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P R O C E E D I N G S

MS. SISSON: Hello, and on behalf of the Brookings Institution, welcome to today's conversation. My name is Melanie Sisson and I've been really looking forward to this discussion very much. After all the oceans cover 71% of the earth's surface, and great power competition accounts I think for roughly that same proportion of foreign policy discourse these days.

And so the scholarship of Indiana University's David Bosco and Ocean Governance of Brookings, Bruce Jones, on the intersection of commerce and maritime power really couldn't be more timely. And of course we're delighted also to have Lindsey Ford, who as Deputy Assistant Secretary of Defense for South and Southeast Asia, and thus all the public service of working very directly on these issues every day.

We have a lot to cover, probably too much for the mere 50 some minutes remaining, so I want to go ahead and get us moving.

And I'd like to begin with you, David. First with a congratulations on the release of your really rich study of ocean governance. I'm going to put it up here for everyone to see the lovely cover art. Compliments you mentioned in the acknowledgements that your children were very influential in terms of picking what is on the books. So kudos to them. But it's a really rich study of ocean governance. And I really want to commend you for making it a truly enjoyable read, not least by doing things like what I assume was prevailing over your editor to ensure phrases like "empty twaddle" made it into print.

So, David, if you would just start us off by telling us about the contents of "Freedom of the Seas," where it came from, how and why it became so important, and a little bit about what you see as its modern meaning. Over to you.

MR. JONES: Yeah. Thanks so much, Melanie. It's such a great honor to be part of this. Yeah, I think it's an interesting time for sure to examine these questions

because I feel like the issue of freedom of the seas is probably getting as much attention, you know, in recent years as it has in quite a long time. And in particular, you know, if we watch the friction that obviously Lindsey is watching closely in terms of Asian waters and the South China Sea, and in particular an awful lot of what is going on there is described as a kind of contest between freedom of the seas on the one hand and the desire of certain governments to exercise control over ocean space.

And that of course is a pretty familiar dynamic through a lot of history. And so when we see, you know, U.S. Navy deployments to that area you will often see press releases talking about how the mission is to defend freedom of the seas in the area.

And I don't think the description of, you know, what's going on there as kind of a contest between this idea of the oceans as free for all to use and the desire of some countries to exercise greater control is necessarily all wrong or even wrong in large part. But I do think it kind of misses a lot of the broader historical story. And in the book I try to sketch out that history of, you know, how freedom of the seas developed as a doctrine.

And obviously here we go back to the early 1600s and Hugo Grotius and the contest between the Dutch and the Portuguese. But I think one of the things that gets kind of missed in the idea that there's just this kind of perpetual battle between freedom of the seas and the desire of some states to control more of the oceans, is how much has actually changed in term of the last century or so when it comes to control of the oceans and how the broader historical trend, I would argue, is in many ways cutting against freedom of the seas and cutting against kind of the Grotius idea of the seas as an unowned commons.

And, I think, you know, we can talk about some of the reasons that that's the case. I think there's some very good reasons that that's the case, including a heightened awareness of what kind of free use of the oceans and treating the oceans as kind of unowned does for the ocean environment and for ocean resources. And then there are

some other reasons that would be important to unpack as well, military and strategic.

But I think in any case we need to see a much more complex picture here about whether freedom is really the right way of thinking about the oceans and the right kind of rubric for dealing with ocean governance.

MS. SISSON: Great, thanks. We certainly will return to a lot of those themes and questions and points that you raised. But before we sort of really dig into some of that I also want to turn and introduce Bruce Jones and his also excellent book which I also am going to put up so that it gets seen and hopefully purchased by many. It's really another great read, "To Rule the Waves."

I have to say, Bruce, that I'm hopeless when it comes to maps, and so one of the features of this book that I really enjoyed is that you begin the chapters by describing geography. And then for whatever reason the way you write it you do it so well that I actually understand it and can map it mentally in my brain. So what I take away from the book is that I need a Bruce Jones narration extension for my Goggle maps app. But until they get there, let's just talk about the book itself.

And, you know, David focused on sort of the notion of freedom of the seas and the history of that idea conceptually and the tensions that exist around it today, which we'll get back to.

I want to talk to you about something you focus on very much in your book, which is about power. And specifically I'm hoping you'll share some thoughts on the historical and current relationship between maritime trade, obviously very central to your book, and naval military power.

MR. JONES: Thanks. And it's a delight to be with David, whose book is terrific, and to be with Lindsey as well, whose did superb work at Brookings and is now trying to keep us safe in the Western Pacific.

From my vantage point the moment that we're living through is its most important geopolitical fact -- notwithstanding the severity of what's happening in Ukraine and the Russian crisis -- its most important geopolitical fact is China's return to the high seas for the first time in 500 years.

Here is a country that was a major maritime power in the 1400s, withdrew from the seas, long history of being penetrated by European colonizers, launched into those waters by naval power. And of course now we've seen this sort of huge change in globalization and commercial affairs, China's economic and commercial rise, largely through sea-based trade.

And I think this is often missed in discussions of globalization is quite how important sea-based trade is to globalization. Roughly 85 percent of the global economy actually of global trade moves by sea. And the place it moves most frequently in and out of is Chinese ports. As China is hugely dominating actor in global commerce, seen through the charisma of sea-based trade.

That over the last couple of decades triggered a naval return to the seas. And we've seen this extensive Chinese naval buildup initially in what they call their near seas, the Yellow Sea, the East China Sea, the South China Sea, and crucially, the Taiwan Strait, but increasingly further afield in what they call the far seas, in the Arctic, and the wider reaches of the Pacific, in the Indian Ocean and beyond in increasingly now, even in the Atlantic and the Southern Oceans.

And what that is doing, it seems to me, is it's casting us back into a mode that we were not really in during the Cold War but we were in the previous several hundred years where command of the high seas was sort of the feature of hegemonic power, the feature of their domination of global affairs. Obviously Britain achieved, you know, 250 to 300 year run with command of the high seas, and we still live in a world that was shaped by

the interactions of the rest of the world and the British Navy.

Naval power as a kind of dominate feature generally receded somewhat during the Cold War but it's come racing back and we're now in this very acute arms race, naval and technological arms race with China in the Western Pacific, which has pulled in India and Russia and Japan and Australia and all the countries that Lindsey has to look after. And it really has become I think the turning point of globalization of geopolitics is this Chinese search for, if not to displace us on the high seas, then certainly to curtail our sole command of the high seas, what I call counter-hegemonic effort by Chinese to limit our command of the high seas. And then that's really reshaping geopolitical affairs, certainly in Asia, but I think increasingly beyond.

MS. SISSON: Good. Thanks. I'm going to take that and sort of turn it right over to you, Lindsey. Both David and Bruce have highlighted already the South China Seas, Near Seas and the Indo-Pacific broadly. And so I'd like to ask you to share from the perspective of the Department what it is that the United States would like management of the Indo-Pacific, let's say, of those waters to look like. What does the Department see as China's vision for management of the waters of the Indo-Pacific? And what is each country doing in order to achieve their respective visions?

MS. FORD: Thanks, Melanie. And thank you to Brookings for having me at this event. It is great to be back with old friends.

So I guess let me tie together a couple of the thoughts that both Bruce and David offered to answer your question. I agree very much with David's point, there is actually some nuance and gradation when we talk about ocean governance. And when you look at how the United States operates in the maritime domain I think that that is important because much of what the United States does when it has to do with our operation is actually very dependent upon the different ways that we think about ocean governance in

various parts of the maritime domain.

So critically when the UN Law of the Sea Treaty was being negotiated there were real tensions between what are sort of the interests of rhetorical states at maintaining sovereign rights and then the interests of a lot of ocean-going states to maintain that idea of freedom and openness. And you see that when you look at the way that international law talks about rights in the maritime domain. So the rhetorical states have certain sovereign, whether that comes to what they do militarily or with their economic reasons in their own waters.

And then oceangoing states also have certain rights and freedoms, particularly in the high seas. So the area of the oceans that don't actually belong to any single country. The United States is both an ocean-going state and a state that certainly has interests when it come to our own sovereign rights in our own rhetoric. And so fundamentally the interest that the United States has is in ensuring that we can uphold our own rights and ensure that that kind of principle approach to oceans governance that preserves rights both on the high seas but for sovereign states, remains in place.

So that is certainly why in places like the South China Sea you see, and elsewhere frankly, the United States operating in a way with the Navy that helps ensure that all states, not just the U.S., can exercise, you know, their pre-right to transit on the high seas. We think that's a fundamental principle that's enshrined in international law and customary international law. And so what you've seen is the Department of Defense say before that we will, you know, fly, sail operate anywhere that international law allows. So this is a principled approach.

We also believe that states have the right to pursue their own sovereign use of resources. So when it comes to the South China Sea, there are multiple states around the South China Sea, they have exclusive economic norms that they have the right to exploit

as they choose. And the United States thinks that they should have the freedom to do so.

Certainly I think you see China behaving in a way sometimes that suggests that they neither uphold the free rights that they have on the high seas nor the common rights that some states have in their own explicit economic zones. So for us it's fundamentally a principled thing. It's ensuring that all states basically have equal rights in the maritime zones.

MS. SISSON: Great, thank you. And actually I just want to pick up on you mentioned the way that the United States and the Navy operate in these waters. And if you could just briefly touch on freedom of navigation operations. There tends to be sort of, you know, at least some confusion, maybe, about sort of the purpose of FONOPS, as they're called, what they're for, what they're not for. And so if you could just sort of elaborate on that a little bit I think that would be really informative. Thanks.

MS. FORD: Sure, happy to. I guess picking up where I just left off. Freedom of navigation operations are simply an operational way through the U.S. Navy to exercise and support the rights that are afforded and the principles that are afforded through international law and customary international law. So it is purely about principle.

It is important to say that what we do operationally through freedom of navigation operations. I recognize that that gets seen, it gets talked about a lot because ships are moving and that tends to make the news more. But it is only one component of what the U.S. government does.

When we talk about freedom of navigation there is an interagency approach. So what we do operationally supports what the State Department and our diplomats do on the diplomatic side to work to uphold the rules and to push back against what we see as excessive maritime claims. So when states make excessive maritime claims, the U.S. government, in a variety of ways, will push back against that diplomatically,

and say what you are trying to claim here is not actually in accordance with the law of the seas and what countries have signed up to.

All the U.S. Navy is doing is essentially operating in a way that supports what we have diplomatically said is in line with international law. I would also say that the way that we do that is agnostic of country. I realize it makes the news a lot of times strictly in the China context, but the United States Navy does frequent navigation operations all over the world, anywhere that we think that there are excessive maritime claims that we want to support what we are saying about those on the diplomatic side.

MS. SISSON: Great. Thank you. David, I want to pull you into this, so if you have something you could add to this portion of the conversation I would appreciate it. Over to you. Sorry, you're still on mute. Thank you.

MR. BOSCO: Just wanted to push back a little bit on some of what Lindsey said. So the argument that the United States' position is all about the principle is I think, I mean that's certainly very consistent with what the U.S. says and what our rhetoric has been about this. But I think sometimes that tends to lead U.S. policymakers and U.S. observers to ignore the kind of basic realist logic that's at work when it comes to freedom of the seas and freedom of navigation. Which is to say that there is a way in which some of these freedom of navigation issues matter to the leading naval power in a way that they really don't matter, in many respects, to other countries.

And so just to pick on a couple of issues. The United States is extremely rigid about its view of going through territorial waters, for example, using innocent passage and not having to notify the coastal country. And there's a legal debate that you can have about what the UN Convention says about that.

The United States is also very rigid about the issue of its right to operate within the exclusive economic zones of other countries. And this matters greatly to the

United States because the United States has an ocean-going Navy and has intelligence operations and other operations that it wants to conduct in close proximity to other countries' coasts.

But for most countries in the world, those issues don't matter and the U.S. position is kind of an outlying position. So I think we need to take into account here that there is this kind of realist logical and that it's actually not all about principle, it's also about power and how power is exercised.

And on that point I think it's important to realize that there's a lot of complexity under the surface, even within the Indo-Pacific region. And this is what I was trying to hint at a little bit at the outset. That while the overlaying dynamic seems to be kind of many countries in the region with the United States pushing back against China's claims, if you look at what other countries in the region actually say about their maritime rights, including India, for example, a quad member, which has legislation on the books about its exclusive economic zone limiting the right of foreign military to operate in their exclusive economic zone, you get a much more complex picture here. That there are many countries in the region actually that don't really agree with a lot of the U.S. interpretation about UNCLOS, but this is all kind of layered over with this strategic competition with China. And I think that kind of tends to drown everything else out.

And so I'm not kind of making a policy recommendation here, I'm just trying to say there's kind of a lot of complexity under the surface that I think the rhetoric and the notion that everything is just about principle is kind of ignoring.

MS. SISSON: Thanks, David. And all points well taken I think in terms of developing the conversation a bit further. So I actually want to pick up a little bit on the legal structures, the principles underlying, and this reference to some of the other states that are involved. In fact the sort of entire community of nations, right?

And you have this really nice line in the book. If you'll forgive me I want to find it. Where you say "One of the fundamental challenges facing an ocean regime that prizes freedom of access is keeping the forces that maintain order from a serving dominion." And I think that often gets subsumed in the conversation about great power competition when we think about the dynamics between China and the United States, as you've just sort of aptly described. And it seems to me that it's international law, right, that is what keeps either or both of those states potentially, or sort of hopes to, it keeps them from asserting that kind of dominion on the basis of power politics that I think that you're describing there.

And so the question for me is do you think our current structures, our current legal regimes, international law, is adequate to this task, where do you see frictions, are they degrading, are they going to collapse, are we going to need to adapt and rebuild? It's too late now, but I suppose the shorter way to ask that question would have been where do we stand in terms of the legal order and the strength of that order for the oceans today?

MR. BOSCO: Yeah. I mean I guess I would say we're in flux. And there's a lot of terms going on in terms of interpretation questions, you know, interpretations about states, coastal states' rights within the exclusive economic zone, interpretation rights about transit through territorial waters, interpretation about, for example, the Arctic and what is the legal status of say the Northwest Passage and the Northern Sea Route.

And so there is a, yes, there is UNCLOS, but UNCLOS is still being interpreted in a variety of different ways. One of the unfortunate things of course is that the United States is not really part of those deliberations in terms of at least through the law of the sea institutions, the Law of the Sea Tribunal, the International Seabed Authority, because the United States is of course not a member of UNCLOS. And so that leaves the United States a little bit kind of on the outside in terms of how these things are being interpreted. And, you know, from a non-U.S. perspective, I think freedom of navigation

operations are kind of, like what might be viewed as a kind of typically American way of putting their own interpretation on a legal document. Which is, you know, we're going to use our military force to advance our own interpretation of a legal text. Rather than, you know, bringing it to an international quarter, that kind of thing

So I think it's in flux. I think it's in flux and I think, you know, lawyers love to argue about the fine points of UNCLOS, but it's not clear in a historical sense to me that UNCLOS is necessarily the kind of ending point for ocean governance, and there's probably a lot more to the story to come, including those negotiations, for example, that are under way up at the UN right now about high seas, you know, further governance for and regulation of uses of the high seas. So I think it's an evolving story, not a story that is kind of finished with UNCLOS.

MS. SISSON: Thanks. And I will just say, you know, and correct me if I'm wrong, but my reading of your book left with at least a hopeful note that, as you say, this place of flux isn't, you're not quite sure quite where it's headed but there's reason to hope that there's maybe sort of a multi-dimensional legal approach that we can continue to pursue into the future.

I want to turn to you, Bruce, to touch on some of those power dynamics. And of course offer you an opportunity to comment on anything that has preceded. So I'm going to put my question out on the table for you, and then you can pick and choose from what's there and proceed.

I'm curious when we talk about power dynamics, you focus very much on the interplay between commerce and power. And a question for you that emerges from the reading I think is, you describe the United States as being the banker to the global economy. But then there's a question of global trade security. And I'm curious about your take on could the United States remain the banker but have China be the anchor of the security.

Over to you.

MR. JONES: Thanks, that's a great question. A couple of small thoughts first. So, David, I understand your push back on Lindsey but I have to say it seems to me that there's also a lot of countries are in the happy position of being able to have their cake and eat it as well, right? And they certainly want the United States using its Navy to push back on piracy and push back on other people coming through their waters. And so that, you know, people may say they don't agree with you as an interpretation, and in some cases that's real, but there are things that the United States does that a lot of people quietly support and because so many countries are so dependent on sea-based globalization. That piece of the U.S. role, not the freedom of navigation on UNCLOS style with the kind of protection of the sea lanes of commerce, the sea lanes of communication, free flow of energy is, I think, understood and largely appreciated by an awful lot of people.

I do share your view that the, you know, there was for a time a set of understandable reasons why we didn't want to sign UNCLOS. But it seems to me that given how centrally we have put freedom of navigation as a kind of central tenant of "rule space order," a phrase I hate, but find others use it, the President uses it. The disadvantages signing it are much less than it used to be, and the advantages of signing would be real.

That being said, and this will come to, Melanie, your question. That it could be perfect global implementation of UNCLOS and it's completely silent on the thing that's going to take us to war with the Chinese, I mean right? I mean it's completely silent on the question of the disposition of our naval forces, the disposition of their naval forces. That is not a space which is regulated and or governed in those terms. And I'm sort of struck if you compare it to the way we built up of a regime for sort of bilateral and trilateral and sometimes multilateral regime for arms control in the new course of space and conventional spaces in Europe, we don't have anything remotely similar in the naval space. As we have this very

acute arms race and very tense deployments, we have American ships shadowing Chinese ships and vice versa sort of every day. China and Japan, India, Russia, everybody, I mean it's a big body of water but it's still a small space if you look at it in those terms, 200 submarines in any given time underneath the South China Sea. You know, our regime for governance doesn't even touch on that. And that's I think a space we might want to explore.

But, Melanie, specific, you know, if we, it seems to me that there was a phase in our relationship with China and a phase in the evolution of their strategy in the kind of early 2000s where they were very preoccupied by their vulnerability, you know, their economy is so dependent on the flow of goods in through those ports, both energy goods and commercial goods. They were so acutely aware of that vulnerability, acutely aware of our potential capacity to choke those bodies of water off that they began contributing to global counter piracy efforts in the Indian Ocean and Malacca Straits, etcetera. And there was a brief period it seems to me when both in their Navy and in our Navy, we were talking about whether it was possible to be in a kind of a co-management, (audio skip). But I think that that moment has long since passed and as their strategy has evolved they've adopted a much more sort of assertive posture in the far seas. They've built weapon systems such are designed to deter us from coming into the near seas, the relationship as a whole has deteriorated. I think it's not likely that we're going to see those kinds of evolutions.

And last point, the role that we play as banker of the global economy, 50 percent of profits recorded in the United States economy come out of the financial sector, and that's from our role as the kind the financier of global trading and global investment. I think it is actually intimately tied to our global security role. There's one of the reasons that we had sort of the faith in the U.S. dollar, one of the reasons why people have, well sort of treat the United States as a banker of last resort. It's not just the financial systems, but it is that broader role that we play in international security. So to my mind they are much more

closely linked. And I don't think we're going to see a scenario in which we stop playing the role of the guaranteeing and security of trade on the high seas, but maintain the financial position. I think maybe for a brief period of time but I think it's unlikely. Over time those two roles have gone together pretty closely over the last over 100 years and I think they're likely to going forward.

MS. SISSON: Well that brings us I think squarely to the question of military force posture and structures. And so I want to turn to you, Lindsey, if I could, because in the recent Indo-Pacific strategy there was reference to an increasing role in that region for the U.S. Coast Guard.

And so I wanted to ask you about your views on the Coast Guard's participation in this region in pursuit of U.S. interests in the region, and the activities that you might envision them undertaking as part of U.S. management of the seas more broadly.

MS. FORD: Sure. Thank you for the question. I'm smiling as you ask it because while you all can't see this, I actually have a Coast Guard Officer sitting off screen so I want to make sure that I don't do anything here that isn't actually what the Coast Guard would tell you.

So let me answer this one and I think also pick up on a couple things that have been talked about in the discussion between David and Bruce thus far.

So I actually want to start with the piece about the U.S. as banker, security anchor, because this does I think sort of relate to how we think of U.S. presence in the Indo-Pacific region. It's an interesting question because I think if you were to ask most Asian partners how they think about it they would actually say that they think of China as their banker and they think of the United States as their security anchor in the region.

Now I think that the United States has actually facilitated both free flow of economic goods and trade and playing that banking role that I think you, Bruce, was talking

about, as well as providing for security. But the former action of the United States military in the Indo-Pacific region has for decades facilitated the kind of stability in the Indo-Pacific that allowed a lot of countries in the region to move forward with (audio skip) adjustments and worry less about potential conflict regions. So I think most countries have typically been very welcoming of the United States being present and engaged militarily and forward in the region because it's paramount of them to have the kind of environment that they can focus on economic advancement.

When it comes to specifically the role of the U.S. Coast Guard, certainly the Coast Guard has traditionally been less present in a forward way in the Pacific region than you have seen the U.S. Navy, for example. But there are a lot of countries in the Indo-Pacific region that when it comes to how they think about their maritime interest, they're interested in understanding what our Coast Guard does. Because a lot of what they want to know how to do is, hey, I'm a small country but I have an enormous exclusive economic zone, I'm not really sure how to actually manage law enforcement duties in this enormous area, I don't necessarily have the right training capabilities to do so, and welcome that kind of engagement with the U.S. Coast Guard to help them understand how to, you know, go about those kinds of missions.

It is unique that the United States has a Blue Water Navy. A lot of countries don't, and probably never need one. They actually want to focus much more on things like the Coast Guard does. So I do think you will see, have seen and will see, the U.S. Coast Guard engaging more in training and capacity building activities for our partners in the Indo-Pacific region because we hear a lot of demand on that front.

To some of the other things that were talked about in sort of the nuances of interpretation of UNCLOS and actually what the U.S. is doing with freedom of navigation being about an exertion of military rights maybe more than principles, I guess I would just

push back on that slightly and again say that what is happening through freedom of navigations operations with the Navy is in support what exists elsewhere on the diplomatic front, the organizations like the Department of State, do in legal settings all the time. It's just that frankly that doesn't make news because, I get it, it's not as easy to photograph nor is it necessarily maybe as interesting, or sexy sounding as Naval ships moving back and forth. So I think in the Department of Defense we very much think about what we do operationally, and support is in support of those broader efforts.

There is a lot of nuisance to interpretation of UNCLOS. I do think that it matters that the United States is at the table. I think that the permanent defenses, in particular the U.S. Navy, have actually been some of the loudest and strongest advocates for ratification of UNCLOS in the entire U.S. government because we understand how much it matters. Ultimately ratification of UNCLOS is not actually up to the Department of Defense or the U.S. Navy, but I agree that I think it is meaningful and we certainly have to fight the fight too, you know, when it comes to maritime principles in the legal domain as well as in the naval operational domain.

And David is right that there is complexity about where different countries stand when it comes to interpretation of UNCLOS. I do think that what the U.S. Navy does is very much based on principles because it has to do with how we interpret UNCLOS. We recognize that countries interpret UNCLOS differently. Sometimes those countries are our friends. Those are conversations that we certainly have all the time because in some cases we may have friends who are not always operating in a way that we think is in accordance with UNCLOS. And we talk to them about that.

But I do think that what you do see operationally is based on principles, and I think the strongest example that you can see of that is we certainly hear complaints from countries like China when the United States does certain things operationally in the Indo-

Pacific region.

There are other countries who may operate near U.S. ships or, you know, even over the years near U.S. waters, and the United States recognizes every country's right to do that. So this is not simply something that we say we want to operate where international law allows but you are not allowed to. We actually believe that all countries get that right. And if we think that we should be able to do it in other places, we understand that that means every country gets that same right to operate in accordance with UNCLOS.

MS. SISSON: Thanks. And before we move on I want to give both Bruce and David an opportunity to pick up on any elements of what's been said here. Bruce, if you had anything you wanted to go back on, I'll start with you. Not yet? Okay.

David, anything that you want to pick up on there?

MR. BOSCO: Just to actually echo, you know, a lot of what Lindsey said in terms of I mean absolutely true that the U.S. Freedom of Navigation Program, which of course began in the late 1970s, has been used, just as she said, against both allies and countries with whom we see ourselves in competition. So there is a level of consistency there. I think the overall point I'm trying to make is that there's, you know, as Bruce indicated, there's a broad strategic competition with China which has a very strong naval dimension. And then there's a question about legal rights and the international legal order. And I think U.S. rhetoric tends to kind of conflate those two. Whereas I actually see them as quite separable in many respects and not always kind of overlapping with each other. And I think that's the point I was trying to make.

And just to, you know, some people in attendance probably will remember this incident, but when the U.S., I think it was the U.S. ship John Paul Jones passed through India's exclusive economic zone there was kind of a bit of a kerfuffle which was just a reminder that India actually has a view of the laws of the sea that is quite different from the

United States, notwithstanding the fact that India is in some important respects a strategic collaborator, vis-à-vis China. So just an incident that I think points to that complexity.

MS. SISSON: Great. Well in terms of managing complexity, and as you say, this sort of two dimensions that you've just described, I actually want to shift geographies a little bit and turn to the Arctic. That is an area where those two domains again interact. And they certainly recently interact in ways that were unanticipated prior.

And so let's talk a little bit about what's going on in the Arctic. I think that gives us entree to talk about some of the implications of climate change, to resource claims, to passage for commerce, to military deployments. And so there should be something for everybody in that package.

But, David, since you had some prior questions, we'll turn to you and start with your thoughts on any or all of the Arctic you'd like to weigh in on.

MR. BOSCO: Yeah. I mean I think there's a lot of really interesting aspects of governance that are, maritime governance that are under way in the Arctic.

As I think I alluded to at the outset, we do have this prickly question about the status of the Northwest Passage and the Northern Sea Route. And that's an issue that has kind of been on the back burner for a while. But as we see ice melting and as those routes become more and more viable, that I think is likely to become more and more of a salient issue. And I notice that the British, I think the British Ministry of Defense just published a paper on the Arctic and their Arctic strategy that talked about some of these issues.

But there is a difference of opinion between the United States and Canada and between the United States and Russia about the status of those passages. And so that's going to be something that probably needs to be addressed. And, you know, there has been periodic talk about whether the U.S. would ever do a Freedom of Navigation

Operation, for example through the Northern Sea Route or through the Northwest Passage. Those would obviously be highly controversial as well as operationally somewhat difficult given our relative lack of ice-breaking capacity.

But then there's also I think the other governance issue in the Arctic is what's playing out with the extended Continental Shelf and, you know, undersea rights in the Arctic. And obviously there are overlapping claims to some of those undersea territories. And I think the story on that aspect is that the international structures and the international procedures are actually working reasonably well. Even, you know, including with Russia. And so if you wanted to kind of point to an area of maybe multilateral success or at least provisional multilateral success, that might be one of them.

The other point that I would make is that the United States is about ready to finalize its own extended Continental Shelf kind of limitations, and I think there's an interesting question as to whether the United States will kind of submit that to the UN process that most of the rest of the world uses or not. And I think we'll see. My guess is the administration's going to make a choice on that in the next, you know, in the upcoming months.

So I think the Arctic is very much a mixed picture. Some friction, but also some important aspects of multilateral cooperation.

MS. SISSON: Okay. Thanks. Bruce, is the Arctic going to be the next Suez?

MR. JONES: No, I started and ended my book in the Arctic. And I started it, I talk about the places where you can see the shadow of the future, and I ended with the title, come hell and high water.

Because one of the things that I think is so striking about what's going on in the Arctic is, you know, you had these narratives the last 20, 30 years, of globalization and

our kind of economic interconnection being a dynamic that's going to restrain geopolitical tension. And you have this narrative of climate change, we're all in the same boat, see the rise, you know. And what we're seeing playing out in the Arctic is a kind of complete repudiation of both of those narratives. And so as climate is changing, the sea ice is melting, waters are getting colder, it's a huge boon for fishing for us, you know, potential sea passage, major exploration of one of the gas finds in the Barents Sea and the Norwegian Sea, all of which has led to a rapid remilitarization of the Arctic, right?

So we've put nuclear submarines back in the Arctic for the first time in 30 years, we've reopened Norwegian Naval Bases up there, we've repositioned people up there, lots of other Europeans have as well. The Russians are boosting their presence in the Arctic, they have very extensive claims about where they can operate. We're seeing sort of return to a focus on, remember this from the Cold War, the GIUK Pass, right, the Greenland and Iceland and UK Pass, which was where you come down out of those waters into the North Atlantic.

And so the opening up of a new zone of globalization and the opening up of a new zone of energy exploration and the kind of implications of climate change are not driving collaboration, they're driving competition or they're intensifying competition, and as I said, a remilitarization of the Arctic. So for me it's very striking to watch it in those terms.

And again, I think it goes to this challenge that sort of David is right, that the governance mechanisms that are there are still working, let's see whether the cooperation of the Russia survives the Ukraine piece. But, you know, they've been working under pressure but they don't constrain the militarization component of this, they just don't cover it, right? We just don't have anything that covers the military vein in the naval space. And so it is, there's nothing in the effective governance of the Arctic that is stopping that militarization and the risks that are attendant on that.

Two very quick additional things. I do think it's very odd that the Arctic is in the Indo-Pacific region in terms of the area of operations that have begun to take off. I don't know if Lindsey wants to comment on that, or probably doesn't. And then I couldn't avoid just mentioning that we were talking before about the John Paul Jones having done the Freedom of Navigation Operation in India. The Captain of the John Paul Jones, as I wrote about in my book, called me and said well one of the reasons he, you know, having sort of implemented that FONOP and others, he now has a much richer understanding of what he was doing by having read David's book. So I thought that was a nice little tieback.

MS. SISSON: That's great. Thank you, Bruce. Lindsey, I will give you the opportunity to weigh in or not weigh in, as Bruce says, on anything to do with operations in the Arctic, if you wish.

MS. FORD: Well I'll actually just say on this one that given that I spend much of my day looking at and having to think about what is happening in the Western Pacific, the South China Sea, and the Indian Ocean, I gratefully don't have the Arctic in my job jar. So I'm just going to leave it there.

MS. SISSON: Makes good sense, thank you. Thanks for that. Well, so I do have an audience question to bring in here. Since we've talked a little bit about the events of FONOPS, as you mentioned, Bruce, and potentially affecting what had been some good cooperation on the Arctic Council and so forth.

So we have a question about whether or not it is time to renegotiate the Montreux Convention to modernize the Black Sea Naval access. So do we have any takers who would like to answer that question? Or do I need to pick on someone?

MR. JONES: I'll be happy to start and then David can slap it down.

MR. BOSCO: Be my guest.

MR. JONES: Okay. It seems to me, you know, I use the phrase in the book

that, you know, there are a whole series of conventions that regulate the movement of war ships through some critical passages. And what we saw in the First World War, we saw in the Second World War, is that these are, and their conventions have existed since the 1800s as the Montreux Conventions has. And they are well observed in times of peace, and rapidly abandoned in times of war. And they don't constrain naval powers from operating the way they choose to operation. And I think we've seen that in the Black Sea.

So you could modernize the Convention but it goes to a fundamental question of who's going to enforce those, right? So we play this very strange role, of which we've been discussing, of essentially serving as the primary enforcer of UNCLOS even though we are not a signatory to it, it's not the only place, as David is well aware and Lindsey is well aware, it's not the only place where we are the primary implementer and/or enforce of a multilateral regime we haven't signed. But it is the most striking perhaps.

But because we are also essentially a combatant, or not a combatant in legal terms, but we are a, you know, we are a player in the arms race, we are a player in this naval contestation. We're not going to be able to be an enforcer of a regime that manages naval power over the passage or naval power. We couldn't neutrally in some meaningful sense enforce the Montreux Convention, vis-à-vis the Black Sea without being at war with Russia, right? And we are an actor.

I was struck in David's book by the way, there's a reference I'm going to dig into this now there was at the period of time when the British had the command of the high seas but were not willing to protect French shipping, that the Russians led the development of something called the League of Armed Neutrality. And I kind of love this idea of like Turks in the region sailing, you know, sort of destroyers through the Dardanelle, keeping the Russians and the Americans at Bay.

But in real terms it's sort of impossible to imagine how you would enforce

the sort of tighter rules around military context and military access to key choke points in this moment.

MR. BOSCO: Yeah. I would just chime in there that, I mean Turkey's interesting in that Turkey is also not a signatory to UNCLOS. And so, and that's obviously an important point here. Because one of the central issues in the negotiation of UNCLOS was of course the status of straits and, you know, things that, you know, narrow stretches of water that connected areas of the high seas. That was, you know, one of the most hotly debated issues. And so it's quite relevant that Turkey's not a member.

The other point that, you know, discussion of Turkey's role in the Black Sea that I think there's a little bit of attention is it's not just when we think about this kind of tussle between coastal countries wanting more control of the ocean and then kind of oceangoing states wanting to preserve freedoms. It's not just China that's a player here. And, you know, China's not the only country that would like to have more control. And one of the things that we've seen in Turkey in recent years is kind of vague but, you know, from a U.S. perspective slightly ominous discussion about a blue homeland. And kind of special Turkish rights in the Mediterranean and perhaps in parts of the Black Sea. And there are a couple of other countries that, you know, have tentative but kind of interesting initiatives in this direction.

And we shouldn't forget that back before UNCLOS it was some of the Latin American countries that were most expansive in their maritime claims. You know, going for 200-mile territorial seas. And that dynamic, you know, is obviously very much kind of subsumed now by UNCLOS, but you see hints of it emerge. For example when you get Chinese fishing fleets, you know, just outside the 200 mile mark, fishing off the coast of Equator or, you know, Argentina. And you get a lot of frustration. And, you know, sometimes rumblings that we should enforce even beyond where international law allows.

So there's a whole host of countries that might be keen to kind of push further out and, you know, take control of more ocean space.

MS. SISSON: All right, well we are in the sort of count-down phase of the time left allotted to us. And so what I would like to do is in terms of, you know, using this as an opportunity to inform people like me and others in the audience who really value your expertise and the work that you've done on these subjects, I want to offer the opportunity for you all to answer the questions that you wish that I had asked you. You've been gracious and actually answered the questions, and so in the remaining few minutes please feel free to add something to the conversation that you think is important for an informed sort of audience to have heard before we depart.

And I'm going to start with you, Lindsey, if I could.

MS. FORD: Sure. I guess one thing that, well, I don't know if when you're the U.S. government official speaking at these kinds of things, there's ever an I wish you had asked me more questions.

But one thing I will just pick up on from the conversation thus far is there was some conversation about sort of, you know, nothing in UNCLOS essentially addresses how militaries think about operating and how you address, you know, risk that comes along with militaries operating along side each other. I'll just say that's exactly right, UNCLOS doesn't cover that. But it is an important reason why I think that things that the U.S. government does and the Department of Defense does, like sit down and discuss cues, which has to do with how navies actually need to operate alongside each other, what state cooperation looks like when militaries are up next to each other in the naval domain. Those are conversations that we have with countries, including China. That we have existing bilateral channels with the Chinese military to military, to understand what state cooperation looks like is really important.

Because, no, UNCLOS won't touch that. There may be you know, many things that we disagree on as countries, but I think that we all have an interest in actually preventing miscalculation from blowing up into something bigger and a larger crisis.

So those conversations about state operation and understanding of what professional behavior by militaries looks like in the aerial domain and naval domain is critically important. And it's one reason that we continue to have those conversations.

MS. SISSON: Thanks, yes, that's a really important addition. Thank you for that.

And I'm going to turn to you, Bruce, and then after Bruce we'll go ahead, David will get the last word.

MR. JONES: The question that I would have answered is, what are the other domains of the ocean in which this kind of contest between governance and power is going to play out in significant ways. And I'd pointed to two which are so much more consequential than I think we traditionally realize.

One is about data. It sounds strange to link this, you know, here we are on a Zoom call, you know, we go to the ATM, we use our iPhones, our entire world is governed by data. 93 percent of all that data in the world that moves around and powers our world flows through undersea cables. I think they are globalization's most important and most fragile network.

And the question of who regulates them, which is very loose, the security regime around them, which is a very creaky, this strikes me as a place that requires some serious attention.

The other piece of the ocean's puzzle where so far we still work in a kind of freedom and governance zone versus a compete and power zone is science. And the ocean sciences are just fantastically important to our understanding of climate change, to

our energy systems, to all sorts of different features of modern life. The United States has for more than 100 years been the most important generator of ocean sciences, which are beginning to become sort of democratized internationally. A lot of other countries are contributing in a major way now, whether that's Chinese or the Russians or the Iranians or the Brazilians or whomever has it, and preserving science as a zone of cooperation even as all these other domains I fear will become increasingly captured by the dynamics of power competition, would be hugely consequently. We managed to do it with the Soviets during the Cold War, there's no reason why we can't do it with the Chinese in the contemporary period.

MR. BOSCO: Do you want me to go ahead and --

MS. SISSON: Yeah, over to you.

MR. BOSCO: No, I think I mean first I just want to say that Bruce's book is just so rich in terms of getting at some of these, you know, connections and forces that he's describing that go way beyond kind of legal debates about the oceans into like, you know, the commerce and the data and all of that. And he has a description in there like what it is like on board one of these enormous cargo ships. And there's just, really rich material in there that I think get at kind of the real equities in some senses that for most people matter most when it comes to governance of the oceans.

The one issue that didn't get mentioned directly but I thought maybe you were, is how China's position on the oceans may change in the future. And, you know, we heard, and Bruce has pointed out, that China is kind of becoming an ocean-going nation. And I think one really interesting questions that ties together maybe the power dynamic and the law dynamic, is whether as China becomes more of a blue water kind of a country, whether it's view of the rules of the ocean change and whether it, for example, might actually come closer to the U.S. view as it starts to feel like, yeah, actually I want to be able to, you

know, go through some other country's territorial sea. I want to be able to operate in another country's exclusive economic zone.

And so you may see in a kind of weird way, and you saw this a little bit with the Soviets during the 1960s and 70s, a kind of approximation of the U.S. and China on some of these now contested international legal issues. So that would be kind of an interesting dynamic where you'd still have strategic competition but they legal view may actually come a little bit closer.

MS. SISSON: Well sounds like we may need to have this session on an annual basis to keep track of it all.

I really want to thank you all very much for joining today on behalf of Brookings. Lindsey, thank you so much for taking out of that very big job jar that you have to come and speak with us and our audience today.

And I'll just close again with gratitude to David and to Bruce, not just for your time, but for two really enriching, terrific books that actually deserve very much to be read in conversation with one another. I think, you know, putting the two together is a great compendium.

So for all of those of you out there who are inclined again to *Rule the Waves* and the *Poseidon Project*, some great reads.

Thank you very much. And I hope everybody enjoys the rest of your day.

MR. JONES: Thank you all.

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