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## United States Distinguished Lecture Proceedings of the 45th Canada-United States Law Institute Annual Conference - Climate Change and the Arctic: Profound Disruption, Uncertain Impact

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## UNITED STATES DISTINGUISHED LECTURE

MR. STEPHEN PETRAS: Well, welcome back everyone. It's now time to hear the United States keynote presentation at our conference. To introduce this part of our conference is our U.S. Co-Chair Jim Blanchard former U.S. Congressman from Michigan, former Governor of the State of Michigan and former United States Ambassador to Canada, now a partner in the Washington office of DLA Piper. Jim over to you.

THE HONORABLE MR. JAMES BLANCHARD: Thank you Steve and thank you for your leadership. I am in Michigan now. I'm 14.8 miles from the Windsor City Hall. My nephew is arriving back today from the University of Toronto where he attends and so the connections you know that we talk about are very real when you live in Michigan or the Detroit area and we're just involved with Canada almost every issue. I do want to acknowledge Jim Peterson my co-chair we've worked together for 28 years in and out of government and of course here at CUSLI. It's a pleasure to work with Jim. I do want to also thank and congratulate our honorees Roy Norton who just received the Sydney Picker Award. Roy and I have worked together again for many years. Mary Lynn Becker, I think I've known her longer than Roy. She's been fabulous having served our U.S.-Canada relations admirably for again a number of years and then James Graham fellow executive board member. Thank you for your leadership. Our executive committee, I wanted to acknowledge them, includes Dick Cunningham who's a partner at Steptoe Johnson in Washington, James Graham who as was said is senior vice president chief legal officer at Cleveland-Cliffs, Rick Newcomb my partner at DLA Piper who heads up our international practice and also for many years as a major official in the treasury department in Washington, Paul Rosado who's a Chief Legal Officer and Vice President at the Formica Group and last but not least Dr. Chris Sands who currently is the Executive Director of the Woodrow Wilson Center, the Director of the Canada Institute and that is a really important organization that we here at the Canada-U.S. Law Institute work with. Chris is also a professor at Johns Hopkins but these are really our mainstays for CUSLI so I wanted to mention them. I also want to thank Peter MacKay for his— look all the people who've spoken I've really learned a lot; I found this a really interesting conference and I want to thank all of you for your leadership and Peter for agreeing to be the Canadian keynoter and Joe Comartin Consul General who I work with closely.

I've asked my top Canadian advisors to what I ought to be talking about briefly and I have him here now a Sergeant Preston who happens to grace our family room here in suburban Detroit. Anyway, he would want me to say before I introduce our charge that when I served as Ambassador, the Canadian government takes all the Ambassadors over a period of time up to the Arctic region. It was really fascinating and so I went to a number of places in Iqaluit: Pond Inlet, Resolute, Devon Island, I visited the Franklin shipwreck later I was able to sit the desk of the Resolute in

the Oval Office so it was a fabulous experience and as Peter MacKay mentioned, the people in the Arctic were also a friendly, humble but confident, kind, really interesting and very strong. It was fascinating. What was interesting was the land looked like it could have been on Mars but the water and the colors of the water were absolutely beautiful. I also had a chance to get on the Doomsday plane with the Canadian Defense Minister and fly to NORAD. That was fascinating too. These connections are really incredible.

Let me now say this, I've learned over the years working with our State Department that they send their very best people to all these different postings but I would say they send the top of the line to Canada because it's probably our busiest embassy and we are involved in virtually every issue from trade, alien smuggling, to great lakes water quality, to space station to NATO, to united—it's just an incredible relationship—energy, automobiles and so the person I'm going to introduce who is our charge she is in charge of our embassy in Ottawa and all the various consulates in Canada is Katherine Brucker and she is one of the best I mean she's served all over. I can't believe the diversity Katherine of your experiences, whether it's Haiti or Cameroon or Gabon, working with our ambassador in Germany, then serving as a Consul General in Germany, working in the state department for a number of times helping our Secretary of State with the Executive Secretariat I'm just amazed; three college degrees including a master's in international management, natural science, and it's just military and natural science. It's been a marvelous career and as you know because we don't have an Ambassador in Ottawa, you're the person even if we did you're the person that Ambassador would rely on because I can tell you when I was Ambassador, I relied on my DCM who would have been just as good of an Ambassador as I was probably better but he was kind enough never to admit that but it's true Jim Walsh is just by the way I hope he's listening we're still close friends he was the best guy I ever worked with and he'd been all over as well but Catherine I really admire your career we are really lucky to have you in Ottawa at this important time as you know Joe Biden said to Justin Trudeau, "Canada is our closest friend and our most important ally" notwithstanding all those other really important countries so I'm glad we sent our best to Ottawa and I'm delighted to introduce you and welcome you and thank you for being available. Our *charge de faire*, Katherine Brucker.

MS. KATHERINE BRUCKER: Well, thank you very much Ambassador Blanchard for your kind if perhaps overblown introduction. I've had a wonderful career and am very happy to land in Canada now. I'm also really delighted to be here with all of you today and the Canada-U.S. Law Institute is really a great organization so I look forward to participating today and to working with you all in the future. I'm really honored to be part of this virtual event that focuses on such an integral part of the U.S.-Canada relationship, the Arctic, as you noted Ambassador United States and Canada are steadfast friends, partners and allies and the Arctic is one of the places in which we really need to be all of those things simultaneously. You know, our cooperation in the region is so important that it figured very probably in a number of the pillars of the roadmap for a renewed U.S.-Canada partnership that the President and Prime Minister Trudeau announced in February.

The road map is a whole of government effort that creates partnership on climate change, on defense and security and reaffirms our shared commitment to diversity, equality and justice and I would you know add how fortunate we are to have hosted the President for his first virtual visit and scarcely five weeks into the new administration to have this road map which really consists— I mean it's our marching orders for the next four years. So, we're armed with this valuable document and ready to get to work. As part of the road map, our countries agreed to launch an expanded U.S.-Canada Arctic dialogue to cover myriad cross-cutting issues related to continental security, economics and social development and Arctic governance. I have to say that even before the road map, the Arctic really was an area where our countries have cooperated over the course of many, many years. We work together in close cooperation with other members of the Arctic Council to support and to strengthen the rules-based international order in the region. We work to promote secure and sustainable economic growth that supports local communities, including indigenous communities, which is so important and that respects principles of good governance and transparency.

Now, the State Department's U.S. Coordinator for the Arctic Region, Jim DeHart, is our speaker today and he is focused on moving forward with these goals. He leads and coordinates the State Department's policy-making and diplomatic engagement on Arctic-related issues and serves as the principal advisor to the Secretary and Deputy Secretary of State on Arctic-related matters. Coordinator DeHart is a career member of the senior Foreign Service with 29 years' experience as a diplomat and he was appointed as the U.S. Coordinator for the Arctic Region in July 2020. He brings significant experience in regional security, civilian military cooperation and international negotiations to his coordinator role. As you noted, he's a bit like me we joined at about the same time so like me Jim has been all over the world, he served in Kabul, he was part of a provincial reconstruction team, he was Deputy Chief of Mission in Oslo, Norway with substantial periods there is *charge d'affaires* and that may have been where he first got his exposure to the Arctic and the important Arctic issues. He's also worked in our Bureau of International Narcotics and Law Enforcement Affairs overseeing programs in Afghanistan and Pakistan. He was a Rusk Fellow at Georgetown where he taught a graduate level course on NATO enlargement and wrote for publication. A hallmark of coordinator DeHart's career has been close collaboration with U.S. allies and partners to advance our shared interests and values and that's something I'm sure will serve him well as he focuses on the Arctic. As Secretary Blinken said during his virtual visit to Canada in February, "the Arctic really is a unique and important place where we have a responsibility to work closely together to address a lot of shared challenges but also, I think shared opportunities." So, with that I'd like to welcome coordinator DeHart to this virtual stage to talk more about some of those challenges and opportunities. Jim over to you.

MR. JAMES DEHART: Katherine, thanks so much. I really appreciate it. Thanks for the introduction and we really appreciate all the work that you and your team across mission Canada do to strengthen this great bilateral relationship that we have between the United States and Canada. Ambassador Blanchard very good

to meet you and to everybody at the Canada-United States Law Institute, really appreciate the invitation today and the chance to talk about our Arctic policy and our diplomacy. So, it's sort of traditional at events like these to start with some sort of a joke and certainly in the United States we have plenty of lawyer jokes. I don't know if it's the same in Canada. However, I've found in this virtual environment jokes just disappear into cyberspace, so we'll skip that and Katherine's probably breathing a sigh of relief that I will.

So let me just jump into the topic, and as Ambassador Blanchard said, it's a fascinating one really, it's first of all a great time to work in the U.S. government and to do diplomacy and it's a fascinating time to work on the Arctic. It's really an incredibly interesting region and the people that are involved in the work are really very committed to it I think an interesting set of people but let me look back for just one second. So, I've been in this business for about 29 years as Katherine said and normally foreign service officers, diplomats were generally involved in the business of positive change, or trying to be, whether we're negotiating an agreement with some other country to advance our cooperation in some sphere or working to solve a long-standing conflict or to reduce corruption in a country or to provide development assistance to help that economy develop. I mean we're in the business of change and we're normally change agents and I think this comes quite naturally to us as American. In the Arctic, there is some positive change that we want to see. We certainly want to see more sustainable economic development that's of benefit to communities across the entire Arctic region. There is more infrastructure to be developed. There is more communications to be strengthened, a greater bandwidth to connect different communities and a lot of work to be done to improve people's livelihoods, give them the opportunity for a better future and in many communities also steps to address some of the severe social and health issues that people face but in the Arctic there's also quite a lot to preserve and a lot of ways that the status quo is actually quite enviable.

The Arctic is a region at peace where there are no active conflicts and of course the United States and Canada have a very strong interest in keeping it that way and making sure that there are no new threats that are rising anywhere in the region that could be a threat to our respective homelands. So, preserving the peace.

There is of course a great deal that we need to preserve in terms of the environment and Arctic ecosystems, wildlife, the natural environment and there's a tremendous amount that we need to preserve in terms of the cooperation that we do in the region. We have very strong cooperation on safety and emergency preparedness and pollution response and I'll talk more about that in a little bit and I think you know when it comes to international science research cooperation, the Arctic is pretty close to a gold standard. The level of cooperation that we have and certainly in the United States we're very proud of what our science agencies bring to that national science foundation, NASA, NOAA, others that are that are heavily involved. So, our interests are a mix of some positive change needed and then a status quo in some areas that we're that were quite comfortable with but that status quo is going to be challenged. Change is coming to the Arctic and I'm sure that you've heard a lot of that today from previous speakers but the region is warming more than two times faster than the global average. It's leading to a loss of seasonal

sea ice and it's making possible greater accessibility and so I think what we will certainly see in the years ahead is more tourism, more cruise ships venturing farther north into areas that have not been reached before, we'll see more energy exploration, we'll see more science activities and we may see more activities in the security realm as well. We're going to see more problems. We're seeing today wildfires across northern Russia and Alaska, the effects of thawing permafrost in large parts of the Arctic that damages infrastructure, has a negative impact on people's livelihoods and so certainly the climate change crisis is seen very visibly in the impacts on the Arctic. We find ourselves today really at the front end of a pretty dramatic transformation of this region but it won't be overnight. You read a lot these days about a rush for resources and a sense of urgency. This is not something that will play out over months or a few years but it will really play out I think over decades and it and so requires a long-term effort but it is a challenge really at the strategic level for us to work on and these dramatic physical and environmental changes resulting from climate change are occurring as we also have some significant tensions in the international realm, geopolitical tensions and competition, Russia that is increasingly militarily active in the Arctic region and more generally on a trajectory that concerns us a great deal and then China which also has a different view of the world than we do and is increasingly ambitious globally and interested in being present and involved in the Arctic as well as Antarctica.

So, what are we doing? In March, our new Biden Administration issued some interim national security strategic guidance where it laid out its approach to the world and there are three I would say big important themes here worth paying attention to: one, is the importance of upholding international law, international rules and institutions that have served us well; two, we need to revitalize our alliances because we know that we're stronger, more effective when we're working together with our allies; and three, we have to make sure that we're connecting our foreign policy to domestic policy, leveraging our strength at home to be more effective overseas and vice versa and connecting the two and showing benefits to our citizens. So, these are three principles that apply to our approach globally. They are also directly relevant to what we're trying to do in the Arctic. So, the first principle upholding international rules and institutions. Some governments out there would have you believe that the Arctic is sort of a wild north and ungoverned space with resources still up for grabs and China comes to mind and the reason they put forward this narrative is because they're interested in obtaining some of those resources and they're interested in shaping the rules in the Arctic region but a really important point the rules exist and there is strong governance in the Arctic already based on notably I would say the law of the sea which sets out rules for freedom of navigation for the management of marine resources and also has created a process by which the Arctic coastal states can determine the extent of their extended continental shelves which has implications for resources on the seabed for the states of the region. So, there is already a very strong legal framework that sets out the rules for the Arctic region and there are strong institutions, namely the Arctic Council which is in our view the premier multilateral forum in the region. It's the primary forum for cooperation among



states in the region on sustainable development on environmental protection on emergency preparedness, not on military matters, not on hard security matters but on most everything else that contributes to an Arctic that is livable for the people in the region. The eight Arctic states are at the forefront together with representatives of indigenous communities across the entire Arctic region and the representatives of the indigenous communities sit at the same table with the eight Arctic states and then there are also 13 observer states and a couple of dozen additional observer organizations sort of at the outer table as observers. There's tremendous work that takes place every day through the Arctic Council through its working groups, concrete projects and cooperation in a variety of areas. Through the Arctic Council, we've negotiated binding agreements on search and rescue that provide for a division of labor for coverage in Arctic waters, we've negotiated a binding agreement on pollution and pollution response and also a binding agreement on science cooperation and so this work is continuing. The Arctic Council along with the legal framework that I discussed already really put the Arctic nations at the forefront and they strongly support the interests of the Arctic states including the United States and I would say including Canada and so job number one really is to make sure that we have adherence to these rules and norms going forward by Arctic states and by non-Arctic states alike.

Second principle I mentioned, revitalizing our alliances so in the Arctic among the eight Arctic nations are five NATO members United States, Canada, Denmark, Iceland, Norway and also two very close partners to NATO, Sweden, and Finland, and then one competitor or potential adversary Russia and Russia is increasingly active in the Arctic. It is an Arctic nation, has about roughly half the Arctic population, has a very long coast in the north and very important Arctic interests. What concerns us though about Russia's approach is some of the military buildup that it is engaged in in different parts of the Arctic refurbishing old military facilities, creating new ones and also exercising in ways that are that are quite aggressive and lead to some possibility of mishaps. Of course, we have a difficult relationship with Russia far beyond the Arctic region. The solution here really is strong deterrence together with our allies which we do through NATO and also the cooperation that we have with Canada through NORAD is critically important. China is also a risk to the Arctic of a very different nature. China has no meaningful military presence in the region at this time but it has a very long-term perspective and Beijing is clearly interested in gaining footholds around the Arctic region which it tries to do through investments in infrastructure – ports, airports telecommunications – and also through investments in minerals and in other resources. Our analysis is that quite often an interest in minerals while they're interested in the resources, they may be more interested in the foothold that that provides and the opportunity to capture a bit of infrastructure and then to try to build on that to be established and to gain influence in the region. China also has a number of science platforms around the region and icebreakers of course nominally on science missions but the data that is collected certainly has utility for military purposes as well and could potentially contribute to its ability to operate militarily in the future so we have our eyes wide open on these risks and by the way on China, we don't say “no” to all Chinese investment and certainly we have

Chinese investment in the United States, but it is important that we be able to look at Chinese activities through a national security lens and bring that thinking to bear to ensure that investments in infrastructure or minerals or whatever, don't reach the point that they generate a security risk to us. All of this requires very close coordination with our allies with our partners in the region. As Katherine mentioned and really importantly President Biden, Prime Minister Trudeau confirmed that we'll have an Arctic dialogue going forward to address all the issues of the Arctic and it's a great example of our really close bilateral cooperation. Talking about alliances, I would throw it a little more broadly beyond alliances and the importance of just our broader partnerships as well. For example, in tackling the climate crisis where we need to have the largest possible coalitions to work together to take the steps that need to be taken and we're on day two of course on a climate summit hosted by President Biden with nearly 40 world leaders today continuing discussions from yesterday and so clearly we are all the way back in on addressing the climate crisis together with the rest of the international community we hope.

Third principle, I mentioned connecting our foreign policy to domestic renewal and showing benefits to our citizens at home there's a lot to protect in the Arctic in terms of natural environment and ecosystems and species but it's also a place that people live. So, we see the need for sustainable development as well. This is really a key challenge, how do we signal and how do we support the Arctic being open to business, the right kind of business, balanced with our interest in environmental protection and also aligned with our ambitious goals together on climate change. We need the right kinds of investments, the right kinds of business activities, green and clean technologies, critical minerals is very important in those supply chains for a future green economy and we have a great collaboration with Canada on that, that's a topic as well. These efforts are important for local Arctic communities and they're also important for national security because if we don't find ways to provide that investment ourselves, then others like Beijing will find ways to do it in ways that will not be supportive in the long run of these local communities or our national security interests. So, that's really it three basic principles defending the international rules and the institutions that serve us, revitalizing our alliances and partnerships in the Arctic and making our foreign policy real and beneficial to our citizens.

Earlier I mentioned the Arctic Council, premier multilateral forum for the region. About four weeks from now, we will have the Arctic Council Ministerial in Reykjavik, Iceland from May 19 to 20. Secretary Blinken has announced that he will attend and we would expect most or all other foreign ministers from Arctic nations to be there. These ministerials happen every two years. This is the capstone for Iceland's successful chairmanship of the Arctic Council. It's the 25th year of the Arctic Council this year, the anniversary and so I think as our secretary goes to Reykjavik, we'll have it in mind to reinforce the importance of this institution for the next 25 years of cooperation. I think we'll have a major focus on addressing climate change at the ministerial including the problem of black carbon and methane emissions which is particularly important to the Arctic and we will see the handoff from Iceland to Russia which will take over the chairmanship at the



end of the ministerial and hold the chairmanship for the next two years and we will be prepared to cooperate with Russia as has been the case for many years in the Arctic Council on issues of shared interests within the Arctic Council. I think watch this space because Reykjavik will be a key stage for all of us to lay out our vision for the Arctic region and I think it will be the key stage for us to reaffirm that cooperation is in all of our best interests; that's what we're going to pursue; that we expect the status quo of peace to continue, that it's based on the very strong international rules and governance frameworks that already exist in the region and so we can we can take that forward and I think we have a good chance of success. So, I will stop there and leaving some time here I think for questions but thanks very much for listening. I appreciate it and thanks very much again for the invitation.

The Hon. Mr. BLANCHARD: Thank you, thank you that's great.

MR. TED PARRAN: Mr. DeHart, thank you for your comments. We do have a couple of questions. First one is, you've talked about the importance of multilateral agreements and coordination in addressing the pressing issues in the Arctic. Are there any areas where that is falling short and if so, what can be done to improve responses in those areas?

Mr. DEHART: Yeah, thank you. I think we have a multilateral approach in the Arctic Council that works very well. In fact, the previous administration recognized that as well. I think our current administration will really double down on that cooperation and of course now we have an ambitious climate policy which is so important for the region. You know, I would say that we don't need to establish new multinational structures in the Arctic because the frameworks that we have are very strong. I think as we proceed, we're going to need to work through those current frameworks to continue to strengthen things. The International Maritime Organization is another body that's relevant to the arctic. A Polar Code was developed a few years back to support sustainable Arctic shipping, safe Arctic shipping. There's some more work that has to be done there to extend that Polar Code to more categories of vessels operating in the Arctic. You know and I think we certainly have a lot of work to do in the maritime domain I think to get more navigation charts for reasons of safety so I would say lots and lots of work to do but generally within the multilateral frameworks that are working very well now.

Mr. PARRAN: Thank you. I've got a couple more here. One is: what are some specific strategies that the U.S. and Canadian federal governments can use to increase consultation and collaboration with indigenous communities? I'm guessing this is within the bi-national relationship.

Mr. DEHART: Yeah, well first of all, I really want to identify Katherine and her team for all the work that they're doing in this area together with the Government of Canada to strengthen those partnerships and engagement with communities around Canada. It's been challenging obviously over the last year with COVID but it's something we need to do more of. I think as you look at the entire Arctic region, there's actually there's different parts of the Arctic quite different the European arctic and the Nordic countries very well-developed. Living above the Arctic circle in Norway is not much different from living in the south of

Norway, in terms of the services and infrastructure provided but the North American Arctic and here I would include Greenland is different, vastly more remote, much larger distances and a lot of communities with very little infrastructure and very few basic services and facing actually a lot of common challenges. So, I think there's a lot we can do to connect with indigenous communities and help them connect with each other and especially focused on the North American Arctic and so we're trying to do that through various programs that we have. When I was in Greenland last fall, I met with the Chief Medical Officer there and he was trying to figure out how to deal with COVID and keep it out of Greenland and he was consulting with colleagues in Copenhagen but he was especially consulting with colleagues in Alaska and the Canadian Arctic because everybody was facing similar challenges and these are communities that had a lot of the same circumstances. So those connections are super important I think not just to us in capitals but among each other and so we're working to support that.

Mr. PARRAN: This next question just came to me as you were discussing that: Are there any lessons to be taken from some of the development models used in Norway, Finland, Sweden, those sorts of countries?

Mr. DEHART: Yeah, probably so. The circumstances are different in having lived in Norway for three years. There are a lot of things there that are difficult to replicate in our very different system. I think the challenge is in our systems, the private sector has to take an interest. We're not Beijing, we can't direct investment for strategic reasons, so we have to find ways to support and some of that could be support through financing, whether it's Exim Bank or a development finance corporation in some select cases there are limitations on what we can do there. Then the project of course has to be bankable and it has to be attractive to the private sector. We work through our commercial service of course to assist U.S. companies in identifying opportunities; we have to be active there and it's challenging because it still remains a difficult place challenging and sometimes expensive place to operate in large parts of the Arctic. So, the answers aren't easy, something that we're working on and is going to be really important I think to get right in the years ahead.

Mr. PARRAN: Thank you. New question just coming in: Do you foresee development expansion of U.S. military bases and other defense capabilities in the Arctic?

Mr. DEHART: I think there's a very strong recognition in our system that as the Arctic becomes more accessible, we're going to have to find ways to be active and present there. I would say we are very active and present already. We've had some recent deployments for example in Norway. We just signed a new Supplementary Defense Cooperation Agreement with the Norwegians that modernizes arrangements for us to have visiting forces there but I think our new administration is taking a look at the region. We're a global power with global responsibilities and there are trade-offs in the use of our finite resources, so I would say generally there's an understanding that this is going to take more resources and presence, but we're going to have to work through precisely how we affect that considering requirements elsewhere in the world.

Mr. PARRAN: Okay and I think we have time for one more. Let's see. This question asks: Does the lack of U.S. ratification of UNCLOS impact U.S.-Canadian coordination in the Arctic and coordination more broadly and if so, how? Mr. DEHART: I don't know that it has an impact on how *we* work together as allies the United States and Canada but going back multiple administrations both Republican and Democratic in our country, there's been the sense that we need to sign on to UNCLOS, that it would be in the United States' interest to do so and I think that's the view of virtually all Arctic watchers and those who follow these issues that it is in the U.S. interest to do so. Now, how you get that done in the U.S. Senate brings up a whole set of considerations that are beyond my responsibility and calculations there so I would have to leave it to others to sort of determine the viability of going forward with that but generally speaking, those who work these issues recognize it would be in our interest to do so.

Mr. PARRAN: Thank you.

Mr. PETRAS: All right, well thank you James for your outstanding and thought-provoking presentation. The United States interests in the Arctic are in good hands and we greatly appreciate your participation in this conference where there's a lot to learn and a lot to do. Also, I want to thank Katherine Brucker and Jim Blanchard for the great introductions. So, we are going to go back to our panel presentations but before that, we're going to have another short break. This time, I ask everybody to be back at 1:50 PM so please return 1:50 PM. Thank you.