frequently traverse the Dixon Entrance to return to naval bases in Alaska.<sup>92</sup> Access to the rich fishing grounds in the Dixon Entrance area could be widely different depending on delimitation outcomes secured by adherence to the A-B line or an equidistance principle. I argue that contemplating the consequences of maritime delimitation in the region is a worthwhile endeavor for both States, but it cannot be denied that the risk of an adverse outcome is a constraint on both States' desire to seek a final determination—particularly in the context of third-party decision-making by arbitral tribunals or the ICJ.

This research synthesizes a historical-political and policy-oriented approach towards maritime delimitation. This serves the objective of understanding how international maritime practices have been confronted with domestic *de facto* action. The UNCLOS was developed to provide codifications of maritime law that could be applied around the world. That said, a considerable breadth of the law of the sea derives from localized domestic and regional practice. As such, it is evident that customary State practice, produced from individual cases of delimitation, can have ramifications for maritime law.

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<sup>91</sup> Byers and Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," 20.

<sup>92</sup> Byers and Østhagen, "Why Does Canada Have So Many Unresolved Maritime Boundary Disputes?," 60.

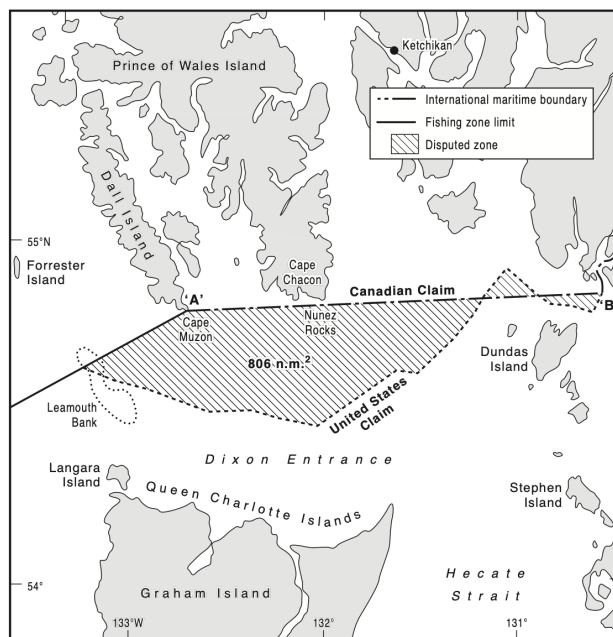
## Appendix

Figure 1: Dixon Entrance



Thomas, Lauren. *Map of Dixon Entrance*. ArcGIS, 2025.

Figure 2: Dixon Entrance



Gray, David H. "Dixon Entrance" in *Canada's Unresolved Maritime Boundaries*. IBRU Boundary and Security Bulletin, Autumn 1997. [https://www.durham.ac.uk/media/durham-university/research/research-centres/ibru-centre-for-borders-research/maps-and-databases/publications-database/boundary-amp-security-bulletins/bsb5-3\\_gray.pdf](https://www.durham.ac.uk/media/durham-university/research/research-centres/ibru-centre-for-borders-research/maps-and-databases/publications-database/boundary-amp-security-bulletins/bsb5-3_gray.pdf).

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