



GLOBAL SWING STATES WORKING PAPER 2012

# GLOBAL SWING STATES AND THE MARITIME ORDER

JAMES KRASKA

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The “global swing states” — Brazil, India, Indonesia, and Turkey — will play an important role in shaping the future maritime order. Unlike major naval powers such as the United States, the United Kingdom, and Japan, the four swing states currently lack a worldwide impact. They do, however, possess a preponderance of regional influence over oceans governance and have a mixed record of promoting a stable and liberal order at sea.

At the same time, each of the four has made strides over the past decade toward adopting a more evenhanded approach and accepting some of the diffuse costs of maintaining the maritime order. India, in particular, is moving toward a more global view of oceans governance. The South Asian giant is making massive investments in naval capabilities and airpower to back up its new role as the sheriff of the Indian Ocean. Indonesia, stung by China’s overreaching claims in the South China Sea, now has a more balanced view of maritime security than in the past and expresses increasing appreciation of the importance of freedom of the seas for foreign-flagged ships. Brazil and Turkey have promoted relatively insular positions in matters of oceans governance. These two emerging powers are more occupied with their own prerogatives in offshore development than with strengthening the system more generally.

All four swing states have been major beneficiaries of an open order of the oceans, in which free trade and freedom to use the seas have stoked their economies and broadened their contacts with regional states and distant partners. For some, their past inward focus compelled them to view the oceans as a source of vulnerability rather than as a window on the world. Now these nations stand at an inflection point. Growing power and increasing regional influence provide them with the opportunity to assume greater roles in a stronger and more open order of the oceans — one in

which growing maritime trade underscores the importance of collaborative approaches to security at sea.

### The Order of the Oceans

Oceans governance derives from the classic model of a global commons, a perennial metaphor for thinking about shared space. The benefits of operating in the oceans are diffuse and shared by all states; no nation may purport to establish exclusive control over the seas. As a physical domain of movement, the seas are governed by a juridical and political framework that developed over the past 400 years and is infused with a sense of fairness in apportioning rights and responsibilities among the users of the oceans. Balancing this perspective, coastal states and port states exercise exclusive sovereignty, sovereign rights, and jurisdiction over prescribed parts of the sea.

The global order of the oceans is composed of complementary legal regimes and norms. The overarching framework is codified in the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Although UNCLOS is comprehensive — addressing conduct on, over, and under more than 70 percent of the world’s surface — many of its provisions are aspirational, providing broad policy direction rather than dictating specific regulations. As an umbrella treaty, UNCLOS combines historic state practices with new rules to establish a shared vision among competing interests for using and managing the oceans.

Some 50 additional maritime treaties and hundreds of codes and guidelines complement the legal architecture of UNCLOS, focusing on every aspect of oceans activity — from piracy to pollution. Most of the supplementary rules originate with the International Maritime Organization (IMO), the U.N. agency that handles maritime matters. Legal ambiguity and contending visions and interpretations of rules and norms, however, mar

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the legal order of the oceans, eroding stability and exposing rifts in interpretation and state practice among nations and regions.

The law of the sea is supplemented, amplified, and extended by numerous treaties and other formal and informal agreements designed to promote economic prosperity, protect the marine environment, and enhance maritime stability and security. For example, the 1974 International Convention on the Safety of Life at Sea not only reflects standards for the safe operation of ships on international voyages but also includes a global template for ship and port facility security. Similarly, the 1995 International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers provides authority for port states to detain foreign-flagged ships that pose a potential danger to persons, property, or the environment.

These legal regimes are supported by states that champion freedom of navigation and make contributions to maritime constabulary operations to defeat piracy, terrorism, and the proliferation of weapons of mass destruction (WMD). Although the principle of freedom of navigation is enshrined in UNCLOS, only the United States and a handful of other nations routinely promote it. U.S. warships and aircraft tangibly demonstrate non-acquiescence to excessive maritime claims by coastal states. A few other maritime powers — Singapore and Australia, for example — occasionally may issue a diplomatic protest over excessive maritime claims, but no other country approaches the issue with the persistence and seriousness of the United States.

In recent years, Somali piracy in the western Indian Ocean and roving pirate gangs in Southeast Asia have disrupted the flow of international commercial shipping. Countering these threats generally requires the commitment of warships and surveillance aircraft, as well as the willingness

to criminally prosecute or extradite suspected offenders. Beginning with U.N. Security Council Resolution 1816 of June 2, 2008, naval forces from more than 40 nations have answered the call to patrol the Gulf of Aden and Indian Ocean to suppress Somali piracy. The European Union and NATO conduct routine patrols in the area, protecting World Food Program shipments into Somalia, escorting commercial traffic through the Gulf of Aden south of the Suez Canal, and providing a constabulary presence in the Indian Ocean.

Aside from piracy, terrorists and WMD present perhaps the greatest challenges to security at sea. It has been nearly a decade since the United States and ten other core states<sup>1</sup> met in Kraków, Poland, to launch the Proliferation Security Initiative (PSI), a global effort to arrest the flow of WMD, their delivery systems, and related material to and from states and terrorist groups. As a mechanism to facilitate interdiction, the initiative complements existing treaties and multilateral export control regimes. Dozens of interdictions have occurred under PSI enforcing U.N. Security Council resolutions against Iran and North Korea and, more generally, hampering the shadowy trade in nuclear material and ballistic missiles in Asia and the Middle East.

The legal doctrine of freedom of navigation represents a balanced approach to the maritime order — one in which the rights of other countries are respected as much as the resource entitlements of coastal states. Over the past 30 years, freedom of the seas has facilitated a manifold expansion in world trade, enabled globalization, and lifted countless millions out of poverty. The existing balance between coastal states' rights and freedom of navigation has worked well for all nations, but it

<sup>1</sup> The 11 core PSI states are Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United Kingdom, and the United States.

is under stress from excessive legal claims over the oceans by coastal states. Beijing asserts sovereignty over most of the South China Sea, for example. The swing states have also asserted greater maritime control than UNCLOS accords them. These key countries can either promote a liberal order of the oceans based on shared or inclusive legal regimes or instead cling to an exclusive maritime vision that is out of sync with the law of the sea.

### **Brazil**

Historically, Brazil has played a constructive role in developing oceans law, although it also has been a leader in advocating unorthodox, coastal-oriented policies that weaken the overall framework. Domestic considerations have always dominated the formulation of Brazil's inward-looking oceans policy.<sup>2</sup> The country, for example, asserts the right to authorize and regulate the construction, operation, and use of all types of offshore installations and structures in its exclusive economic zone (EEZ) — even those that do not have an economic purpose — in contravention of UNCLOS. Brazil also rejects the right of warships to enjoy high seas freedoms in the EEZ, a position clearly at variance with navigational rights and the principle of sovereign immunity of military ships and aircraft.

In the past five years, Brazil unsuccessfully advocated regulations to link the EEZ with identification and tracking of ships by coastal states and to broaden the authorized width of security zones around offshore installations. In 2006, when the IMO was crafting rules for satellite-based tracking of ships, for example, the Brazilian delegation unsuccessfully pushed for coastal-state ship-tracking authority within the entire EEZ — in effect, converting the EEZ into a maritime security surveillance zone. Two years later, Brazil unsuccessfully sought to expand the allowable size

<sup>2</sup> Michael A. Morris, *International Politics and the Sea: The Case of Brazil* (Boulder, CO: Westview Press, 1979).

of security zones over artificial islands and offshore oil installations in the Western Atlantic Ocean. It is a realistic fear that if larger zones were permitted, they would become the new minimum and could be misused by nations to impede maritime shipping, especially in the Persian Gulf and South China Sea.

Brazil's inclination to seek broader coastal state competence in the EEZ has been strengthened by major offshore oil and gas discoveries in the Santos, Campos, and Espirito Santo Basins in the South Atlantic, an area the Brazilian Navy refers to as its "Blue Amazon." This underwater world includes a huge 3.6 million-square-kilometer EEZ and continental shelf, an area as large as the territorial Amazon. The seabed holds vast reserves of gold, diamonds, phosphate, cobalt, manganese, nickel, copper, and rare earth minerals, in addition to immense hydrocarbon reservoirs.<sup>3</sup> Buttressed by a \$70 billion share offering by the state oil firm Petrobras in September 2010, Brazil has joined the ranks of major global energy producers.<sup>4</sup>

Despite its tendency to advocate for greater power for coastal states, Brazil has served a beneficial and practical role in the IMO. The country has submitted proposals for updating a code of practice for maritime piracy investigations,<sup>5</sup> suggested detailed provisions for revising the principal

<sup>3</sup> Carlos Vasconcellos, "Brazil Seeks Extension of Offshore Territory, Brazil Claims Greater Extension of Blue Amazon," *Sao Paulo Valor* (in Portuguese), September 26, 2011.

<sup>4</sup> Michael Moran, "Oil, Nuclear Submarines, and the Falklands-Malvinas Dispute," *EconoMonitor*, June 14, 2011.

<sup>5</sup> International Maritime Organization, *Consideration of the Reports and Recommendations of the Maritime Safety Committee*, IMO Doc. A 22/9/3 (Oct. 22, 2001); and International Maritime Organization, *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery at Sea*, IMO Doc. LEG 84/8/1 (March 15, 2002).

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maritime counterterrorism treaty,<sup>6</sup> and publicized its use of armed contract security to deter Somali piracy.<sup>7</sup> Finally, Brazil is an observer with counter-piracy forces operating in the Gulf of Guinea and is concerned that the phenomenon could extend all the way to the Brazilian coast.

### **India**

Indian notions of sea power show their English roots as strikingly Western and liberal and, despite occasional lapses, are captured by the apt title of the country's naval doctrine: *Freedom to Use the Seas*. With the growth of Indian maritime power tracking the ascent of India more generally, New Delhi is moving from an insular and localized view of the oceans toward a liberal and global perspective. India is headed for a position of prominence in oceans governance for several reasons: it is fiercely independent and owes no allegiance to the West; it shares the West's historic legacy of democracy and liberalism; and it occupies an enviable geostrategic position between Europe, the Middle East, and East Asia. India is quickly becoming the policeman of the Indian Ocean, strengthening regional oceans governance and the global order of the oceans, and this trend portends a global role for India in oceans governance.

Upon the ratification of UNCLOS in 1995, India, like Brazil, declared that it “understands that [the treaty does] not authorize other States to carry out in the EEZ and on the continental shelf military exercises or maneuvers, in particular those involving the use of weapons or explosives

<sup>6</sup> International Maritime Organization, *Review of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, 1988, IMO Doc. LEG/SUA/WG.1/2/4 (July 9, 2004); and International Maritime Organization, *Review of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, 1988, IMO Doc. LEG 90/4/7 (April 6, 2005).

<sup>7</sup> International Maritime Organization, *Development of Guidance on the Use of Privately Contracted Armed Security Personnel on Board Ships*, IMO Doc. FAL 37/8/4 (July 13, 2011).

without the consent of the coastal State.”<sup>8</sup> India also purports to require 24-hour notification from vessels entering its EEZ with special cargoes, “including dangerous goods and chemicals, oil, noxious liquid, and harmful substances and radioactive material.”<sup>9</sup> The notification requirement is reflected in Indian law, which also requires that foreign warships give India prior notice before entering the territorial sea to conduct innocent passage — yet another rule inconsistent with UNCLOS.<sup>10</sup> Finally, India claims a security interest in the contiguous zone, which extends out to a maximum of 24 nautical miles from the coast. Because Article 33 of UNCLOS specifies that the jurisdiction of coastal states in the contiguous zone is limited to preventing infringement of the customs, fiscal, immigration, or sanitary (health quarantine) laws of the coastal state, there is no basis in law for India to assert legal competence over security matters.

These excessive offshore jurisdictional claims are the legacy of a weaker and less certain India of the past. In recent years, the country has embraced the importance of maintaining freedom of the seas and become a major protector of the Indo-Pacific maritime order; India is now the unmistakable leader in pan-Indian Ocean maritime security. In 2008, for example, New Delhi launched the Indian Ocean Naval Symposium, which connects chiefs of naval operations and maritime security heads from littoral states in an inclusive and collaborative network to increase regional maritime security. The symposium highlights Indian regional leadership in maritime information sharing, naval training, and operational collaboration, while also serving

<sup>8</sup> UN Division of Ocean Affairs and Law of the Sea, Office of Legal Affairs, *Law of the Sea*, Bulletin No. 29 (1995), 8.

<sup>9</sup> United States Department of Defense, *Maritime Claims Reference Manual*, 1-M (June, 23, 2005), 276.

<sup>10</sup> *The Territorial Waters, Continental Shelf, Exclusive Economic Zone & Other Maritime Zones Act*, 1976, No. 80, Acts of Parliament, 1976.

## Sea Power and the Global Swing States

**India.** The Indian navy is one of the busiest and largest in the world: it operates 135 warships, including 16 submarines. A large-scale recapitalization of the force is expected to expand the number of commissioned ships to 162 by 2022, including a big-deck indigenous aircraft carrier program. Naval aviation is expected to grow by 50 percent — to approximately 350-400 aircraft — over the next decade. After the United States, China, and Russia, India will have the fourth largest navy in the world, and it is expected to be the second-largest naval shipbuilder over the next 20 years as measured by the number of new hulls. The Indian navy is steadily evolving from a coastal force to a blue-water force, a change reflected in the fact that its budget has been steadily increasing as a percentage of the country's military spending. India's 2007 maritime military strategy, *Freedom to use the Seas*, reflects an outward-looking and progressively global force.

**Turkey.** Turkey will rank sixth in the number of warships constructed over the next two decades, behind only the United States, India, China, South Korea, and Russia. It will build about twice as many warships as either the United Kingdom or France and more than traditional maritime powers Canada and Japan. With the world's 18<sup>th</sup>-largest economy, Turkey is expected to rank 10<sup>th</sup> in terms of new warship tonnage. The Turkish navy is tasked to conduct national missions in the Turkish maritime jurisdiction area. Maritime forces monitor shipping and conduct constabulary patrols in the region, including "special and complex areas" of the Aegean Islands, areas in dispute with Greece, and the Black and Mediterranean Seas. In addition, Turkey's navy supports NATO maritime operations and exercises.

**Brazil.** The Brazilian navy is focused on offshore security, particularly on the protection of its sovereign rights and jurisdiction over resources in its "Blue Amazon." The force includes the aircraft carrier *Sao Paulo*, as well as nine British-built frigates and five coastal diesel-electric submarines. However, half of its 98 ships are in the naval shipyard; the aging force is in desperate need of modernization and is due to get it. The country is recapitalizing its surface, subsurface, and aviation inventory, with projected spending of \$84 billion to acquire aircraft carriers; frigates; ocean, coastal, and riverine patrol vessels; logistics ships; maritime patrol vessels, and embarked jet fighter aircraft. Between 2012 and 2034, the navy will also acquire a new submarine fleet, including indigenous nuclear submarines.

**Indonesia.** The Indonesian navy is incapable of maintaining adequate security throughout the archipelago.<sup>1</sup> Fish poaching, maritime smuggling, and piracy are prevalent, and providing sealift for ground forces to move around the country for constabulary or disaster-assistance missions places a heavy burden on naval forces. In 2008, the Indonesian defense minister estimated that only 60 percent of the fleet was operational. Its inventory includes 140 mostly aging surface ships, some of which are more than 50 years old. After stagnating over the past decade, the Indonesian navy's budget is expected to rise by more than 80 percent over the next four years from \$4.8 billion in 2010 to \$8.8 billion in 2014. Indonesian naval officers have stated that the service needs 700 ships and 30 submarines to adequately secure its entire maritime territory. Although those figures are unrealistic, they underscore Jakarta's sense of maritime insecurity.

<sup>1</sup> Jon Grevatt, "Island Ambition," *Jane's Defence Weekly*, July 11, 2012, 22, 26.

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as a political counterweight to offset China's naval deployments to the region.

The Indian navy is well positioned to maintain freedom of navigation and maritime order in the Indian Ocean from the Persian Gulf to the Strait of Hormuz and to patrol in conjunction with U.S. and Japanese naval forces as far as the South China Sea. To secure the sea-lanes in the Bay of Bengal in the east, India is building up military airfields on the Andaman and Nicobar Islands at the western entrance to the Strait of Malacca.

Nothing has displayed India's seriousness toward strengthening regional maritime governance more than its leadership in the fight against Somali piracy in the western Indian Ocean and Gulf of Aden. Somali pirates were initially active along Somalia's EEZ and the Somali Basin from 2004 to 2006 and then expanded their operations into the Gulf of Aden in 2007 and across the Indian Ocean to the west coast of India by 2008. Indian dhows are often targets of roving pirate gangs. While patrolling the Indian Ocean, the Indian navy has engaged numerous pirate mother ships, destroyed pirate skiffs, and freed captive commercial vessels and seafarers.

### **Indonesia**

Geopolitically, Indonesia finds itself in a similar position to India, connecting two great regions: the Indian and Pacific Oceans. Indonesia has a palpable concern that archipelagic maritime sovereignty is not respected to the same degree as traditional or territorial sovereignty, and this sense of insecurity contributes to a paranoia that is not entirely unjustified. Oceans dominate the geostrategic reality of Indonesia. During the negotiations for UNCLOS, Indonesia successfully championed the creation of the concept of the archipelagic state and, in return, accepted the right of ships, aircraft, and submarines to traverse its sovereign oceans.

The disaggregated nature of Indonesian territory and the continuous struggle to monitor — let alone manage — international maritime traffic through the archipelago mean that the country is likely to continue to look inward. In this respect, the greatest benefit that Indonesia can bestow on global oceans governance is to pass up the opportunity to be a spoiler. Jakarta can continue to choose to facilitate, rather than impede, international shipping through the archipelago. If Indonesia does so, it will be a major credit to the country, which bears a fairly heavy burden in hosting some of the world's busiest sea-lanes.

Indonesia lacks sufficient naval power to adequately patrol an incredibly wide expanse of water interspersed by an ethnic and factional milieu and a central government disconnected from local potentates. Political instability on land combined with piracy and terrorist and trafficking organizations (both homegrown and foreign) operating at sea raise the fear that other countries — most likely the United States or Australia — might be tempted to arrive uninvited to “help out.”

Indonesia has played an important local role in counter-piracy efforts. Following a spike in piracy in 2004, Indonesia enlisted Malaysia and Singapore in coordinated patrols along the Strait of Malacca. This initiative subsequently expanded to include maritime aerial surveillance operations and a fourth country: Thailand. Indonesia has also been a strong advocate for an IMO-facilitated agreement among the three littoral states bordering the Straits of Malacca and Singapore (Indonesia, Malaysia, and Singapore) on one hand, and 20 states that use the straits (including China, Japan, and the United States) on the other hand. The Cooperative Mechanism on the Straits of Malacca was the first time that states bordering an international strait completed a cooperation agreement with the nations routinely using the strait in accordance with Article 43 of UNCLOS.

For the most part, Indonesia has used the law of the sea as a key tool and enabler of the country's maritime policy, but Jakarta is also managing its maritime boundary relations with neighbors Singapore, Malaysia, and Australia through methodical negotiations. In 2010, the Indonesian and Singaporean governments ratified a maritime boundary agreement based on UNCLOS that sets the border along the western side of the Singapore Strait. The neighbors are negotiating the eastern boundary as well.

Indonesia retains an excessive view of its sovereignty and legal competence over offshore areas. Much like Brazil and India, Indonesia purports to require foreign warships and other non-commercial vessels to give notice before entering the territorial sea. Jakarta has objected to foreign military activities occurring in its EEZ, although it has not explicitly adopted laws restricting such operations.

However, the country is aware of how excessive maritime claims can destabilize regional order. Externally, Indonesia is most concerned about China's broad and vaguely couched claim over the South China Sea, which encroaches on the EEZs of Indonesia, Vietnam, Malaysia, the Philippines, and Brunei.<sup>11</sup> In 2010, Indonesia sent a diplomatic note to U.N. Secretary General Ban Ki-Moon contesting China's excessive claim over the South China Sea, stating that it "clearly lacks international legal basis" and "risks upsetting" UNCLOS. Indonesia's intervention is important because, although it is the heavyweight of the Association of Southeast Asian Nations, it had not spoken out previously on the issue of China's claim to over 80 percent of the South China Sea.<sup>12</sup> Jakarta is not a claimant to the disputes over islets and atolls in the South China

Sea, and its size and close ties to China make its views particularly influential.

### Turkey

Turkey has been a stable NATO partner and a responsible overseer of the straits dividing the European Balkans from Asia Minor. Turkey has been particularly careful to exercise stewardship in accordance with the 1936 Montreux Convention, which, as a longstanding treaty governing a strait used for international navigation, trumps the provisions of UNCLOS. In doing so, Turkey, like Indonesia, provides an international public good. However, Turkey's oceans policy is not entirely helpful to a stable order of the oceans.

Turkey joined the United States, Venezuela, Israel, and other states in declining to sign UNCLOS in 1982. Yet whereas many of these states have since joined the convention — particularly after revisions to the seabed mining provisions were adopted in 1994 — Turkey remains opposed to the treaty due to concern over how it would affect maritime delimitation with Greece in the Aegean Sea. The United States — also not a party to the treaty — regards most of the terms of UNCLOS as reflective of customary international law and binding on all nations, but Turkey rejects many of its provisions. Like opponents of UNCLOS in the U.S. Senate, Turkey permits inflated worries over dubious claims of offshore "sovereignty" to stand in the way of a stable order of the oceans.

Turkey's claims over Greek and Cypriot EEZs are based on the theory that the economic zone in the Aegean Sea is generated only by the continental shorelines of Greece and Turkey and not by individual islands owned by Greece or by Cyprus. This unorthodox approach is inconsistent with Article 121 of UNCLOS, which states that inhabited islands are entitled to their own EEZs and continental shelves. The entire purpose of creating the EEZ was to afford exclusive subsistence

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<sup>11</sup> Jon Grevatt, "Island Ambition," *Jane's Defence Weekly*, July 11, 2012, 22.

<sup>12</sup> "Will China Push the Boat on its Maritime Borders?" *The Canberra Times*, September 10, 2010, 15.

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fishing rights to populations living along the coast. Consequently, Turkey ignores the rights of the islands and asserts an EEZ that stretches from the southern coast of Anatolia to the northern waters of Egypt.

Turkey's aggressive and mercantilist disregard for its neighbors' EEZs and continental shelves is destabilizing, weakening the international order of the oceans in an area where the international rule of law already suffers from erosion. Yet from Turkey's perspective, it is uncertain to what extent the rules of UNCLOS can or should bind non-members. Furthermore, unlike some countries, such as China, that are parties to UNCLOS but simply ignore key provisions and assert similar historic claims, Turkey has had the forthrightness to reject the treaty out of hand. Still, the case law developed by the International Court of Justice and the International Tribunal for the Law of the Sea leave no doubt that the provisions of UNCLOS have acquired the legal force of customary international law, and Turkey is legally obligated to respect its neighbors' maritime zones.

### **Maritime Cooperation with the Global Swing States**

During the UNCLOS negotiations, the four global swing states inordinately focused their energies on maximizing the authority of port states and coastal states, although they ultimately muted some of their proposals in the overall interest of reaching an agreement. In the intervening decades, however, Brazil, India, Indonesia, and Turkey have resurrected their arguments for asserting excessive coastal-state competence over littoral waters. Taking a page from China's diplomatic playbook, each nation has to some extent tried to walk away from bargains already made, weakening the international order of the oceans. The international law of the sea is particularly susceptible to adaptation through state practice, and these states

should be sensitive to the influence of their actions as a model for other states.

These four nations can play a special role in preserving and maintaining the global order of the oceans, akin to the responsibility of major powers such as the United States, Russia, and China. The Indo-Pacific is quickly becoming the dynamic epicenter of world economics and politics — and, not coincidentally, of thinking about oceans governance. These changes provide India with the opportunity to be a leader in the region, protecting freedom of the seas for all nations. To the extent that the other three swing states also uphold and promote a liberal order of the oceans, they will help to stabilize the legal and political order at sea.

Today, these countries have a mixed record on supporting global initiatives to suppress terrorism and proliferation of WMD at sea. Turkey, for example, was an early participant in PSI and has hosted meetings of the PSI Operational Experts Group. Like Russia, which is also a PSI participant, Turkey understands the risks that WMD pose to international stability. Brazil has been agnostic toward PSI, unable to rise and accept new responsibility for oceans governance. More troublesome, however, are India and Indonesia. Like China, the two Asian states have been particularly unhelpful by actively resisting PSI and even challenging its legality.<sup>13</sup> The 2005 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation codifies many aspects of PSI, going even further than PSI with regard to detailed ship-boarding provisions. Yet eight years after its adoption, the new convention remains woefully underutilized. Whatever their motivation for rejecting PSI, India and Indonesia have an opportunity to use their influence to strengthen this complementary institution.

<sup>13</sup> Hasjim Djalal, "Proliferation Security Initiative (PSI): Indonesian Perspective," *Indonesian Quarterly*, 35 no. 2 (2007), 183-193.

There are two overarching narratives that could help to arrest or reverse the tendency of these four countries to challenge the international law of the sea. First, as they increasingly come to resemble major powers, their strategic compass may shift toward a more liberal order of the oceans. The United States should emphasize the benefits accrued under UNCLOS, which will become more apparent as these nations emerge as global players.

Second, as the relative balance of power in the world shifts from north to south and west to east, the global swing states will acquire greater power and continue to demand a greater role in fashioning international rules and institutions. In particular, India and Indonesia will gain greater political currency, and both have shown promising signs that they will value and promote a liberal order at sea that ensures freedom of navigation for all. Brazil and Turkey are also on a track of irreversible ascendancy, although their economies appear less resilient than those of their Asian counterparts and they lie farther from the center of global power. The future rules for order at sea are being shaped more in Asia than anywhere else, meaning that India and Indonesia will have a greater say in their formation. In this regard, the two Asian states are steadily improving their approach to maritime law and policy, leaving behind an insular past to integrate their efforts with partners around the region. Indonesia, for example, has joined other members of the Association of Southeast Asian Nations in rejecting China's illegal claims over the South China Sea. India has gone even farther, becoming an active and responsible steward of the Indian Ocean.

If the four nations push hard for illiberal solutions to oceans disputes — as in Turkey's recent round of high-stakes intimidation to compel states to back out of bidding for oil blocks in Cyprus' EEZ — then compromise will be unlikely. Overextended efforts to upset the world order of the oceans may end badly, pitting the swing states against their

neighbors or major maritime powers. By contrast, new accommodations in the existing maritime regime may be made as a way to entice greater compliance and deeper involvement of the swing states. Preferential positions in regional fisheries management organizations, for example, could attract greater cooperation. The swing states also may begin to compete for seabed development beyond areas of national jurisdiction, as China is doing, which would lead to a greater interest in governance in the global maritime commons.

With U.S. involvement in Iraq concluded and an exit plan for Afghanistan being implemented, the United States should dedicate a greater percentage of its overseas capacity-building efforts toward bolstering maritime security. The interagency Global Train and Equip program, which is managed by the U.S. Departments of State and Defense, awards only about one-third of its funds to maritime programs — a figure that should rise considerably.

Finally, the traditional major maritime powers — especially the United States, the United Kingdom, and Japan — must recover from a decade of “sea blindness.” The world's oceans cover over 70 percent of the planet and form a single, interconnected domain. The inability to understand or articulate the centrality of oceans governance to grand strategy has hampered the ability of developed states and maritime powers to broaden the coalition of nations that believe they have a stake in maintaining a global order of the oceans. The liberal order of oceans governance enables globalization, generating an economic boom that benefits the entire world, including the swing states. Commercial maritime links and freedom of transit throughout the globe amplify the importance of global maritime mobility for ships, submarines, and aircraft. The United States can do a better job of making the connection between a rules-based order at sea and a stable, prosperous world.

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