A TYPOLOGY OF BORDERS

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I. Introduction

During the last thirty years or so it has been fashionable to assert that with the never-ending expansion of means of communications and transport, and with the all-pervading globalisation of the world economy, the importance of borders has receded. This is not true, however. On the contrary, borders are as important as ever in the fabric of international relations. This point is illustrated by the fact that border issues continue to be brought before the International Court of Justice (ICJ) and arbitral tribunals, and that international lawyers still write about them—witness a recent book on the boundaries of Switzerland. Who would have thought that there remained interesting things to say about the boundaries of an old country in the heartland of Europe?

The objective of this contribution is to draw up an inventory of the different types of borders currently in use and their functions. To attempt a definition, “borders”, as a general category, are “means of identifying, directly or indirectly, spaces to which given legal rules or regimes, such as State sovereignty, are to be applied”. This is a broad and abstract definition. It covers the determination of spaces to which certain customary or treaty rules are intended to apply, for instance the lines separating air space from outer space, or those identifying the spatial scope of the Antarctic treaties—the 60th parallel of southern latitude,

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1 The term “borders” is used here in its most general sense, as encompassing all types of dividing lines: land boundaries, frontiers, limits and delimitation lines.


3 According to the International Court of Justice (ICJ), establishing a border means “to draw the exact line or lines where the extension in space of the sovereign powers and rights” meet. Continental Shelf of the Aegean Sea, Greece v. Turkey, judgment of 19 December 1978, ICJ Reports 1978, p. 3, § 85.
or the “Antarctic Convergence”, that is, the line formed by the points where the icy waters of the Antarctic meet the warmer waters coming from the north.\(^4\) The definition also includes borders within borders, for example the lines separating administrative divisions of the same State.\(^5\) The present contribution will focus, however, on the borders determining the spatial jurisdiction of States, i.e. dividing spaces appertaining to different States, or to the same State, or national and international spaces. Within these parameters, the essence of this study shall be devoted to drawing up an inventory of the different types of international borders or similar dividing lines.

II. Territory and Borders

Logically, though not historically,\(^6\) the acquisition of a territory precedes the establishment of its borders, that is, its delimitation and demarcation.\(^7\) A long time ago, “discovery” by viewing a territory from a distance was deemed

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\(^5\) National borders can be transformed into international ones: in Latin America and in Africa internal administrative separation lines have become international borders on the basis of the *uti possidetis* principle, see the judgment handed down by a chamber of the Court on 22 December 1986 in the *Frontier Dispute* between Burkina Faso and Mali, *ICJ Reports 1986*, p. 554, § 23.

Conversely international borders can see their status reduced to that of domestic separation lines, for instance when two or more States decide to merge, or if one State absorbs another, as was the case of the Swiss cantons in 1848 and, more recently (1991), of the Federal Republic of Germany and the German Democratic Republic. As noted by C. Rousseau, *Droit international public*, Vol. III, Paris, Sirey, 1977, pp. 239–240, these transformations have not always been smooth ones, as the lines in question could be imprecise or incomplete, or be based on elements which did not correspond to the realities of the border area. This observation is especially valid for colonial boundaries, which is why *uti possidetis* is not always the last word in the determination of borders.

\(^6\) If an original mode of acquisition such as discovery or occupation is at issue, acquisition precedes the drawing of boundaries, both historically and logically. If the acquisition is derivative, i.e. the result of succession or cession, the primacy of acquisition is logical but not historical; from the temporal angle, the boundaries of the space transferred are the previously existing ones.

\(^7\) According to the ICJ, “delimitation” is “the process whereby the course of the boundary is described in words or maps in a legal instrument”, and “demarcation” is “the process by which the course of the boundary is marked out on the ground”. *Land and Maritime Boundary between Cameroon and Nigeria*, merits, judgment of 10 October 2002, *ICJ Reports 2002*, p. 303, § 80. Quoting its judgment in the *Territorial Dispute* (Libya/Chad) of 3 February 1994, *ICJ Reports 1994*, p. 6, at § 56, the Court adds, in § 84 of its 2002 judgment, that “the delimitation of a boundary consists in its ‘definition’, whereas the demarcation of a boundary, which presupposes its prior delimitation, consists of operations marking it out on the ground”.
