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Chair

Mr. Michael Levitt

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● (1530)

[*English*]

The Chair (Mr. Michael Levitt (York Centre, Lib.)): Good afternoon, everyone. I would like to call this meeting to order. It's the continuation of our Arctic sovereignty study.

We are fresh back from our recent trip to the Arctic. It's good to see a number of members who were on that trip here with us today.

I would also like to welcome our first panel of witnesses. We have two sets of witnesses today.

In our first panel, we have Michael Byers, the Canada research chair in global politics and international law in the department of political science at the University of British Columbia. We also have Suzanne Lalonde, professor in the faculty of law, Université de Montréal.

Welcome. We're going to get started with your testimony. Then we will immediately open it up to questions from the members. I'm sure there will be many.

With that, Professor Byers, I think you are starting.

[*Translation*]

Dr. Michael Byers (Professor, Department of Political Science, University of British Columbia, As an Individual): Thank you very much.

I am very pleased to be here today. I do speak French, of course, but my English is better, so my remarks will be in English today.

[*English*]

You have benefited from testimony from the legal adviser at Global Affairs Canada, Alan Kessel, who is one of the finest international lawyers I know. I'm going to try to build a little on his work and perhaps explain a couple of the key issues in slightly different terms so that everyone understands the landscape here.

The first thing I want to say is that Arctic sovereignty is sometimes understood to be different things. For a lawyer like Mr. Kessel, Arctic sovereignty concerns our relations with other nation states, so it concerns maritime boundaries, it concerns our single land dispute over Hans Island, and it concerns the status of the Northwest Passage. For an international lawyer like Mr. Kessel, that is what sovereignty means.

For people who live in the north, sovereignty includes a broader range of issues. It includes search and rescue. It includes policing of things like smuggling, the drug trade or illegal immigration. It also concerns social and economic issues, the housing crisis and the health crisis. Sovereignty is a large concept, but for lawyers, it's a fairly narrow one.

I'm going to speak to the narrower form of sovereignty, but I am willing in questions to talk about issues like search and rescue or icebreaking.

To start, let's go from the least concern to what I think may be the largest concern. Let's start with Denmark. Denmark owns the largest island in the world that is not a continent, i.e., Greenland. Greenland has a degree of self-government, but for the purposes of foreign relations, Denmark is in charge.

We have two insignificant boundary or territorial disputes with Denmark. One is over Hans Island, 1.3 square kilometres of rock. The dispute does not concern the water around the island. We have an agreed maritime boundary right up to the low water mark on each side. We've had that boundary since 1973, so it's only the rock, 1.3 square kilometres in a region that is measured in thousands and thousands of kilometres.

The other insignificant dispute with Denmark concerns a couple of tiny, really small, areas in the Lincoln Sea north of Greenland and Ellesmere Island. This dispute has, for all practical purposes, been resolved by a working group between the two countries. It simply concerned whether you could count a small island as a base point for calculating the boundary. As I understand it, the two governments could announce an agreed solution at any time that it was politically opportune to do so, so it's not significant. Denmark is not a problem. They are, of course, a NATO country, and we have a very vibrant trading relationship with them, including in the new European-Canada trade agreement.

Then there's Russia. Some of you are aware that Russia has been behaving very badly lately, including in Ukraine and in Syria, and, it would seem, in the United States and the United Kingdom. I have no illusions about Russia, but in analyzing Russia's posture in the Arctic, I have some optimism, not because Vladimir Putin is friends with Canada, but because he is a rational actor. Russia is the largest country in the world, and it has a very large uncontested Arctic territory. Russia has very large uncontested exclusive economic zones in the Arctic.

Russia has roughly one-half of the Arctic uncontested within its jurisdiction. It doesn't want any more Arctic. It doesn't need any more Arctic. It also knows that the Arctic is an extremely expensive place in which to operate. In the Arctic, for rational reasons, Russia is therefore behaving itself.

● (1535)

This is really important to realize. The Russians cannot afford to militarize another front. They've already got problems along the borders with NATO countries in eastern Europe. They already have a very big commitment in the Middle East. They're worried about their land border with China and issues in the Russian far east. In an optimal world for them, they might have an interest in the Arctic, but this is not an optimal world for Russia. Russia is actually in economic and demographic crisis, so it co-operates.

The Arctic Council is functioning normally. It's remarkable, but it is functioning normally. To their credit, former foreign ministers Lawrence Cannon and Stéphane Dion made a real effort in working on Arctic co-operation with Russia, realizing that this was an opportunity to keep one part of that relationship calm.

Let's talk about the United States. The United States is, of course, our most important ally, including in NATO and NORAD. The United States has massive naval interests around the world. It has a very strong interest in freedom of navigation, and we have a long-standing friendly dispute with the United States over the status of the Northwest Passage. They regard it as an international strait that passes through Canada's waters—Canadian, but subject to a right of passage—and we consider it to be internal waters.

Since 1988, when Brian Mulroney negotiated the arctic co-operation agreement with the United States, we have agreed to disagree. They always ask us for permission to conduct scientific research while transiting the Northwest Passage, and we always give it.

This brings me to China. The good news here is that last year, when China sent its research icebreaker, the *Xue Long* or “snow dragon” through the Northwest Passage, it decided it had no interest in challenging Canada's claim. Some exceptional diplomacy took place between Canadian and Chinese representatives, with the Chinese asking for permission to conduct scientific research and Canada agreeing.

Why is this important? Regardless of whether it's an international strait or internal waters, you need permission to conduct scientific research. The United States and China have both sidestepped the dispute. They haven't acquiesced to Canada's position. They've simply chosen not to engage with the dispute, and to sidestep it.

That brings me to my final point. The United States will continue to behave as it has. It has certain interests in Canadian co-operation in the Arctic. I'm not worried about the United States in the Northwest Passage.

China has not taken a position with regard to the legal status of the Northwest Passage yet, but it's unclear how China will move in the future. Its main interest is in safe, efficient commercial shipping. It therefore ideally needs extensive Canadian co-operation. It needs search and rescue. It needs aids to navigation. It needs ports of refuge. Rationally, therefore, it will want to work with Canada.

It also has a somewhat similar dispute regarding Hainan Island and mainland China—the Qiongzhow Strait or the Hainan Strait—where it has one legal opponent, the United States, and where the Chinese position is identical to Canada's position in the Northwest Passage.

My final message from my introductory comments is that the one thing I see as diplomatically important right now in the Arctic is to actually engage with China. We may not come up with an agreement to resolve all of our differences, but we need to make it clear that we want to work with China with regard to Arctic shipping, so that we can prevent them from coming down on the opposite side from us regarding the legal status of the Northwest Passage.

Thank you very much.

● (1540)

The Chair: Thank you very much.

[*Translation*]

Please go ahead, Professor Lalonde.

Prof. Suzanne Lalonde (Professor, Faculty of Law, Université de Montréal, As an Individual): Hello. I am very pleased to be with you here today.

[*English*]

As a specialist on the law of the sea, I'll confine my remarks to the issues identified in the committee's standing order, which raise legal considerations and concern the maritime domain: the Northwest Passage and, if time permits, the extended continental shelf.

In my field of expertise, the law of the sea, the Northwest Passage is by far the most sensitive issue in terms of Canada's sovereignty in the Arctic. I've prepared explanatory notes in regard to the debate surrounding the legal status and the implications for Canada. If they might be of assistance, I would be honoured to share them with members of the committee.

As Professor Byers has just explained, and as is well known, Canada claims all the waters of the Arctic archipelago as Canadian historic internal waters. Under international law, as the committee must know, a state exercises exclusive and absolute authority over its internal waters, including the right to control access. Thus, navigation through the Northwest Passage is subject to Canadian laws and regulations, and violations can be sanctioned through Canadian law enforcement agencies and mechanisms.

As was pointed out, however, Washington has long held the view—it has been depressingly consistent in this position—that the routes of the Northwest Passage constitute an international strait subject to the right of transit passage. As defined under part III of the law of the sea convention, transit passage means freedom of navigation for ships and aircraft, both civilian and military, of all nations.

It's important to emphasize this often-neglected aspect of the legal regime governing international straits. The regime guarantees a right of navigation for ships and submarines on and under the water, but also for aircraft in the international air corridor that exists above an international strait. Ships, submarines and aircraft, both civilian and military, enjoy a right of unimpeded navigation through international straits.

While this disagreement between Canada and the United States is long-standing—at least 40 years—it's been well managed, and Washington has never sought to undermine the Canadian legal position by, for instance, sending a warship unannounced through the passage.

The ice has always been an ally, isolating the Canadian far north and allowing the issue to be dealt with as a minor, occasional irritant in the special relationship between Canada and the United States. However, it is melting. This new access has transformed the Arctic and the Northwest Passage into a strategic affair at the heart of global interests.

The status of the Northwest Passage is no longer an esoteric, quirky little legal debate among Canadian and American academics. It's no longer a bilateral issue. In September 2003 the German federal foreign office released guidelines for Germany's Arctic policy, which announced that the German federal government was campaigning for freedom of navigation in the Arctic Ocean, which was defined to include the Northwest Passage. It is unclear what “campaigning for” means or entails in this context, but I was certainly very relieved to discover that the 2016 European Union policy for the Arctic had not been influenced by the German view.

In January 2018, China released a white paper that set out a perfectly ambiguous Arctic policy, at least in regard to the Northwest Passage. The most intriguing and nebulous passages can be found under part IV, subsection 3(1), entitled “China's participation in the development of Arctic shipping routes”. The key paragraph begins with a definition of what China means by Arctic shipping routes, and they are deemed to include the Northwest Passage.

The Chinese white paper goes on to state that as a result of global warming, the Arctic shipping routes—which of course include the Northwest Passage—are “likely to become important transport routes”, and then that “China respects the legislative, enforcement and adjudicatory powers of the Arctic States in the waters subject to their jurisdiction.”

That sounds great—an acknowledgement, it would seem, of Canada's sovereignty over the Northwest Passage. However, the remainder of the paragraph raises significant concerns, continuing as follows:

> China maintains that the management of the Arctic shipping routes should be conducted in accordance with treaties...and that the freedom of navigation enjoyed by all countries...and their rights to use the Arctic shipping routes should be ensured. China maintains that disputes over the Arctic shipping routes should be properly settled in accordance with international law.

Of course, those last two sentences completely negate the support expressed in the earlier sentence. The reference to freedom of navigation in the Arctic shipping routes, which are defined to include the Northwest Passage, is of course in complete opposition to the official Canadian position.

The Chinese white paper also seems to give some legitimacy to the idea that a dispute exists as to the status of the Arctic shipping routes, which, again, include the Northwest Passage.

● (1545)

As Professor Byers mentioned, any hopes that the Chinese government might explicitly recognize the Canadian position as a means of strengthening its own claim to the Qiongzhou Strait were dashed when it chose to invoke the rules on marine scientific research to cover the transit of its research icebreaker, the *Xue Long*, which is a state vessel, through the passage in 2017.

Therefore, now more than ever, Canada must be present and exert effective authority over the passage. Over the last century, the Canadian Coast Guard has largely ensured that presence. The addition of the navy's Arctic and offshore patrol vessels will be a tremendous asset in showing Canada's resolve and determination in guarding its maritime boundaries and in defending its national interests. However, to be effective, the Canadian Armed Forces must be equipped with the best possible surveillance and detection technology, not only to track surface but also underwater transits.

To be clear, as territorial sovereign and in order to protect its legal position on the Northwest Passage, the Canadian government would have to react vis-à-vis any ship or submarine that had entered the archipelago unannounced and uninvited. The amount of time available for diplomatic negotiations between Canada and the flag state would be severely limited. The issuance of a formal letter of protest of flag state, while possible, would likely be seen as a fairly weak response and certainly would offer little protection from the potential harm that might be caused by such an offending vessel.

In my opinion, and in the absence of a political solution, Canada should be prepared and willing to intercept. The Canadian Armed Forces must therefore have the capability to interdict a foreign ship navigating through the passage without permission and, indeed, if it poses a threat. Given the distances and the conditions involved, this aspect of the forces' mission poses a significant challenge. I think it would therefore be appropriate for a specialized unit, at least one military aircraft—as Professor Byers has argued in other instances—to be stationed in the Arctic, at least during the shipping season.

However, claiming the Northwest Passage—and this is my last point on the Northwest Passage—as sovereign internal waters does not only bring power and prerogatives, rights and control. It also imposes responsibilities and duties upon Canada. Canada must act as a responsible sovereign over its waters. The oceans protection plan and the important sums allocated to the Arctic are strong and critical evidence of Canada's commitment to effectively governing its Arctic maritime territory, and I would say long overdue evidence.

If Canada's national interest lies in promoting safe and responsible navigation through its fragile waters, then it must make the necessary investments to provide adequate navigation needs and, most critically, modern and accurate nautical charts. It must designate places of refuge and provide at least a minimum of search and rescue capability. Given the immensity of the territory in question, I strongly support Transport Canada's initiative with the Coast Guard and local indigenous communities in the designation and establishment of Arctic marine corridors. I can only hope that after more than five years of analysis and consultations, a pilot corridor will soon be established.

My last few points are these. I am also a strong supporter of the creation of marine protected areas in the waters of the Canadian Arctic, particularly where management plans for such areas are devised in collaboration with local indigenous communities. They are a manifestation of Canada's vision and priorities for its sovereign maritime territory.

Such collaborative initiatives also reinforce the truth that the Canadian Arctic waters are a cultural homeland. Canada must continue to robustly assert control, authority and, yes, exercise its sovereignty over the Northwest Passage, but it must also work to convince other interested states, through concrete actions and necessary investments, that it can be trusted to be a responsible steward of the Northwest Passage.

I would be happy to entertain any questions on the continental shelf issue.

The Chair: Thank you very much to both of our witnesses for their testimony.

We'll get right into questions. We're going to begin with MP Alleslev, please.

Ms. Leona Alleslev (Aurora—Oak Ridges—Richmond Hill, CPC): Thank you very much for an incredibly informative presentation, both of you.

I think the first question I would like to ask is for those of us who don't know the answer. Is there one Northwest Passage or are there multiple northwest passages? Are they all within what could be defined as internal waters for Canada, or are there some that would be more difficult to justify as being internal than others?

● (1550)

Prof. Suzanne Lalonde: Professor Pharand, emeritus of the University of Ottawa, in a classic map that circulates around the world, defined seven different routes that a ship can take that are globally considered to constitute the Northwest Passage, and all of them are within our Arctic baselines within Canada's internal waters. They are all covered by Canadian sovereignty.

Ms. Leona Alleslev: Most recently, a Russian icebreaker helped, I believe, a Danish vessel to make that sort of first Asia-Eurasia transit route. Did they ask permission, to the best of your knowledge, or is that the beginning of when they didn't ask permission and could that be viewed as setting a precedent?

Dr. Michael Byers: Thank you for that question, because it enables me to clarify that, in addition to the Northwest Passage, which passes through Canada's Arctic archipelago, there is, on the other side of the Arctic Ocean, a traffic route called the northern sea route that passes along the coast of Russia. There are several choke points along that route between Russian offshore islands and the Russian mainland that are less than 24 nautical miles across, which Russia claims as Russian internal waters.

The Russian legal position is identical to the Canadian legal position, and the one disputant of their position is the United States. There are other parallels between Russia's situation in the northern sea route and Canada's situation in the Northwest Passage. In fact, the only country ever to support Canada's position publicly was the Soviet Union in 1985.

What's happening is that the northern sea route is opening up sooner than the Northwest Passage for climatic reasons I don't fully understand, and Russia is seeking to attract foreign shipping. They're trying to get commercial ships to come, including Chinese vessels. They're charging them icebreaking fees, so they're making some revenue, and of course they are requiring consent. No one has ever challenged Russia on this. No one has ever physically tried to go through because the Russian Navy is a rather formidable force.

Ms. Leona Alleslev: That's primarily what I'm asking. Did the U. S. challenge Russia's making those internal waters, and could that be a precedent for us in our case of protecting the Northwest Passage as internal waters?

Dr. Michael Byers: I believe it was in 1965 the U.S. sent a Coast Guard to sail through the Vil'kitskii Straits, which is one of these choke points, and the Soviet embassy in Washington warned that the Soviet Union would “go all the way” to stop the voyage. The United States very wisely ordered the icebreaker to turn around and come home.

No, there's been no challenge, but Russia on the legal issue is, again, a supporter of Canada. We have never made anything of that. I know that Mr. Kessel, who testified in front of you, did have some discussions with his counterpart in Moscow prior to 2014, but I don't think anything is happening there right now.

Ms. Leona Alleslev: I understand that we have anecdotal evidence that there have been Russian submarines in our waters in the Arctic. Does the fact that we haven't challenged them, per se, undermine our case? What are the consequences of not being able to maintain our sovereignty over our Northwest Passage?

Dr. Michael Byers: Very simply, yes, Soviet submarines use Canada's Arctic waters. The Soviet charts are much better than the Canadian charts, which is pretty conclusive proof—

Ms. Leona Alleslev: That's frightening.

Dr. Michael Byers: —of this. However, a submarine is designed to be covert, and something that is covert, that is hidden, cannot change a legal situation.

● (1555)

Ms. Leona Alleslev: Okay.

Dr. Michael Byers: The only problem would be if we knew and did nothing. It's better to not know from a legal perspective.

Ms. Leona Alleslev: Okay, and on the consequences of not maintaining our sovereignty, is our case weakened by the fact that we haven't established our responsibilities in the Arctic? Would our negligence in maintaining our responsibilities in the Arctic undermine our ability to claim it as internal waters?

The Chair: I'm going to ask you to keep the answer to about 18 seconds, if you can, plus or minus.

Prof. Suzanne Lalonde: I was harsh there, but I think Canada has been present and has taken measures to ensure safety of navigation. It was perhaps less active than Russia in promoting and being present in the Arctic, but there was also very low shipping. There were also very few ships, so as we see more interest, more activity in the Canadian Arctic, Canada is stepping up. I think we're keeping pace, luckily. I'm glad we are.

The Chair: Thank you very much.

We'll now move to MP Saini, please.

Mr. Raj Saini (Kitchener Centre, Lib.): Good afternoon, and thank you very much to both of you for being here today.

Ms. Lalonde, I'm going to start by quoting something you wrote:

> The U.S. government has clearly expressed its fear on several occasions spanning more than four decades that recognizing Canada's sovereignty over the Northwest Passage “would be taken as precedent in other parts of the world.”

How broad would this precedent be? Would it be more or less impactful because the United States has not signed UNCLOS?

Prof. Suzanne Lalonde: Actually, I was getting tired of having this argument thrown in our face. Whenever we'd go to international conferences to defend the Canadian position, there was bound to be an American colleague who would raise this issue. James Kraska of the Naval War College comes to mind. I wanted to know the answer, and with a colleague at the Université Laval, we got to work.

Often, the argument was if we say yes to the Canadian position on the Northwest Passage, what will happen in Gibraltar and Malacca, and what will happen to our global mobility capacity and ability?

The article was a success and not a success in the sense that those straits are well established. They are international straits subject to transit passage. However, I must confess that we discovered that if America was seen to yield or to acquiesce or to agree with the Canadian position, Russia might take that as a signal and might be encouraged in terms of its own claim, given its similarity. As Professor Byers was mentioning, we found that China also has a strait that is under debate. Is it a strait? Is it an internal passage? Even Japan has a sensitive strait where it is questionable whether it is a passage or within Japanese waters.

I suppose I was disappointed that I had to agree that if the United States moved on the Northwest Passage issue, perhaps Russia, China and Japan might be encouraged in terms of their own claims. It's much less of an issue than is made of it, though. Unfortunately, I don't think the lack of participation of the United States in the law of the sea convention changes that dynamic.

Dr. Michael Byers: Just to add one thing, it is possible to exempt a particular situation from international law more generally by entering into a bilateral treaty with a disputing state. If Canada and the United States were to reach a bilateral agreement on the Northwest Passage, that would take it out of general international law and therefore eliminate the precedent.

That's something Canadian governments should be thinking about, given the common interest in the defence of North America, particularly at a time when the Arctic waters are opening. This doesn't need to be a precedent for anyone. There just has to be diplomacy followed not even by a treaty that requires the advice of the U.S. Senate, but an executive agreement between the two governments.

Mr. Raj Saini: Isn't the problem more compounded by the fact that there are, from my readings, between 134 and 265 international straits around the world, and there's no clear definition of what a strait is? Isn't it still being debated?

Prof. Suzanne Lalonde: Actually, I love the fact that there's a debate. In fact, I maintain that Canada is not asking for an exception to be made for the Northwest Passage, to exempt it from the straits regime. I believe the Northwest Passage does not fulfill the criteria for an international strait under international law. You're right that the convention does a very poor job of giving us a definition, but if you dig into the conference itself and go into the case law, like the Corfu Channel case, it's established. There's a geographic criterion and of course a functional use criterion.

Although there's a slight debate about whether it is actual use or potential use—and that plays in the case of the Northwest Passage—for many of these key straits you're mentioning, it's well established. Even countries aren't debating it. It's well established at this point.

● (1600)

Mr. Raj Saini: You just mentioned right now that China went through the Northwest Passage, and they received our permission to go through.

One of the things, in part, to bolster our claim in the Northwest Passage would be related to the notion that “Canada must show that its historic claim has enjoyed the tacit support of foreign states”. We have not received the permission of the United States. However, if the Chinese begin using the Northwest Passage, and are doing so within the framework set by Canadian law and regulation, that activity will represent foreign acceptance of Canadian sovereignty.

Dr. Michael Byers: I believe you're quoting Alan Kessel. Certainly that's very similar to what he told this committee.

Mr. Raj Saini: It's not him.

Dr. Michael Byers: Okay.

Let me just be clear, because there was a little bit of a lack of clarity in Mr. Kessel's testimony on this point. The Chinese did not recognize Canada's legal position. They asked for permission to conduct scientific research, which is required even if the Northwest Passage is an international strait. They chose to not engage the legal dispute. They chose to find a way around it, and of course, this was easy, because the *Xue Long*, or "snow dragon", is a research vessel. The Chinese passage is irrelevant for the purposes of Canadian sovereignty.

Of course, in the future there will be Chinese vessels that are not research vessels, that are cargo vessels that cannot plausibly be doing scientific research.

Mr. Raj Saini: Like the *Snow Dragon 2*...?

Dr. Michael Byers: We'll see, but I'm thinking more about the Chinese overseas shipping company that is sending ships through the northern sea route and working with Russia. It's those cargo vessels, those bulk carriers and those container ships, that cannot plausibly use the scientific research exception when they come. That's why Canada needs to engage in a friendly way, diplomatically, with China, to say, "We have common interests here. You want a safe, efficient shipping route. You need the coastal state to have that. You don't want to create a negative precedent for your own dispute over the Hainan Strait along your mainland." This doesn't have to be confrontational. There's a clear diplomatic course forward.

The Chair: Thank you. I'm going to have to cut it off there, but we can certainly come back to it.

We'll go to MP Blaikie, please.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Thank you very much.

I want to come back to the comment you made about submarines, and that if you were to know and not do something about it, that might jeopardize the Canadian position.

One of the things that we've been hearing that has been surprising to me, anyway, is the extent to which Canada really has no idea what's going on beneath the water. We were just up north. We toured some of the northern watch stations and were told that we have a pretty good idea of what's happening in the air and on the ground, but that as soon as you go below the surface of the water, we really have no idea what's going on.

Am I to understand that it might be wilful ignorance and that, if we were to develop intelligence capability below the water before we developed a response capability, we would be undermining Canada's position on the Northwest Passage?

Dr. Michael Byers: We have quite good situational awareness in Canada's Arctic. This is often ignored by pundits. We have, for instance, the world's best synthetic aperture radar satellite, RADARSAT-2, that we designed for the Arctic. It can measure the thickness and density of sea ice. It even can reputedly detect the wake of submerged submarines, although I don't know that for sure because that would be classified information.

We're launching the successor, RADARSAT Constellation Mission in February, three satellites with even better technology. We have pretty good surveillance from space. That doesn't cover the underwater domain completely, and underwater sensors do make sense.

I don't think one should refrain from seeking situational awareness because of a concern that it might create a legal problem in the future. All I'm saying is that, up until now, if a Soviet or Russian or, indeed, an American submarine had gone through without us noticing, that's not a legal problem for Canada. That's a covert action. That is where I think we stand right now.

● (1605)

Mr. Daniel Blaikie: On another line of questioning, the other thing that we've been hearing for sure is that there's a serious infrastructure deficit in Canada's Arctic that's affecting our response capabilities. I know that, in the testimony, we heard a little about the oceans plan. When we were up north, we were talking to Coast Guard Auxiliary units, who were rightfully quite happy to be getting a new 28-foot boat, but they were telling us, too, that if a cruise ship comes through or there's a large commercial vessel, they're the only people for hundreds of miles and they're really not in a position to be able to respond to that.

How extensive an infrastructure do we need in order to be where we would ideally like to be in terms of response capability, whether it's search and rescue or the other kinds of supports that you would want to provide to an international commercial fleet to show that Canada is on top of its waters and it's providing those services? How far away from that are we? What would be a timeline for trying to get where we need to be without this getting away on us as the ice melts and the shipping lanes become more available?

Dr. Michael Byers: There have been two small cruise ships that have grounded on rocks in the last eight years in the Canadian High Arctic. Both those groundings occurred during good weather.

I have been in the same waters in gale-force winds, in 20-foot waves that would rip apart those ships like a can opener. Getting there quickly with the capacity to remove 200 people—again, these are relatively small ships—would stretch the Canadian Forces.

The Cormorant helicopter is a phenomenal piece of equipment. It can hold up to 40 people if it has to, and it can fly in hurricane-force winds. However, we base them on Vancouver Island, in Newfoundland and Labrador and in Nova Scotia. It can take them more than 24 hours to get to the Northwest Passage, which is why, as Suzanne has commented, I've suggested that we might think about forward-basing one of these helicopters during the summer months when the ships are there.

That's obviously a question that has to be dealt with by the leadership of the Canadian military. What do they need and do they need more equipment? At the moment, we have great situational awareness and we have the world's best search and rescue helicopters. The question is whether we are putting them in the right place and at the right time.

Prof. Suzanne Lalonde: That's why I'm such a proponent of the marine corridors initiative, so that we can maybe pre-position.... We won't make them obligatory, but we could encourage ships to stick to these corridors now. Of course, these cruise ships want to go where nobody else is, but Transport Canada is being very careful to try to put plans in place, like the *Crystal Serenity* having the *Shackleton* following it and so on.

For me this is a big concern, but we can't expect Canada to have platinum standards throughout thousands of...so we just need to try to be where we need to be and try to plan ahead and maybe pre-position ourselves. We need to figure it out, but yes, we're getting there. It was really time, because this would make the headlines everywhere in the world. It would be really devastating.

The Chair: Thank you very much.

Now we are going to move to MP Sidhu.

Mr. Jati Sidhu (Mission—Matsqui—Fraser Canyon, Lib.): Thank you.

Mr. Byers, welcome. I'm the only B.C. MP on the panel here.

You mentioned a lot of good things about Norway and the fact that they don't want to have any disputes and whatnot. Russia has the largest waterfront. China wants to use the passage. I don't know what they're going to ship through that passage, given there are only 100,000 people on 40% of the Canadian land mass. We don't have people to bring stuff to, so that's my question. The investment they're making.... They might have a different take. They wanted to put an airport in Greenland, but America jumped in and said, “No, we'll do it.” They're trying to be present. I'd like to know the motive, actually.

Let's start with that.

● (1610)

Dr. Michael Byers: The simple answer is that China does not want to use the Northwest Passage to ship to Canada. It wants to use the Northwest Passage as a shortcut between China and the Atlantic seaboard of the United States.

The world being a sphere, the optimal shipping route depends on where you start and where you want to finish. The northern sea route along the northern coast of Russia is optimal for shipments from China to Europe. The Northwest Passage, if it is free of ice—which is not yet the case but could be soon—would be optimal for shipments from China to the Atlantic seaboard of the United States. That's what they're looking at.

In an optimal scenario, they would then have a transshipment port, probably in Newfoundland. They could use ice-strengthened ships through the passage and then transfer to regular container ships at Newfoundland. The container ships would then go down to different ports in the United States.

I don't regard that possibility as necessarily threatening, because it's commercial and because we don't have a transshipment port in Newfoundland. Maybe we could partner with China in building one.

Let me be clear, too. I'm very worried about China in many respects, and I would not want to see them getting control over the port of Vancouver. However, if they wanted to take several billions of dollars from their polar silk road initiative and partner with the Government of Canada and the Government of Newfoundland, that is something I could imagine having a good discussion about.

Mr. Jati Sidhu: It seems to me that most of the big countries like to use resources from outside of their own country. For example, America has lots of oil and timber, but they're not exploiting their own oil or timber. They're just shipping everything in from a different part of the world.

The question comes to Russia. They may have the largest waterfront in the world, but to my knowledge they're running out of resources on those waterfronts. Correct me if I'm wrong, but I think they're interested in exploring resources in our Arctic. What do you have to say on that?

Dr. Michael Byers: I have been to Siberia. Russia is the largest country in the world. Most of its coastline is undeveloped. In my view, they are more advanced in terms of Arctic oil and gas drilling and transportation than we are, and they have many decades to go before they have any problem with their own deposits running out offshore in the Russian exclusive economic zone. You are correct in that their onshore land deposits are becoming exhausted, but they have vast maritime zones and that's where they are going.

To take your question a bit further, you might have asked the same question about China. China, as a rational actor, as a nation state, has realized that it can use foreign investment and trade to get the resources it needs from other countries. That's what they are doing in Africa and in Latin America, and indeed it is why several Chinese state-owned companies have invested in Canadian resources. I don't regard that as a threat, provided that the normal national security protections are in place.

Mr. Jati Sidhu: You mentioned that we need to work with China, which will be good. I fully agree. What about their environmental standards? They're not really up to the level that we like to see. How are we going to work with that when it comes down to the environment and to the Arctic?

Dr. Michael Byers: If any foreign company or foreign country wants to engage in natural resource activity in Canada, they are subject to Canadian laws and to Canadian oversight. That's simply part of the deal. I have no concern, provided that Canadian regulatory agencies have sufficient funding to provide the necessary oversight. That's a common challenge. It's not restricted to China.

● (1615)

The Chair: Thank you.

We'll go to MP Wrzesnewskyj, please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Thank you.

Mr. Byers, I'm a little curious about a couple of comments you made. You said Russia doesn't want any more Arctic, yet they have made a claim based on the Lomonosov Ridge, which they say is an extension of the Eurasian land mass. Not only are they claiming international Arctic waters based on this claim, but they have now charted that it reaches basically to the coast of Ellesmere. They've provided soil samples from the seabed a couple of kilometres down, obviously using submersibles to be able to do that. They've mapped it out fully and have made an international claim to that territory, which includes not just international waters but also Canadian waters off Ellesmere Island.

I'm therefore a little puzzled by that comment during your presentation.

Dr. Michael Byers: You're speaking to the issue of what are called extended continental shelves. Under article 76 of the United Nations Convention on the Law of the Sea, a coastal state can be recognized as having sovereign rights over the seabed only, beyond 200 nautical miles, if it can demonstrate that the seabed is a natural prolongation of its land mass.

As it happens, North America and Eurasia used to be a single continent. Russian and Canadian and Danish scientists believe that the Lomonosov Ridge is a natural prolongation of both sides, which is why in 2014 Denmark submitted scientific data to the United Nations showing that the Lomonosov Ridge was an extension of Greenland all the way across to the Russian exclusive economic zone, to 200 nautical miles from Russia.

Russia responded with its own submission in 2016, where it argued scientifically that the ridge was a prolongation of the Eurasian continent but quite remarkably did not extend its submission all the way across. It actually stopped roughly two-thirds of the way across.

I asked one of the Russian diplomats involved as to why they had done so, and they pointed out that all of the Arctic countries agree that there will be overlaps in our submissions and that those submissions are only about the science. The overlaps will have to be negotiated into boundaries through diplomacy.

If you go back to read Alan Kessel's testimony to this committee, that's exactly what he was talking about.

There has been a lot of misinformation on this from the media, because it is highly technical. However, it is an area where Russia is following the rules, and Canada has been working very hard with Russia to ensure consistency and collaboration on this matter.

Mr. Borys Wrzesnewskyj: Just out of curiosity, regarding the catalyst for all of these claims and counterclaims, as silly as it seems to some, where does the planting of the Russian flag on the Arctic seabed fall into the context of this, and of Russia playing according to the rules?

Dr. Michael Byers: This occurred in August 2007. The flag planter was Artur Chilingarov, who was deputy chair of the Russian State Duma at the time. They were having an election—to the degree that they have elections in Russia—and he actually descended 4,000 metres below the surface in a submersible and planted the flag himself, as a publicity stunt. As Alan Kessel told you, it had no more legal significance than the Americans planting a flag on the moon.

The good news here, from a Canadian perspective, is that in 1968 a team of Canadian scientists visited the geographic north pole on the sea ice. They actually dropped a canister to the bottom of the ocean that had a Canadian flag on it, so if we're talking about symbolism—and it's only symbolism—chronologically, Canada got there first.

● (1620)

The Chair: Thank you very much.

Last but not least, MP O'Toole, please.

Hon. Erin O'Toole (Durham, CPC): Thank you very much, Mr. Chair.

I never thought I could use the “finders keepers” legal axiom in committee.

Thank you both very much for your very informative commentary.

Since you mentioned the Cormorant, Professor Byers, it warms the cockles of an ex-Sea King aviator's heart because, of course, that's the EH101 helicopter that was cancelled as a result of the 1993 election, much like decisions related to the F-35.

However, that aircraft has the ability to fly in conditions in our north, and you're saying you would like to see forward-operating bases. Would it shock you—and we're all very proud of the men and women at 440 Squadron in Yellowknife—to know that we essentially have three or four Twin Otters as our air presence in the north, apart from the odd 18 forward-operating at Inuvik? That's four Twin Otters for 40% of our land mass and 60% of our shores.

Is that adequate, in your professional opinions?

Dr. Michael Byers: The Twin Otter is an amazing aircraft.

Hon. Erin O'Toole: It is an amazing aircraft, yes.

Dr. Michael Byers: But it's slow, it cannot land vertically and it cannot winch people off a ship. I think we should keep the Twin Otters there, but supplement them, at least in the summer months, with more capacity further north and further east. Again, I defer to the professionals in the Canadian Forces as to what they need and where they need it. My only suggestion would be that, at the political level, they be given the support to provide the right kind of coverage.

In terms of the Cormorant, we have a limited number of them. They are growing old. There is a challenge in acquiring spare parts. At some point, parliamentarians are going to have to be in discussion with the Department of National Defence about the next generation of search and rescue helicopters.

Hon. Erin O'Toole: I was struck by the way you framed the beginning of your remarks, that sovereignty means different things to different people. There are the maritime boundaries and the legal discussion, but then you said it means something different to the people who live there.

One thing that was very clear from Inuit, indigenous and people on the ground on our tour was they consistently say, “Don't treat us like a park. We are not just a preserve for making you all feel good in the south. We want to be masters of our own domain.” Particularly, first nations have that right inherently. Does this park-like approach, Prime Minister Trudeau's ban on development and these sorts of things, hurt our claims to sovereignty?

A park obviously doesn't exhibit any presence of state. It doesn't allow us to have domain over our waters and our land, so does this approach of just preserves and Arctic parks hinder our ability to substantively advance our claims to the Arctic?

Prof. Suzanne Lalonde: No, not in that sense at all, because it's a choice. It's a decision. When I spoke of marine protected areas, there's a whole range of management options from a no-take national park to sustainable use.

A state in its own territory decides where it's going to establish a protected area, and this is going to be the plan, the management plan, and the values protected there. I think that's an exercise of sovereignty, but I think you're absolutely right. I think much care and concern has to be shown in consulting and making sure that those management plans, those decisions, reflect the needs and wishes of the local populations.

I think this is what's maybe happening with the Lancaster Sound marine protected area. They're saying forget about this kind of.... It's not just sustainable harvesting, like cultural harvesting. They want to participate in any economic opportunities, but sustainably.

Hon. Erin O'Toole: Professor Byers.

Dr. Michael Byers: Speaking of the Lancaster Sound marine protected area about which the Inuit were closely involved in negotiations, there are iron ore carriers, vessels, that go through that protected area on a regular basis from the Mary River mine, which is on Inuit-owned land. There's a prime example of one of the more significant mining projects in the north, the largest in, I believe, eastern Nunavut, which is cohabiting quite well with the marine protected area because of the Inuit involvement throughout.

● (1625)

The Chair: With that, I'm going to thank both of our witnesses for their very insightful and illuminating testimony today.

Professor Byers, I know you're rushing off to be on your way to other places.

I want to thank you both and, with that, we shall suspend while the other panel gets in place.

● (1625)

(Pause)

● (1630)

The Chair: Good afternoon. We're resuming the meeting.

We have our second panel, both on video and in person.

On video, we have Heather Conley, senior vice-president for Europe, Eurasia and the Arctic, and the director for the Europe program at the Center for Strategic and International Studies in Washington, D.C. Welcome, and thank you for joining us.

We also have Adam Lajeunesse, who is the Irving Shipbuilding chair in Arctic marine security with the Mulroney Institute of Government at St. Francis Xavier University. He's in Antigonish, Nova Scotia. Welcome.

Last but not least, joining us here, we have John Higginbotham, senior fellow at the Centre for International Governance Innovation in Waterloo, as well as the Norman Paterson School of International Affairs at Carleton.

After that long introduction, we'll begin with Ms. Conley, and then we'll go to Adam Lajeunesse. We'll save our in-house guest for last.

Please begin, and if you can keep your remarks to eight minutes, that would be great.

Ms. Heather Conley (Senior Vice President for Europe, Eurasia, and the Arctic, Center for Strategic and International Studies): Thank you very much. It is a great pleasure to be able to be with you via video link.

I just want to speak very briefly about growing concerns that we have here in Washington about Russia's military presence in the Arctic. We've seen over the last decade that Russia has placed the Arctic squarely within its military doctrine and its new maritime doctrine. It has established a new Arctic strategic command. It has focused its military modernization efforts on its nuclear submarine deterrent in its northern fleet. It has [*Technical difficulty—Editor*] across the Russian Arctic. We are detecting where some of these airfields will increasingly have surface-to-air missiles placed on them and where they are focusing their special forces training among these airfields.

We have seen where Russia has certainly been exercising its Arctic capabilities. In March of 2015, we awoke to an unannounced snap military exercise in the Arctic where the Russians demonstrated, at full combat readiness, a complex air, sea and land exercise in the Arctic. This was then followed by recent exercises in 2017, the ZAPAD, or western military district exercise, where we've seen continued exercising in and around the Kola Peninsula. Then, of course, we all finished watching the Vostok exercise, which was the largest Russian military exercise since the 1980s and which also involved Arctic exercising in the western Pacific and the east. Again, there was rapid military mobilization. These were very complex combined operations.

In essence, what we're seeing is a focused effort by the Russian military to think about the Arctic and return it to its strategic imperative that it held during the Cold War. We're seeing a doctrine, a streamlined command structure, new equipment, new forces, and a repeated exercising of those capabilities.

I want to, though, caution that we don't over-sensationalize Russia's military footprint in the Arctic. This is not Russia as it was at the height of the Cold War. I believe what we are seeing is a return to some semblance of a Russian power projection capability that's highly concentrated for the north Atlantic and bastion defence around the Kola Peninsula. It has some [*Technical difficulty—Editor*] to the east with direct implications for the United States and Alaska as well as for Canada.

What makes it difficult for us to completely understand Russia's growing military footprint in the Arctic is that it sometimes is hard to decide, when Russia announces something new in the Arctic, whether they are reannouncing something they have not been able to achieve because they've fallen very far behind in their procurement timelines or in their announcements.

Sometimes we see Russia's military-industrial complex being used to help develop Russia's very ambitious economic ideas for the northern sea route. For example, the 10 search and rescue centres that Russia will be constructing along the northern sea route will be dual use military use. We will have to discern what is civilian and what is military.

We do have, I think, a very strong sense that this has been a priority for the Russian government for the last decade. It is a prestige project for President Putin. He is often on hand to watch Arctic exercises. He was on hand as they unveiled their first very modern special forces base on Kotelny Island just a few months ago. President Putin is very focused on the Arctic. They see it as their economic future base, and they also see it as a revitalized military opportunity.

● (1635)

We are also concerned about China's growing economic and scientific footprint in the Arctic. This is where Russia and China combined in some ways, very focused on the Yamal Peninsula, and that is for the Yamal LNG megaproject but [*Technical difficulty—Editor*] as the infrastructure, whether that's in Greenland, in Iceland, in their scientific research centres, railways, undersea cables, whether that's in Finland or in Norway, the port infrastructure and the LNG, we also need to now appreciate that China's growing economic role will also have strategic implications.

U.S. policy-makers are concerned. When China bid on airports in Greenland, what were the strategic implications for the United States for the Thule air force base in Greenland? There is a growing awareness, very much along the lines of our national security strategy and national defence strategy, that we have great power competition with Russia and China across the globe, and we are trying to understand how that manifests itself in the Arctic. It requires much more study and research, not hype. What is going on? What are the trajectories? What are the strategic implications for the United States? What are the strategic implications for Canada?

I will just finish my opening remarks by saying that NATO must have a greater awareness of both Russia's military posture in the Arctic as well as the strategic implications of China's economic role in the Arctic.

Now we are starting Trident Juncture, the largest NATO exercises centred on Norway, the Norwegian Sea and in the north. After this exercise, this is an opportune moment for the North Atlantic Council to receive a briefing, not only on how NATO operated in the north, but again, a detailed briefing on Russia's military footprint.

Now that NATO has decided to revitalize the Atlantic command in Norfolk, we are going to be concentrating on anti-submarine warfare and the GIUK gap, which is the gateway to the Arctic. We are seeing a revitalization of our Cold War muscle memory, but we're doing this in a different way, not a heavy footprint [*Technical difficulty—Editor*] U.S. navy officials are very concerned about Russia's nuclear deterrent in their submarine forces, which are quite lethal and quite capable.

We need to have this conversation in NATO. We need to revitalize the North Atlantic as a strategic region of importance, and we must also shift our attention to the Bering Strait, the Chukchi Sea and Russia's eastern Arctic, because we are also seeing changes in their posture.

I'd be delighted to answer any additional questions and, again, thank you so much for giving me this opportunity.

● (1640)

The Chair: Thank you very much, Ms. Conley.

Now, live from Antigonish, we have Adam Lajeunesse.

Go ahead, Mr. Lajeunesse.

Mr. Adam Lajeunesse (Irving Shipbuilding Chair in Arctic Marine Security, Mulroney Institute of Government, St. Francis Xavier University, As an Individual): Thank you very much. It's a pleasure to be here, if only digitally.

I would like to take a few minutes today to share my thoughts on Canada's relationship with two of the states most commonly tied to contemporary debates on Arctic sovereignty. The first is our traditional partner and sometimes opponent in the Arctic, the United States. The second is the newest and perhaps one of the most assertive new entrants into the region, China.

While the United States has long been Canada's premier partner in the Arctic, it has also been the state with which we have most frequently quarrelled over the status of the region. The U.S. denies our historic waters claim and the applicability of the straight baseline doctrine to the archipelago, and insists on the existence of an international strait running through the archipelago.

Still, it's important to highlight that this disagreement has been very well managed since at least the early Cold War, largely because neither Canada nor the United States really stands to benefit from an open political confrontation. As such, a modus vivendi took shape in the 1950s that remains in place today.

This approach is best described as an agreement to disagree, a sort of tacit understanding that neither side will push the issue in a way that will damage the other's legal position. This set-up has long dominated Canadian-American Arctic relations and was even given legal form in the 1988 Canada-U.S. agreement on Arctic co-operation. This agreement and structure have worked very well.

Historically, the United States has actually shown very little interest in access to the Arctic waters per se. Rather, American concern has revolved around global freedom of navigation and the fear that acquiescence to Canada's interpretation of the status of the north might weaken America's position elsewhere. David Colson, the State Department official negotiating with Canada in 1986, put it very simply, saying, “we couldn't be seen doing something for our good friend and neighbor”—that's us—“that we would not be prepared to do elsewhere in the world.”

When the U.S. thinks about sovereignty and the Northwest Passage, it's thinking about the Russian Arctic and straits running through Indonesia, the Philippines, and other strategic choke points around the world. The fear of setting a precedent continues to be that country's primary concern, and it is represented in American policy documents.

Despite the political difficulties and somewhat tense exchanges, Canada and the U.S. have actually worked remarkably well in the region, putting sovereignty to the side to achieve practical objectives. The most obvious example is the activity of American nuclear attack submarines, which have used Canadian Arctic waters since the 1960s and likely continue to do so to this day. The available evidence actually suggests that far from being a sovereignty challenge, these missions were ones that Canada knew of and indeed participated in.

While this dispute is well managed, I would at least offer a word of caution on this note. The diplomatic balancing act that keeps the Northwest Passage from re-emerging as a political conflict has for decades and even generations been based on careful diplomacy, mutual respect and a willingness by both parties to avoid conflict rather than pressing for a legal resolution of the disagreement.

The current U.S. administration has a very different modus operandi than all of its predecessors, and is far more prone to seek short-term, even symbolic wins at the expense of long-term partnerships. It may be entirely speculative, but I think Canada should be ready for the question of the Northwest Passage to possibly re-emerge as a point of diplomatic conflict. To be frank, all that would be required for a renewed fight would be for the American President to learn of the dispute and to feel the need to attack Canada for some real or perceived slight. Five years ago this would have seemed absurd, but we live in interesting times.

One of the most important new actors in the Arctic, and the subject of much speculation, is China. China now calls itself a near-Arctic state, and there are concerns that Beijing may seek to challenge Canada's Arctic sovereignty, given its interests in northern shipping and resource extraction.

In January of 2018, China released its official Arctic policy, and its position on Canadian sovereignty was ambiguous. The relevant passage in that document says that China respects Canadian sovereignty “in the waters subject to their jurisdiction”, without specifying what those waters might be.

● (1645)

It goes on to say that China enjoys “freedom of navigation” in accordance with UNCLOS, which is a reference to the right of transit passage through international straits guaranteed in article 38 of the UN Convention on the Law of the Sea.

While this paraphrasing could be seen to imply a Chinese assumption of free navigation through the region and in the Northwest Passage in particular, there are other ways to read that statement. The ambiguity inherent in China's position is almost certainly intentional, with the waters muddied just enough to allow Beijing to skirt the issue, neither locking itself into recognition of Canadian sovereignty nor needlessly offending the Canadian government.

Domestic Chinese maritime interests actually make it unlikely that China will challenge Canadian sovereignty. China relies on straight baselines, as do we, to enclose the Qiongzhou Strait and the country's longest baseline. China's longest baseline is actually only eight miles shorter than the longest Canadian Arctic baseline, which stretches across M'Clure Strait. While the comparison here isn't perfect, it means that any challenge to Canadian sovereignty could be seen as a self-defeating precedent for China.

Increased Chinese activity in the region and potential shipping in Canadian waters more generally shouldn't require a radical shift in Canadian strategy. That has long been to exercise control over the Arctic waters while allowing the passage of time to strengthen the state's legal and political position. In fact, Canada can leverage increased Chinese and foreign activity in the region to strengthen its position. The acceptance of Canadian control by new entrants like China offers Canada a precedent of implied consent.

One of the fundamental prerequisites of historic waters, on which we base our claim to sovereignty, is the acceptance of Canadian control by those most affected. Historically, this has meant foreign governments, particularly the U.S. In the future it will mean shipping companies and independent operators. If Canada continues to regulate and assist foreign shipping, it simply reinforces that sovereignty position.

Crucial to this assumption is the idea that Canada can effectively assert its control over foreign activity in the Northwest Passage. Effective control is important. Exercising this control and providing Canadian support for maritime activity in the region not only demonstrates Canadian sovereignty but allows Canada to leverage its assets to ensure compliance. Icebreaking services, ice reporting and other infrastructure can support foreign shipping, and if a foreign ship fails to comply with Canadian instructions or regulations, it can be cut out of this system.

Conversely, the absence of such support may incentivize foreign actors to operate outside of Canada's reporting and regulatory framework on the assumption that there is little to lose by doing so. If foreign actors see no advantage to working within the Canadian system, they may begin to treat the Northwest Passage as an international strait in which Canadian control is nominal at best.

Canadian sovereignty is therefore not in the midst of any sort of crisis. Our legal position is well established, and the disputes that exist are well managed. Moving forward, however, Canada will have to make a real effort to maintain its effective control over the region. It must also keep an eye on existing disputes, which, historically speaking, have a habit of cropping up when least expected.

Thank you. I'm happy to take questions.

● (1650)

The Chair: Thank you very much.

We will now hear from Professor Higginbotham, please.

Mr. John Higginbotham (Senior Fellow, Carleton University and CIGI, As an Individual): Good afternoon. It's a great honour and pleasure to be here to meet you. I'm a sort of recovering public servant, or a retired public servant who has fashioned himself into a so-called Arctic expert in the last few years. I'm not an international lawyer, so I can't speak with the certainty that some of my colleagues do.

I want to talk about Arctic sovereignty in a wider, more existential sense, rather than a narrow legal one. I'm interested in Canadian nation building in the Arctic as the ultimate expression of Canadian sovereignty, as well as, of course, in the international and domestic regulatory machinery of sovereignty.

How did I get engaged in the Arctic? As a diplomat, I worked mainly in Washington, Hong Kong and China, for many years. These were great experiences that made me look at my own country in a different way, not necessarily as others see us.

In Ottawa, I had a number of jobs related to Canadian foreign policy planning and transportation. For five years, I had the great pleasure of working at Transport Canada, coordinating the Asia-Pacific gateway and corridor initiative. It was a successful example of multipartisan federal-provincial and private sector co-operation in facilitating Canada's international trade.

I learned first-hand to appreciate the critical historical and contemporary roles of the national government in providing direct or indirect support for major transport, energy and communications infrastructure. Our current web of economic infrastructure, built over centuries, has enabled very broad, deep economic and social development, public and private, in Canada.

In contrast, I also came to understand more deeply the huge infrastructure, economic and social development gap that exists between northern and southern Canada. Frankly, I was shocked by it. I found the lack of national political attention to Arctic economic and social development understandable but troubling, particularly given the changing international environment.

I was impressed in particular by the lack of Canadian attention to the melting of the Arctic Ocean. This huge geographic fact is driving unprecedented thinking, interest and investment in Arctic economic and social development in Alaska, Russia, Norway and Greenland, as well as rising interest in China, a country I know well.

The melting is also precipitating important geopolitical recalculations as global balances shift and shudder. However, Canada sleeps. We are falling further and further behind in investing in the core pan-Canadian Arctic infrastructure and policies that would enable the peoples, communities and regional government of Canada's Arctic and all Canadians to adapt and flourish in this new world. I see it as the maritimization of the Arctic archipelago looking forward 50 years—an astonishing vision that we should be thinking about now.

This infrastructure gap is particularly poignant at a time when the pillars of North American integration and co-operation are threatened by our neighbour to the south and the development of self-reliant Canadian economic development is increasingly urgent.

To step back a bit from the integration and globalization, we have prospered from the benign environment of the last 30 or 40 years.

● (1655)

The Arctic is one of our aces in the hole economically, as it is for Russia now, over the very long term. Think of the third option of the first Trudeau government, revisited under different circumstances that have illustrated our profound vulnerability to changes in U.S. policy. The third-option policy focused on national domestic economic development, not just the usual magical remedy of diversified trade, which I have heard about for 40 or 50 years of my career.

Who's responsible for our huge Arctic development gap? Successive federal governments have mainly focused for decades on important Canadian Arctic identity and governance issues. Nothing I have to say on the importance of infrastructure means that I am mindlessly pro-development or have any problem with a great emphasis on aboriginal reconciliation. Nor do I at all deny climate change.

However, there's been very little attention to parallel economic and social investment programs in these priorities that facilitate other national goals in the Arctic, from security to legal claims, indigenous reconciliation, robust territorial democratic governments and environmental stewardship.

The same complacency affects our approach to the geopolitics of the Arctic. We have ignored important emerging geopolitical challenges since Crimea in Russia and Trump in the United States, because of our very comfortable and complacent place under the U. S.'s security and trade umbrella. Now that trust is somewhat in question. We've seen it shattered in the trade and economic area—which, again, I have worked on extensively—and we're just pulling ourselves out of the debris there. We'll come out all right, but it's equally possible for those disturbances to apply in the defence, security and sovereignty area.

We see new Arctic strategic tensions and military activities all around us—as Heather has mentioned—starting with Russia's decades-long and very impressive military-civil buildup around the northern sea route. China's main Arctic “belt and road” partner is Russia, and China is funding Russian Arctic energy developments in Yamal and elsewhere, despite low oil prices and western sanctions. It's part of Putin's national will.

Threat is always a combination of capacity and intent. It seems to me that prudence demands an updating of our overall strategic analysis, taking the unexpected fully into account. There are also important continental security changes, as the north warning system ages, as new threats appear, as NORAD faces reorganization and as the United States considers a more active surface role in the Arctic Ocean.

As long as Trumpist nationalism reigns, we must put a footnote—a large footnote—under our excellent trust and co-operative relations over many years with the United States. One can only hope the President does not turn his powerful America First machine to the Arctic dimensions of Canada-U.S. continental defence, especially in the Arctic, including his charge that from a security point of view, Canada is a free rider.

We must remember that all of our machinery asserting our Arctic claims depends on a continuation of the liberal international order, which we have supported based on the foundation of United States' support since World War II. We must realize that that cannot be entirely taken as much for granted now as it was three or four years ago.

● (1700)

The Chair: Professor Higginbotham, can you maybe wrap up in 30 seconds? I want to allow plenty of time for the questions I know there will be.

Mr. John Higginbotham: To sum up, it's widely accepted that this and previous federal governments have been unable or unwilling to fund, develop and implement a long-term federal investment plan for the Canadian Arctic that would make the Arctic truly ours. Consultation, coordination and hope that the private sector, through ingenious P3s, will fill the gap are all very well, but my experience suggests that in this complex situation, the buck still stops in Ottawa, conceptually and financially, in the case of serious Canadian Arctic development.

I hope your recommendations reflect this.

The Chair: Thank you very much.

We are going to begin with MP Alleslev, please.

Ms. Leona Alleslev: Thank you very much to all of you. I think you've made very compelling cases for how our sovereignty may be under threat in the Arctic.

I'd like to ask each one of you what the consequence is, from your perspective, of Canada not being able to maintain its sovereignty. We have a population that we have to communicate to. They don't spend a lot of time thinking about the Arctic. If I could be so blunt, so what if we lose sovereignty in the Arctic? What difference would that make to Canada and to our allies?

Who'd like to go first?

Mr. Adam Lajeunesse: Thank you. That's a very good question.

Canadian Arctic sovereignty, as we understand the dispute, is a question of ownership over the Northwest Passage. That is essentially what is being challenged. No one is challenging Canadian ownership of the land or anything of that nature. The loss of sovereignty would mean the loss, by Canada, of the ability to regulate and govern the waters within the archipelago, as they are historic internal waters. That means that in the most extreme circumstance, Russian or Chinese warships would legally be permitted to sail these waters.

In a far more likely but perhaps equally concerning manner, we would lose the ability to regulate commercial shipping, oil tankers, foreign commerce, moving through those waters. That regulation would fall to the International Maritime Organization, rather than the federal government.

Ms. Leona Alleslev: So what? So what if we lose the ability to control those waters and the shipping in them?

Mr. Adam Lajeunesse: Our regulations right now, with respect to the environment in particular, are more stringent than those in place at the IMO. Canada does demand more, and we have different penalties from what are prescribed by international law, which is something we feel is essential, given the unique nature of these waters.

Ms. Leona Alleslev: Thank you.

Ms. Conley.

Ms. Heather Conley: Thank you.

I think in some ways Canada and the United States share the same challenge of the North American Arctic—sparsely populated, with a deficit of infrastructure, but extraordinary energy and mineral resources. We haven't really given it more strategic thought, as opposed to our Russian or Norwegian colleagues, who see the Arctic as an absolute imperative, economically and militarily. After the Cold War, we in some ways lost our appreciation. It was a place for the Arctic Council. It was for environmental protection and sustainable economic development.

We've lost our strategic vision for this region.

My argument is that China and Russia do have a strategic vision and imperative for the Arctic. We need to decide what is in our nations' best interest. I think Alaska is experiencing the same challenge. In some ways, Alaska's energy was designed for American energy security and independence. The energy revolution has changed that. What is Alaska's energy for? Is it for export to China? Is that an engine of economic growth? What is its strategic purpose? The nation has to make that decision.

What worries me is that we will see an increase of commercial vessel traffic that will traverse the Bering Strait. There will be Chinese LNG carriers that will be going to the Yamal Peninsula and back. We will have Chinese container shipments traversing our waters. We need to protect the[*Technical difficulty—Editor*] coastline to make sure that we prevent any environmental degradation.

Norway, for example, had an instance a few years ago of a scientific vessel stopping off in Svalbard in the Norwegian archipelago. They didn't know who was coming off that vessel.

We have to be able to protect our people, our coastline and our waters, and to project territorial defence if required.

You are absolutely right. The question is, what is our vision and what is the national policy behind that?

● (1705)

Ms. Leona Alleslev: Thank you.

Mr. Higginbotham.

Mr. John Higginbotham: As I say, my broader definition of sovereignty includes the economic and social development of the Canadian Arctic for the benefit of all Canadians as well as the people of the Arctic. To me it seems to offer tremendous opportunities in respect of transportation, resource development, fisheries, tourism, etc. It's part of one of the locomotives that could help the Canadian economy as a whole.

We're not really there yet because of all the obstacles—not obstacles on purpose but obstacles in fact—that we have that are slowing down Arctic development. Meanwhile, on the other side of the border in the United States and in Alaska, we're direct competitors with, for example, the stranded oil and gas of the Beaufort Sea. We're seeing the Trump administration going gangbusters to develop every element of offshore oil and gas that they can.

We're in a competitive situation. We should be investing in the Northwest Passage, even if we don't call it that necessarily, but we should be investing in the commercialization of the Northwest Passage under our terms, because, to me, there's a great strategic disadvantage to the Russians having sole hegemony over shipping in the Arctic Ocean 10, 20 or 30 years from now, which is going to happen unless we do something, and we don't easily do something.

Ms. Leona Alleslev: Thank you very much.

The Chair: Thank you very much.

Now we're going to go to MP Baylis.

Mr. Frank Baylis (Pierrefonds—Dollard, Lib.): Thank you, Chair.

I'd like to hear the contrast from your point of view, Ms. Conley, to that of Mr. Lajeunesse and Mr. Higginbotham, particularly where you're talking about the threats. You also mentioned Russia and China, and if we were talking Canadian, we would include the United States in that threat: Russia, China and the United States.

Are there activities that you're doing that are undermining Canada, which in turn assist China and Russia, if you follow my line of questioning? After you're done with that, we'll come to the others.

Ms. Heather Conley: I have to say, it's a tragedy that you think that the U.S. somehow equates with Russia and China. We are allies and partners. I understand why you feel that way. I do. It's not that, but I think it's taking a step back and trying to position ourselves once again as strategic partners and allies at NORAD and at NATO. We share values.

My concern is that we, the United States and Canada, fail to appreciate that many of our policies that we've jointly done together vis-à-vis the annexation of Crimea and Ukraine have had the unintended consequences of pushing Russia closer to China, as Russia has had to have an alternative financing mechanism, which is why you see the Chinese investment patterns on the Yamal Peninsula in some of the infrastructure and pipelines. We're going to see, potentially, a nexus of Russian and Chinese interaction, and that is not in the west's interest. That is not in NATO's interest and that is not in the U.S. and Canada's interest.

That is my concern. We need to be very vigilant about what their growing presence in the Arctic means. We have lost a generation here in the United States that understands why our missile defence architecture is in the Arctic, why we have Thule Air Force Base in Greenland, our most northern air force base, and why we have and have worked so long and hard with NORAD, and our coast guards work together.

It is to protect North America. We need to return to that shared vision, but our policies vis-à-vis Russia and the sanctions policy are pushing Russia and China closer together, and the U.S. administration's policies on trade and other things are also helping Russia and China work together. We have to break that apart and return to a shared vision.

● (1710)

Mr. Frank Baylis: You mentioned that NATO should have greater awareness of what's going on, but quite frankly, the position that we find ourselves in as Canadians has been set up by the present administration, which has questioned the value of NATO, number one, and then done things such as impose tariffication on national security grounds against Canada.

So that being a question mark, I'd like then to move over to you first, Mr. Lajeunesse. You have this concept of “use it or lose it”, if I understand you. If we're present, we're using it. It helps our argument. You also made a specific comment about the dangers of it coming to the attention of the present U.S. administration. What activity should we be taking right now to bolster our position?

Mr. Adam Lajeunesse: The activities we need to be taking right now are not a significant break from what we've been doing, frankly, since the 1970s at least. It's important to recognize a certain subtlety to the phrase “use it or lose it”. Simple presence in the Arctic does absolutely nothing to buttress Canada's position. An icebreaker sailing back and forth does nothing to strengthen Canada's legal position.

Assets in the Arctic need to be doing something useful. They need to be exercising effective control. It is important to exercise control in the region for legal reasons but also for very practical reasons. We need that capacity to control Chinese, Russian and foreign shipping as they increasingly enter into the region.

Mr. Frank Baylis: I would assume you would agree with that, Mr. Higginbotham, from what I've heard of your testimony.

Mr. John Higginbotham: I would just go a little bit further. I believe in the long-term commercialization of the Northwest Passage, certainly in the first instance, sticking to our position of internal waters, but what I would particularly like to see would be a higher level of direct co-operation with the United States in the development of the Northwest Passage—United States, Alaska, the territories, and Greenland—because that's where ships have to go. I believe that we should take the issue of U.S. recognition of Canadian sovereignty off the table and develop a very strong, practical—

Mr. Frank Baylis: If we had a river running right through the middle of Manitoba, say, and the U.S. wanted to use it, why would I have to sit down and discuss with them sovereignty over my river in the middle of Manitoba?

You say take it off the table because they feel like using it. I struggle with that, to be honest.

Mr. John Higginbotham: We do that under NORAD. We do many things with the United States.

Mr. Frank Baylis: We do it under NORAD, but there is no question that, if they're using a river in the middle of Manitoba, it belongs to Canada.

Mr. John Higginbotham: Right, but I think there is a real challenge over the longer term of how we co-operate with the United States and, in our own interest, develop the Northwest Passage. I would start with the fundamental fact of Canadian foreign policy that you have to get along with the United States.

The Chair: Thank you, Professor Higginbotham.

Now we are going to MP Blaikie, please.

Mr. Daniel Blaikie: Thank you very much.

Ms. Conley, I just want to follow up on some of the comments you made about Russian remilitarization of the Arctic. I want to heed your advice not to sensationalize that, but I am curious. We heard earlier today, and we've heard throughout the course of the study, that Canada has very good situational awareness in the Arctic but our response capability is not very strong.

I am wondering, in light of what you were telling us about what's going on in Russia, what the appropriate response for Canada is, and not just for Canada but also for our allies, whether it's the U.S. or our NATO partners. How much of an interest should we have in developing a stronger military presence in the Arctic, and what does the potential competition mean for the state of affairs in the north as well?

● (1715)

Ms. Heather Conley: This is such an opportune moment because of the major NATO exercise centred on Norway, beginning this month and going into November. The U.S. has deployed, on a rotational basis, 700 forces to Norway. We didn't do that during the Cold War. We are growing increasingly concerned about the potential for Russia to demonstrate and surprise us with some capabilities that could perhaps question or jeopardize Arctic co-operation and security.

In some ways this is the puzzle, because as much as Russia very much wants to develop the Arctic economically, the last thing they should be doing is challenging or making the security picture look very dynamic, because that would in fact scare investors and potential economic activity away. It's hard to understand why they're doing this and for what purpose, but I'm growing increasingly concerned that we're seeing a robustness, and that NATO needs to develop a response. In some ways NATO is, without having the strategic discussion at the North Atlantic Council about it.

In many ways and for many years, Canada has prevented the North Atlantic Council from having a discussion about the Arctic. Those days are over. It's not about whether NATO would be useful in the Arctic. NATO is in the Arctic. It is exercising today and through the next several weeks. We have forces committed there. It is an essential strategy for reinforcing Europe, so we need to focus on this more and have a NATO capability that is able to respond to it.

We need greater transparency, confidence-building measures, exercises, and I would argue a code of conduct, not dissimilar to what we're trying to do with the Chinese in the South China Sea, to prevent accidents and mishaps. We have a good pattern of co-operation at the Arctic Coast Guard Forum and on search and rescue, and the Russians are participating in that. But on the military—the hard end, the security end—this is where I am concerned. We need a NATO response and Canada has an important role to play in that.

Mr. Daniel Blaikie: Thank you very much.

Mr. Lajeunesse, I want to follow up on an idea that we heard in testimony earlier, in the previous panel. You talked about how one of the motivations of the U.S. position with respect to the Northwest Passage is fear of setting a precedent. We heard earlier today that one way to circumvent that might be to have some kind of bilateral agreement with the United States that allows them, on a non-precedent setting basis, to recognize Canadian sovereignty over the Northwest Passage.

Do you think there would be interest there and enough advantage for the U.S. to have a trusted friend and partner manage the Northwest Passage? Might they be interested in that approach? Do you think that might be a good approach? Do you think it might be realistic to think that's an avenue worth exploring? Do you think there isn't really any potential there?

Mr. Adam Lajeunesse: We've tried that exact thing, actually. In 1987-88, during negotiations with the Americans, the then Department of External Affairs tried precisely that, to establish a bilateral agreement in which the Americans would recognize Canadian sovereignty on a non-precedent basis. Different wordings were attempted to try to make sure we could do this without setting a precedent, and it simply fell flat. Times have obviously changed since then, but my personal opinion is that's probably a dead end.

If I may, I just want to mention very briefly something you spoke with Ms. Conley about. It's important to make a certain clarification when you're talking about military forces in the Arctic. The fact is that there is no single Arctic with a common military issue. There are multiple Arctics. The Canadian Arctic exists on a very different level from the European Arctic, with very different security requirements.

When we say there is Arctic militarization, that Arctic militarization is taking place in Eurasia, and the forces being deployed—primarily Russian—don't normally have the power projection capability to threaten the Canadian Arctic. Theoretically, even if they did, the Canadian Arctic is really not the first place we need to worry about Russian aggression. If it is, we're in a third world war, and investing in Arctic defence is an inefficient use of our resources.

● (1720)

Mr. Daniel Blaikie: Do I have a little bit more time?

The Chair: You have about another 35 seconds.

Mr. Daniel Blaikie: Mr. Higginbotham, just really quickly, when it comes to economic development in the Arctic, how important do you think it is that it be Canadian capital that drives that investment as opposed to Chinese or other capital driving that development?

Mr. John Higginbotham: I think foreign capital can be welcomed provided we set the rules for it. It doesn't bother me in the slightest. It's not like the third option period back in the 1970s with the deep, deep Canadian concern about the U.S. investment in Canada. I don't think that's a big issue now.

I think Chinese investment is of concern to people, but you can't run away with a mine. It's not as big a question mark as Huawei or something like that. We should welcome all investment on our terms, but the regulatory framework prevents that investment, for example, the blockage of our Canadian Arctic oil and gas development in the Arctic Sea. There was a fatwa issued against that after the Obama-Trudeau summit, which of course was abandoned by Trump immediately, a complete divergence in an area potentially competitively interesting for Canada.

The Chair: Thank you very much.

With that, I want to thank our three guests for joining us for our second panel, which was also exceptionally insightful. We are going to go in camera now. We have one piece of committee business to handle.

With that, I just want to thank you again. We shall suspend for a minute while we clear the room. Thank you.

[*Proceedings continue in camera*]

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