

# THE NAVY

*and*

## Regional Engagement

EDITED BY JACK McCAFFRIE AND DICK SHERWOOD





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**THE NAVY**

**AND REGIONAL ENGAGEMENT**

Edited by

Jack McCaffrie

and

Dick Sherwood

**Australian Defence Studies Centre**

AUSTRALIAN DEFENCE  
FORCE ACADEMY

THE UNIVERSITY OF  
NEW SOUTH WALES





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First published in 1996 by the  
Australian Defence Studies Centre  
University College  
Australian Defence Force Academy  
Canberra ACT 2600

National Library of Australia  
Cataloguing-in-Publication entry

ISBN 0 7317 0403 7

Typesetting: Beverley Lincoln

Cover design: Flying Fox Typography and Design

Front cover: Sailors from New Zealand, Australia, Indonesia,  
Malaysia and Singapore photographed during  
exercise Kakadu '95.

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## ACRONYMS AND ABBREVIATIONS

ADEX	Air Defence Exercise
ADF	Australian Defence Force
ADI	Australian Defence Industries
AGPS	Australian Government Publishing Service
ASC	Australian Submarine Corporation
ASW	Anti-Submarine Warfare
ATBA	Areas to be Avoided
ANU	Australian National University
APEC	Asia-Pacific Economic Cooperation
ARF	ASEAN Regional Forum
ASEAN	Association of South East Asian Nations
AWA	Amalgamated Wireless Australia, Ltd
C3I	Command, Control, Communications and Intelligence
CMDR	Commander
CNN	Cable Network News
CNS	Chief of Naval Staff (Australia)
CO	Commanding Officer
CPO	Chief Petty Officer
CPOETC	Chief Petty Officer Electronics Technical Communications
CPOETP	Chief Petty Officer Electrical Technical Power
CPOMTH	Chief Petty Officer Marine Technical Hull
CPOMTP	Chief Petty Officer Marine Technical Propulsion
CSCAP	Council for Security Cooperation in Asia-Pacific
DFAT	Department of Foreign Affairs and Trade (Australia)
DIPCLEAR	Diplomatic Clearance
DOA 87	Defence of Australia 1987 (the 1987 Defence White Paper)
DPRK	Democratic People's Republic of Korea (North Korea)
DSTO	Defence Science and Technology Organisation (Australia)
EEZ	Exclusive Economic Zone
FCP	Fleet Concentration Period
FPDA	Five Power Defence Arrangements (Australia, United Kingdom, New Zealand, Singapore and Malaysia)
GBR	Great Barrier Reef
GDP	Gross Domestic Product
HMAS	Her Majesty's Australian Ship
HQADF	Headquarters Australian Defence Force
IADS	Integrated Air Defence System
IMF	International Monetary Fund
IMO	International Maritime Organisation
IP Division	International Policy Division, Department of Defence (Australia)
ISIS	Institute of Strategic and International Studies (Malaysia)
IUCN	International Union for the Conservation of Nature and Natural Resources
JIO	Joint Intelligence Organisation
JMSDF	Japanese Maritime Self-Defence Force

## Acronyms and Abbreviations

LADS	Laser Airborne Depth Sounder
LCDR	Lieutenant Commander
LEUT	Lieutenant
LOSC	Law of the Sea Convention
LS	Leading Seaman
MARPOL	International Convention for the Prevention of Pollution from Ships
MBPIS	Agency for Energy, Industrial and Technological Development (Indonesia)
MDefStud	Master of Defence Studies
MLOC	Minimum Level of Capability
NATO	North Atlantic Treaty Organisation
NGO	Non-Government Organisation
NORCOM	Northern Command (Australia)
NPT	Nuclear Non-Proliferation Treaty
OLOC	Operational Level of Capability
PASSEX	Passage Exercise(s)
PNG	Papua New Guinea
PSSA	Particularly Sensitive Sea Area
RAN	Royal Australian Navy
RIMPAC	Rim of the Pacific
RMN	Royal Malaysian Navy
RN	Royal Navy
RSN	Republic of Singapore Navy
RTN	Royal Thai Navy
SEATO	Southeast Asia Treaty Organisation
SLOC	Sea Lines of Communication
SOLAS	International Convention for Safety of Life at Sea
SOP	Standard Operating Procedure
SWP	South West Pacific
TNI-AL	Tentara Nasional Indonesia-Angkatan Laut (Indonesian Navy)
UNCLOS	United Nations Conference on Law of the Sea
UNCED	United Nations Conference on Environment and Development
US	United States of America
USN	United States Navy
VADM	Vice Admiral
WO	Warrant Officer
WPNS	Western Pacific Naval Symposium

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# 1

## Introduction

*Dick Sherwood*

During 1995, Australia along with most of its neighbours celebrated the fiftieth anniversary of the end of the Second World War. More importantly, it marked fifty years of evolution in Australian defence policy from one with a basic ingredient of Empire cooperation and reliance on great and powerful friends to one of self reliance and regional engagement. This monograph, although containing a chapter on the 1994 Defence White Paper *Defending Australia*, is primarily focused on the second part of current policy, that of strategic engagement with the region. As the White Paper notes: 'Our ability to defend ourselves and contribute to regional security does much to ensure that we are respected and helps us engage in our region by giving confidence that we can manage uncertainty and assure our security'.

Regional engagement is now a cornerstone of Government policy, not just defence policy. It has developed over the last decade, hand in hand with the recognition that national security is much more than just maintaining territorial security and protecting Australia against the threat of armed attack. Australia now embraces fully the notion that national security is multidimensional and cuts across many portfolios, to include all aspects of national economic and social well being. Added to this is a growing awareness, especially in Australia's region, that many national security issues have a regional if not global dimension which requires multilateral rather than unilateral approaches.

For students of naval or maritime strategy and history this is, of course, not an entirely new concept. Many of those whose lives are closely associated with the medium which ultimately links the nations of the world together, have long understood the need for close cooperation among friends and neighbours, to promote mutual well being. Naval capabilities can be instrumental in promoting the nation's security interests; helping to build a stable regional security environment through active participation in regional defence cooperation. There are also the strategic links with Australian industry, helped by Australian warship port visits into the region, demonstrating *inter alia* our own technological developments. This will be even more apparent as the Australian Defence Force (ADF) heads further down the path of self reliance with the coming on line of Australian built naval capabilities.



## 2 Introduction

Most importantly, the last decade has been dominated by quite significant strategic change; change which is ongoing and which brings with it many uncertainties. In respect of the ADF it is the maritime component which has been most affected by the process of change, especially in the regions around Australia. These form an area of significant strategic interest, dominated by the sea in terms of trade, communications and potential sources of conflict. Regional countries have become increasingly preoccupied with maritime security. In the broader strategic sense they show some concerns about how major regional powers such as China, Japan and India may respond to the prospects of a declining United States (US) presence in the Western Pacific. In respect of specific issues there are ongoing disputes over maritime boundaries, conflicting claims to offshore territories and resources as well as problems with piracy, drug smuggling, refugees and illegal fishing.

It was with all this in mind and the need to keep those responsible at the 'sharp end' abreast of developments both in a strategic sense and in terms of the direction of Government policy, that the then Maritime Commander, Rear Admiral Don Chalmers, in association with the RAN's Maritime Studies Program, brought together early in 1995, senior officers from the Fleet, officials involved in formulating defence and foreign policy and selected academics. This monograph covers the proceedings of their discussions and focuses on the national policy of regional engagement and in particular the important role that the Navy has to play. The early chapters cover the strategic change occurring in the region and outline the policy responses which have been developed by the Government to maximise the advantage to Australia of that change. The later chapters concentrate on the RAN's role in implementing that policy, and in so doing highlight the momentous task faced by an organisation competing for scarce resources within a framework of evolving security policy.

## 2

### The Asia Pacific Strategic Environment—Implications For Defence Planners

*Paul Dibb*

*Defending Australia*, the 1994 Defence White Paper, unlike previous White Papers, does not look forward just 10 years, it looks forward 15 years to the year 2010. It identifies no threat, but compared with the 1987 White Paper, it now stresses much more the uncertainties and the more fluid and complex outlook for Australia's region of strategic interest. This more fluid and complex outlook will be more demanding for defence planning, and it recognises the potential for great change in our strategic environment. There is a lot in the White Paper about levels of conflict, short warning conflict and about warning time in general. There is also much about the force structure, but with a few minor exceptions (like submarines seven and eight and some of the policy on reserves), it is basically a straight line continuation from the 1987 White Paper.

What is new, however, is the first two chapters, the strategic chapters, which I commend to all with an interest in the security of this country. They should be read very carefully. In fact there are within these two chapters two key sentences. The White Paper is now focused on Asia, and not just the defence of Australia. The White Paper says: 'the relative peace in Asia may not last'.<sup>1</sup> It goes through a long explanation as to why Asia's security has improved a lot in the last 10 years, through the process of economic growth and political liberalisation and more stable regimes, but it comes to the conclusion that the relative peace in Asia may not last. It also goes through possible changes in the alignment of the major powers, by which it means the United States, China, Japan and India, and the possible implications of sustained economic growth rates for the military potential of Asia. It also canvasses the prospects for regime changes in countries such as China, Indonesia, Vietnam and elsewhere. The key phrase in relation to these strategic developments is: 'the possibility that our (Australia's) security environment could deteriorate, perhaps quite seriously in the future'.<sup>2</sup> These are enormously powerful statements, endorsed by the Departments of Prime Minister and Cabinet, Foreign Affairs and Trade and Defence as well as by Cabinet itself. It amazes me that these

phrases seem to have been ignored by the media and indeed, by a lot of our academic colleagues as well.

The White Paper says that in recent years Asia has been a comparatively peaceful place.<sup>3</sup> Economic growth, effective governments and the end of the Cold War have enabled a stable pattern of strategic relationships to emerge. But as noted above it also acknowledges that the relative peace of Asia may not last. Over the next 10 to 15 years the changing relationships between the great powers—that is China, Japan, India, Russia and the United States—and the way in which economic growth will change the strategic potential of countries, will make the strategic outlook of the region more complex, changeable and less predictable. The White Paper introduces the concept of strategic potential;<sup>4</sup> by which it means that the economic mass and the technological capabilities of most countries in Asia suggest that they have greater military potential than their current orders of battle. Technological strategic potential is a very important point. For middle powers in the region, the strategic outlook will become more uncertain and as a result, as also noted above, there is the possibility that our security environment could deteriorate perhaps quite seriously in the future. These changing strategic circumstances have the very real potential of throwing the middle powers closer together. The middle powers referred to here, are Australia, the Association of Southeast Asian Nations (ASEAN) countries, Indo-China (including Vietnam), South Korea, and Taiwan. But it is a term that particularly applies to Australia and ASEAN in terms of the concept of strategic partnership that has been developed in the White Paper.<sup>5</sup>

For Australia none of this foreshadows direct military threat. Indeed in the next five or more years, I like many others, would see our strategic outlook as continuing to be peaceful. But in the longer term, we will see great change in our strategic environment. The White Paper notes that economic growth will increase the power of nations in our region and political change may make their policies less predictable. Australia's security now depends, in a way it did not in the Cold War, on strategic developments in Asia itself. Developments will occur slowly and so we will have warning, but they are likely over the next 10 to 15 years to effect our strategic environment significantly. In the longer term, they may have important and direct consequences for the development of Australia's defence policy, including force structure issues. The White Paper says that as a result, our policies will need to encompass a wider range of possible outcomes than in the more predictable decades of the Cold War.<sup>6</sup> This is a White Paper which has very significant long term strategic implications.

Turning briefly to the subject of power and growth in Asia, the process of rapid economic growth in Asia promises fundamental shifts in the balance of power and the strategic potentialities of the major powers. According to Paul Kennedy, the power position of the leading nations over the last five centuries has closely paralleled their relative economic positions.<sup>7</sup> That should not surprise us. There is a very clear connection, in the long run, between an individual great power's economic rise and fall and its growth and decline as an important military power: a good

example is the former Soviet Union. Another academic, Robert Gilpin, has shown that uneven growth leads to cycles of rising and declining states. He has also observed that periods of rapid economic, technological and social change, within and among nations, creates dangerous uncertainties and anxieties that can lead to political miscalculations.<sup>8</sup>

Arguably, Asia is now entering such a period of sustained and dynamic growth, in which there is the danger of loss of control over rapid economic, technological, political and social developments. Certainly, great economic power in Asia is already leading to great shifts in relative political power. The words 'relative political power' are significant, because the important issue to many, is where their nation stands in terms of relative power. The example of Japan is well known. It has great economic power and now it is attaining great political power. Not so obvious is the fact that according to the International Monetary Fund (IMF), in terms of purchasing power parity, the economy of China is now the third largest in the world, just behind that of Japan. And India, using the same basis for calculation (purchasing power parity) has the world's sixth largest economy, just behind that of France. The IMF is using these calculations of purchasing power parity as a more accurate way of describing economic capability than just converting local currencies into American dollars.

More important are the sort of predictions which have been made about the size of China's economy by 2010, or the time frame of the White Paper. My colleague Professor Garnaut at the Australian National University (ANU) and other eminently respected experts, are predicting that China will have the world's largest economy by 2010. Now, some people disagree with that and say it might be 2015 or 2020. Frankly, in strategic planning terms, that is not the issue. The issue, is to identify the trend and determine whether it is salient, whether it is important. There are some very optimistic views about the future of Asia. My definition of Asia encompasses everywhere from Pakistan to Japan and the Koreas. Its economic strength by 2010 will be equivalent to that of either the US or Europe. And by 2020, Asia's economic strength will be equivalent to about three quarters of the economic size of both those areas put together; that is, of the US and Europe together. Now you could argue that these are optimistic views, but they are being put forward by people who are skilled in economic analysis and there is a great deal of weight to their argument. But it does depend crucially on the calculation of China holding together as a unified nation.

If these shifts in the relative economic power of Asia do occur, they will bring about the most momentous shift in the global balance of power since the Industrial Revolution. That is a shift in the balance of power globally from North America and Europe to Asia, and within Asia to China and Japan. Clearly, we would have to make strategically different calculations if one predicted a disintegrated China, which I do not, or if there was massive slow down in the global economy. We can debate about precisely when it might occur, but immutably we will see an historic shift in the balance of power.



Of course, this does not mean that these shifts in economic mass and capability will necessarily lead to conflict. As in all these arguments there are people with a more pessimistic view. There are also those who believe that we are entering a period in which peace will break out across the globe, and that economic growth will lead to interdependence, and interdependence will lead to peace. There are those who believe that we might enter a new era of peaceful economic cooperation and democratisation in Asia and often they put the two together. That is, economic cooperation leads to democratisation, and they talk about, the Pacific Century. My view is that there is no necessary or sufficient correlation between economic growth and democracy. It has not had much effect in Singapore. I have yet to see the impact it really has had in China, although it has had some impact in South Korea and Taiwan.

The other view with which I basically identify myself, is that there is at least a risk, and some would argue more than an even chance, that these sorts of dynamic shifts in economic and technological power will lead to dynamic shifts in political power. Ultimately they may lead to struggles for power, position and influence, if not outright conflict. We have got to treat both approaches seriously and test them as the evidence unfolds. Unfortunately, I do not see these sorts of issues being addressed at all sufficiently. We have intelligence organisations in Canberra which are current intelligence focused. Current intelligence is very important, but in the end it is a perishable product. Unless we have organisations which are looking at these longer term strategic issues and not merely extrapolating from comfortable straight line experience, then as with the case of the disintegration of the Soviet Union, we are going to be caught fundamentally napping, with a major discontinuity in our strategic assessments.

Although as a prudent defence planner I am naturally of a more cautious view, I acknowledge there are two important constraints on any naked struggle for power in Asia. First, there is the possession of nuclear weapons as a major deterrent to the use of force, certainly between the major powers. That does not exclude the use of nuclear weapons between smaller powers, or indeed, between neighbouring states, as for instance between India and Pakistan. But between the major powers, the likelihood is low. Second and relatedly, the rapid growth in economic interdependence among Asian countries has undoubtedly raised the likely political damage and economic cost of the use of military force. Within these broad constraints, however, shifts in the power of the major states could be used in two ways.

Firstly, the build up of military power, which is occurring in nearly every single one of the major Asian powers, can be used to impress, influence and, if necessary, intimidate smaller powers, or in the final analysis to secure contended territorial claims. Secondly, and in a more sophisticated way, great economic and political power, as well as obvious military potential, can be used to secure spheres of influence, ensure that national policies are accepted and exert power and leverage in

the international system. There is nothing new in this, and in this context, the economic interdependence model does not necessarily stand up to close scrutiny.

In looking at some of the premises of economic interdependence, there is the question of the growth of economic power and what it means for political power. The problem is, that the economists give us predictions about China emerging as the world's largest economy and then walk away from it without analysing the consequences. They do not explain that there are enormous political and strategic implications from such economic calculations. In both the official and academic domain, we do not bring together sufficiently our analyses of economic and security implications. We are very poor at that and we do need to give the matter serious attention.

Secondly, economists tend to see gains in absolute terms. For example, they have the belief that (Asia-Pacific Economic Cooperation) APEC will lead to the lowering of trade barriers, and we will all benefit economically. Strategists on the other hand, tend to see gains in relative terms. Somebody will gain more than somebody else and that will shift relative power balances, and you can see that for instance in the trade dispute between the United States and Japan. Whilst you can argue if, you are an economist, that both countries in economic terms have benefited absolutely from the trade between them, it is clear from the United States point of view that there is a massive trade imbalance and that there has been a relative gain to Japan. That perceived tension in the relationship over economic issues, I would argue, has now spilt over into the political and security relationship between the United States and Japan.

Thirdly, there is the question of interdependence as such. There seems to be a blind acceptance that interdependence itself is self-evidently good. But interdependence can also lead to dependency; as with those countries in Southeast Asia which are heavily dependent on Japan for trade, investment and technology. Undoubtedly, they have benefited from the trade flows, but there is a perception of dependence.

Fourthly, interdependence, not just economic interdependence, but technological interdependence can be a transmission belt for destabilising influences. One only has to look at the way in which most Asian countries are afraid of the impact of the information technology revolution and how some of them are seeking to prohibit the use of satellite dishes, or television programs and how others are seeking unsuccessfully to control computer information. Obviously, those nations which seek to inhibit the flow of information, as did the former Soviet Union, will basically damage their international competitiveness. A significant number of countries in the region, including in our neighbourhood, are seeking to impede the free flow of information. It is one aspect of interdependence they do not like, because they see it as a transmission belt for destabilising political and social influences.

Finally, the last time we went through a period of rapidly increasing economic interdependence, with major technological breakthroughs in communications and transport and a significant growth of democratisation, was in the second half of the

19th century, in Europe. And look at the result of this period. Of course as defence planners we need to recognise that power is now more diffuse and there are greater inhibitions on conflict between major powers. There is now the key importance of economic and technological power, rather than military power, in the post-Cold War period and we certainly need to factor that into our calculations. There are rules of international behaviour now, compared for instance with the second half of the 19th century, which make the invasion of one country by another unacceptable—as in the case of Iraq's invasion of Kuwait.

Turning to the future of military power in Asia. In the final analysis, nations in our region will rely on effective military capabilities for their own defence. As our own White Paper notes: '... armed force can only be resisted ultimately by armed force'.<sup>9</sup> Additionally, in all probability, we are going to see less emphasis being placed in the region on alliances in this post-Cold War period. More emphasis will be placed on defence self reliance, not least by the middle powers. In other words, there will be less certainty about alliance frameworks and more of a tendency to build up defence self reliance. The growth of military power in Asia is now very wide spread, significantly at a time when few countries in Asia face any palpable military threat.

In the last seven years, Asia's military spending has increased in real terms by 25 per cent, while that of Europe, the US and Russia has declined. Asia's share of world defence expenditure for that same seven year period has almost doubled. Asia is now a larger arms importer than the Middle East, and by the year 2000 will spend more on defence than North Atlantic Treaty Organisation (NATO)-Europe. Those figures in themselves do not mean any thing in particular, except to observe that at a time when a significant part of the rest of the world is slashing its defence spending, Asia continues in line with its economic growth (and with a few exceptions) to push ahead with the build-up of military power. Whilst no Asian power yet has long range power projection forces, capable maritime strike forces are proliferating throughout the region. This is being fed by the willingness of Russia, Western European countries and the US to sell advanced weapons at bargain prices, due mainly to the serious contraction in their own defence industries.

Many Asian countries are also developing their own defence industry bases, and as their education and technological levels rapidly improve, they will be able to absorb more easily the transfer of advanced military technology. In this respect they are making generational leaps of their own; notably in the way in which China is developing supersonic cruise missile technology. China, Japan and India already have large defence industries, and increasingly middle powers such as South Korea, Singapore and Taiwan and indeed ourselves, have a significant defence industry capability. The military environment of Asia in the year 2010 will be more dangerous should conflict erupt. There is a proliferation of more precise, beyond visual range, terminally guided munitions, which are becoming part and parcel of almost every regional defence force. The scope of forces that could be brought to

bear in regional conflict will increase steadily over the next 15 years and their destructive power in combat will improve significantly.

Asia also has very worrying trends with regard to the proliferation of weapons of mass destruction and their means of delivery. China is Asia's nuclear weapons power. It also has a chemical and biological weapons capability. There is reason to believe that India and Pakistan are not only nuclear weapons powers, but may be imminently deploying nuclear weapons. And India has a chemical weapons capability. South Korea and Japan are latent nuclear weapons powers, as indeed are a number of other middle powers. By 2010 neither China nor Japan nor India, as the major powers of the region, will compare with the United States in military terms but, on regional standards they will be major powers with capable forces that will have to be taken increasingly into the calculations of neighbouring smaller powers.

This is one of the problems with some of the current assessments. They tend to be overly influenced by American analysts. For example, the US view is that China's order of battle is obsolete. Why worry about it? If you look at China's order of battle on regional standards, it has, however, a significant capability now. Thus, we need to think more in regional terms and be less influenced by some of these external assessments. These trends in military capabilities are the more serious when it is understood that there are in Asia deep seated historical antipathies, cultural and ethnic differences, religious and ideological divisions and more than two dozen territorial disputes. About half of the latter involve maritime boundary disputes between neighbouring countries. The outlook, as noted at the outset of this chapter, is for a much more fluid and complex strategic environment in Asia, in which military capabilities will grow. For defence planners, this foreshadows a more demanding strategic outlook.

Finally, what is the likely outlook for the future balance of power and what is an appropriate strategy for middle powers, such as Australia? It is of course not possible at this time to forecast the precise nature of the future regional balance of power. My own guesstimate is that China will not have either the resources, or the inclination to become the dominant regional hegemon. But it will have the growing potential to become a more assertive and demanding, if not arrogant power. When you ask the Chinese about aircraft carriers, the response is usually: 'all major powers have aircraft carriers, why not us. You do not criticise the Americans, the British, or the French, or the Indians'. The Chinese are also unremitting on the question of the territorial issue of the South China Sea. They believe that the entirety of the South China Sea is China's sovereign territory.

As for Japan, it probably faces its most uncertain strategic outlook in 50 years. The alliance with the United States is less robust. Russia remains a military threat from Japan's point of view. And a unified Korea, having a latent nuclear weapons capability, would be seen as threatening. There are many variables here, but as long as Japan retains confidence in the American alliance it will not become an assertive military power, although it clearly has the potential to become so and to engage in a potentially destabilising struggle for power and influence in Asia with China.



India is also an uncertain quantity in this strategic equation. It could remain essentially a regional power as it has for many decades, or it could use its growing economic strength to engage in strategic competition with China and to underpin its claim to be the strongest military power in the Indian Ocean. My colleague Dr Sandy Gordon believes India will start to look east towards Southeast Asia and Indo-China, as it is attracted by the growth of Chinese power.

Russia is a power in the process of rapid decline and it will not be a significant actor in Asia. Its military forces in the Russian Far East, including its naval forces, may halve over the next decade. But in the long term one cannot rule out the re-emergence of a nationalist, xenophobic Great Russian state. In fact, since the events in Chechnya, one could put more money on the faltering of democracy in Russia. For a significant period of time, however, it will be very difficult for Russia to regenerate its military power.

As to America, I do not support the declinism model of the United States. By the year 2010, the United States will still be unrivalled as a global military power, with by far the most advanced military technology. The question is more: will the United States still have the interest and commitment to the defence of Asia, and will it hold the balance of power among China, Japan, India and Russia? An Asia where the United States did not hold the balance would be an unstable and dangerous place for Australia, unleashing ancient animosities between China, Japan and India and potentially Russia. If the Korean Peninsula unifies, the need for 50,000 American troops on the Korean peninsula disappears, with implications for the American military presence in Japan.

Thus, for middle powers such as Australia, important new uncertainties are unfolding and could lead to the deterioration of our strategic environment. It will be crucial with our advanced intelligence collection and assessment processes to monitor the nature of change closely, to determine turning points and the potential for discontinuity. We will need to have assessments which are not just comfortable extrapolations from experience. We need also to have better judgments on what could happen to the United States alliance system in this region. In policy terms, the middle powers will need to improve their defence self reliance, so that they are not easy prey and cannot be pushed around with impunity in any future balance of power struggle in Asia. Modern defence technology, both in terms of the utility of intelligence and surveillance and the striking power of combat platforms, can give even middle powers a formidable defence capability, so that we are not easy targets in some future balance of power struggle. Middle powers will also need to consult each other more to help shape their strategic environment and develop a community of strategic interests which draws the Asian great powers into a process of multilateral security dialogue, confidence building and transparency, which encourages codes of restraint and rules-based regimes for conflict resolution.

It has to be recognised, however, that so far at least, there is no sense of an international security community in Asia. There are no agreed values and no rules of behaviour. With APEC and the ASEAN Regional Forum (ARF), we are only at the

beginning of a multilateral process which is likely to be long and difficult. But, ultimately, it is only through strengthened multilateral institutions that the smaller states in Asia will be able to face the 21st century with greater confidence, and not be subject to the naked power politics of a potentially unstable balance of power. We should not be overly sanguine that this multilateral process will occur, simply because nations want to be at peace with each other and depend upon interdependence for their prosperity. That would be a shallow foundation on which to build national security in these uncertain times. Since the end of the Cold War, governments everywhere have become too confident about the security of the international system. Nowhere is this more evident than in Asia, where euphoria about economic growth, 'econophilia' is leading to the dangerously simplistic view that the major strategic problems of the region have been solved.

I do not accept that a new form of international order is emerging, in which international security will be regulated more by shared norms concerning democracy and economic interdependence. Rather, I believe that nations in Asia will relate to each other in much more familiar and old-fashioned ways regarding the struggle for power and influence. Under these circumstances, the middle powers need to prepare themselves more for an uncertain future, by developing strategies of both defence self reliance and cooperation among themselves, that will preserve their independence as nations. We will need to search for a new approach to managing regional order in the 21st century; an approach driven by a need to maintain the balance of power, which avoids domination, and which reassures us, as middle powers, that there is an alternative to the naked power politics of the great powers.

#### Notes

- 1 *Defending Australia: Defence White Paper 1994*, AGPS, Canberra, 1994: para. 2.3.
- 2 *Ibid.*, para. 1.6.
- 3 *Ibid.*, para. 2.2.
- 4 *Ibid.*, para. 2.9.
- 5 *Ibid.*, Chapter 8.
- 6 *Ibid.*, para. 2.19.
- 7 Paul Kennedy, *The Rise and Fall of the Great Powers*, William Collins, London, 1989.
- 8 Robert Gilpin, *War and Change in World Politics*, Cambridge University Press, Cambridge, 1981.
- 9 *Defending Australia*, para. 1.3.



# 3

## Australian Foreign Policy Priorities in the Asia Pacific

*Rory Steele*

As we move rapidly towards the 21st century, foreign policy is becoming such a complex discipline that a straightforward two dimensional tabulation of a nation's foreign policy priorities would be an insufficient way of covering the subject. If one was attempting to give a visual picture then one would need to use all aspects of what is now termed multi-media. There would perhaps need to be a cinema screen encircling the room with Cable Network News (CNN) coverage of major international mayhem, footage from conference rooms, pictures of boat people, domestic debate on; Timor, the sale of Steyr rifles, logging and human rights—all accompanied by babbles of voices from stock exchanges, front lines, sporting events, and election campaigns. Foreign policy has never been so multifaceted. By way of example, the famous British diplomat Harold Nicolson, writing on diplomacy in the 1950s, noted the different ways in which foreign policy could be prosecuted. One option, he wrote, for addressing problems was the diplomatic conference, but it was rarely resorted to.<sup>1</sup> That was then—now there are diplomatic conferences every year, on everything from world trade to population control, law of the sea to climate change, and regional security to disarmament. These are the kinds of issues which number among a nation's contemporary foreign affairs priorities.

Accordingly, this paper does not provide a linear listing of foreign policy priorities—the key issues that will dominate the work of the Department of Foreign Affairs and Trade (DFAT) in the years ahead—but focuses instead on themes and balances, in a way comparable with the 1994 Defence White Paper. One of the key balances, for example, in the White Paper is that between the new approach to regional engagement (the theme of these proceedings) and the traditional priority of alliance commitments. In DFAT we are similarly making balances between; international and regional, bilateral and multilateral approaches, and economic and security priorities. A major new balancing act for us will be to ensure that our attention is appropriately focused on what may be called the increasing triangularity of international events around European, Asian and American loci.

### Trade and Economic Themes

The Foreign Affairs and Trade Program lists as the Department's number one objective: 'To increase Australia's economic prosperity through trade and investment flows'.<sup>2</sup> While Defence naturally has a different perspective on national priorities I am confident it can accept the following three related fundamental premises:

- Australia is located in a region of accelerating prosperity;
- economic performance is a benchmark whereby our neighbours make judgements; and,
- we need to perform well economically to afford effective defence.

Quite simply, our national security would to an extent be prejudiced if our economic performance was poor in relation to our neighbours'. Exactly to what extent cannot be determined, because part of it is subjective and relates to national perceptions and images. But in any case there are other abiding important reasons for us to try to achieve that first DFAT objective.

In a major speech to Parliament, on 6 December 1994, the then Prime Minister enumerated some of the positive outcomes for Australia of the APEC forum leaders' meeting concluded in Bogor, Indonesia in late 1994. The main commitment made at Bogor was for free trade in the region—by 2010 for industrialised economies and by 2020 for the others. Under APEC free trade, the Prime Minister said, 'Australia's real output would rise by 3.8 per cent and real national income by 1.2 per cent. This would include a 27 per cent increase in Australian exports and a 20 per cent projected rise in imports. Australia would benefit from the opening up of fast-growing markets which already take three quarters of our exports, and from making Australia more attractive to investors. Australia did not have to fear competing in a low-tariff environment—our tariffs are amongst the lowest in the region'.<sup>3</sup>

For the Prime Minister, however, the importance of Bogor for Australia was greater even than these quantifiable benefits. In his view, the declaration of common resolve by the Bogor participants 'permanently changed the nature of our region and the future of Australia'—whereas in the past our region was an uncertain concept for Australians, just as uncertain as whether or not our partners accepted our role in it, now 'we know its shape; we have an agreed institutional structure; we share with its other members a common agenda for change'.<sup>4</sup> At the top of our regional foreign policy priorities are the further development of APEC, and of our approach to the key issues of market access and market development. These priorities are set within the wider international context. At Bogor the participants noted APEC's significant contribution in bringing about a successful conclusion of the Uruguay Round at the end of 1993, decided to accelerate the implementation of the Uruguay Round commitments and addressed the need for active participation in and support for the about-to-be-launched World Trade Organisation.

The next key APEC date is 19 November 1995, when leaders meet again in Osaka. Australian objectives for that meeting are currently being elaborated but they are likely to include:

- agreement on a framework setting out the broad agenda, modalities and timetable for achieving free trade in the region;
- agreement, including guidelines and specific measures, on how accelerated implementation of the Uruguay round commitments and unilateral liberalisation can best be harnessed to that end;
- endorsement of concrete outcomes in specific areas including harmonising regional standards, streamlining customs procedures, and establishing more liberal investment rules throughout APEC;
- agreement on a mediation and conciliation mechanism, including a dispute settlement process; and
- significant progress on human resource development, measures aimed at promoting small and medium enterprises, economic infrastructure and other areas of economic cooperation.

A considerable amount of work lies ahead for us in implementing the APEC agenda, including in terms of domestic coordination and detailed sectoral consultations. Large questions also remain for APEC in regard to whether trade liberalisation should be extended on a most favoured nation basis to all countries, or whether these offers should only be granted on a preferential basis to APEC economies. This question is particularly relevant to what strategy would in due course most effectively engage the European Union in trade liberalisation.

Despite the successful conclusion of the Uruguay Round, after long years of negotiation and despite the achievement of the Bogor declaration, it is clear that the international economic environment, like the international security environment, is still fluid and uncertain. Generally favourable trends evident towards greater openness and freer trade, with accompanying agreements on institutional arrangements, need to be set against other trends towards establishing regional groupings which could potentially compete from behind protective barriers, and the temptation of some strong economies to look to unilateral trade measures such as subsidised exports and punitive actions. The recent financial crisis in Mexico and the collapse of the peso are indicators of the fluidity of international economic activity. Capital markets in Southeast Asia came under strong selling pressure on the perception that those economies might share the characteristics of buoyancy and overheating, high debt levels, emerging price or external instability and unrealistic exchange rate policies. In the event, regional central banks succeeded in defending their currencies, which is good news for Australian exporters in respect of price competitiveness. The crisis might also draw attention to Australia's superior risk profile, assisting it perhaps to attract investment in a finite market for development capital.

It is important that Australia, for whom international trade provides a much higher proportion of Gross Domestic Product (GDP) than its main partners, continues to be prominent in efforts to secure balanced and equitable economic growth at both the regional and the international level. Within the region we can build on the rapid progress of APEC since it was launched as an Australian initiative in 1989. Within four years APEC leaders recognised that their diverse economies

were becoming more interdependent (intra-regional trade now accounts for around two thirds of regional countries' exports) and were moving toward a community of Asia-Pacific economies. Australia has an imperative need to be part of this community, which will by the end of the century account for 57 per cent of world trade. East Asia in particular will remain extraordinarily dynamic—although growth is moderating there it will still be double the world average in the 1990s. East Asia accounts for 60 per cent of Australia's exports, supplies about 40 per cent of our imports and is a major source of investment, tourists and business immigrants as well as our most important market for education services. Sustained growth in these areas, including in the numbers of tourists visiting Australia and investment patterns in each direction, is likely over the next 10 to 20 years. By then China could be our second largest market (and possibly the world's largest economy) and Indonesia, currently our tenth largest market, may move up to fifth or sixth.

### Security Themes

The strategic importance of dynamic and enduring economic growth in East Asia has been fully recognised by the Defence Organisation, in the *Strategic Review 1993* and the 1994 White Paper. The concept of strategic engagement with the region derives in part from the opportunities offered by partnership, and in part from the challenges and even risks which would follow if we abstained from engagement. It is clear that our neighbours' increasing prosperity gives them more substance, influence and importance; but it also provides the means by which they can acquire more potent defence capabilities. The potential is there for a regional arms race, possibly involving the introduction of weapons of mass destruction and their means of delivery. It is far better to engage cooperatively with the region and seek to influence outcomes in favourable directions.

Defence has opted in the first instance for a bilateral approach to regional engagement, for the excellent reasons that this builds on what has already and quite substantially been achieved, and that this is the approach instinctively preferred by regional partners. Regional engagement policy has been lucidly articulated in the White Paper and further guidance is currently being elaborated. DFAT has been involved to an extent in the formulation of that policy, and was certainly closely consulted throughout the preparation of the White Paper and the Strategic Review. DFAT, with the Prime Minister's Department, is part of ongoing coordination of strategic policy at very senior departmental level: it also plays a key role in policy development and implementation on defence export and regional defence industry collaboration. With its extensive interests and network of overseas posts it is important that the Department also be closely involved in the further evolution and the implementation of strategic engagement with our regional partners.

In 1995 DFAT will be preoccupied with a number of key regional issues which are addressed in Part III of the Defence White Paper. Our links with the United States will remain of critical importance, in alliance terms as well as in the full breadth of the relationship, ranging from the foreign policy implications of burden sharing, for

example in peace operations, through the gamut of international diplomacy (where we work on the whole to parallel objectives), to economic and trade issues, including APEC. We will seek to develop even closer relations with Japan, which will host APEC this year, supporting its efforts to play a greater role in international affairs and in becoming a permanent member of the United Nations (UN) Security Council. China in all probability will this year cope with the death of Deng Xiaoping, and China's steady progress towards greater power and influence in the region will need to be monitored. In Korea, the implementation (and financing) of the framework agreement, reached between Pyongyang and Washington on capping the nuclear program and catering for the Democratic People's Republic of Korea's (DPRK) energy needs, may pose some difficult questions to all concerned, including Australia. In Southeast Asia we will broaden and deepen our ties, in a process which generally should be beneficial and popular at home but which may throw up issues occasionally requiring special and sensitive handling. The era in which we were more or less detached from our neighbourhood is very much over. Now our problems are entirely shared, and to a significant extent we sink or swim together.

Many of the current and prospective problems of the Asia-Pacific region are ones which are most appropriately addressed multilaterally, and this is a relatively recent development. On security, the first move in this direction was probably made by Senator Evans in a major speech to Parliament in December 1989 on Australia's Regional Security.<sup>5</sup> This was followed by Australia's promotion of the policy of regional security dialogue. The idea of dialogue on security among regional countries also appealed to members of ASEAN who, in the early 1990s, evinced some concern that the end of the Cold War might lead to reduction or withdrawal of the United States presence, which had underpinned the stability on which East Asian prosperity was being built. Security was progressively added to the agenda of the conference held with key partners after the annual ASEAN ministerial meeting and in 1993 it was there agreed to establish the ARF—this is the only multilateral body which involves the major regional states in discussions on regional security. Its inaugural meeting in Bangkok in July 1994 brought together eighteen foreign ministers from ASEAN and most East Asian countries, including China and Japan, as well as from Russia and the US, Australia and New Zealand.

A logical progression for the ARF, in Australia's view, is to ensure that defence organisations are brought into the dialogue together with foreign ministries. We advanced towards this by inviting defence as well as foreign ministry representatives to a seminar on trust and confidence building measures, held in Canberra in November 1994 in the first inter-sessional activity following the Bangkok launching of the ARF. In 1989 Senator Evans spoke of the Australian objective of seeing develop 'a regional security community based on a sense of shared security interests'.<sup>6</sup> There is an evident parallel between the ARF and APEC in evolving the regional community concept in their different fields. Other issues which are more or less problematic and which evidently lend themselves to multilateral approaches,



relate to disarmament and proliferation, law of the sea, mass movement of people, and the environment. Some of these are dealt with in international conferences, some have the potential to complicate our bilateral relations and all have some bearing on security.

In April-May 1995 the states party to the Nuclear Non-Proliferation Treaty (NPT)—the most widely subscribed to disarmament instrument ever—will meet to determine the Treaty's future. Every five years the parties review the NPT. Under the Treaty a conference must be convened twenty years after entry into force to decide whether it should be extended for a fixed period, or indefinitely. Australia places very great importance on the NPT, regarding it as a key element of regional peace and security—all ASEAN, Indo-Chinese and North Asian countries, for example, are members, as are the five declared nuclear weapon states. The Treaty provides the international framework for preventing the spread of nuclear weapons, it facilitates peaceful nuclear cooperation among Treaty members and has the broad objective of working towards full nuclear disarmament. Australia strongly supports the indefinite extension of the NPT and also the conclusion of a Comprehensive Nuclear Test Ban Treaty of indefinite duration. The upcoming conference is an opportunity to shape the environment of the next century, one that could be nuclear-free and in marked contrast to the dangerously over-armed environment that we all lived most of our lives through, with the Cold War. It is only one, although the most important, of a number of important disarmament-related activities in which DFAT will be engaged in 1995.

In November 1994, after negotiations lasting more than two decades, the United Nations Law of the Sea Convention (UNCLOS) entered into force—this provides a comprehensive regime covering human activities at sea including maritime zones, fisheries conservation and management, piracy, transit passage through international straits and protection of the marine environment. In 1995 we will be active in the establishment of an international seabed authority and at the UN Conference on Straddling Stocks and Highly Migratory Fish Stocks. We will continue to look to the guarantees in the Convention which significantly enhance Australia's trade security, with emphasis for example on the freedom to lay submarine cables for modern telecommunications. The concept of freedom of navigation which is at the heart of the Convention is of overriding importance to Australia. We shall continue to discuss with Indonesia its still-unimplemented proposals (put to the International Maritime Organisation (IMO) in 1991) to designate three north-south archipelagic sea lanes in the light of the Convention's entry into force.

The recent increase in direct arrivals in Australia, by boat, of people claiming to be refugees has highlighted a number of issues for the Government which are of interest to DFAT. The immediate question of how to deal with unauthorised arrivals is one for the Minister for Immigration and Ethnic Affairs and at the end of December 1994 he announced measures and foreshadowed legislation designed to prevent abuse of our legal system.<sup>7</sup> There have also been discussions with China, where most of the boats originated. Australia will of course continue to honour its

international obligations to provide protection to genuine refugees. It will stay in close touch with other regional countries, notably Indonesia, which have also received significant numbers of people claiming to be refugees, and will take opportunities to address the issue at the multilateral level. In April 1994 Australia hosted, in Canberra, regional consultations on illegal migration which were well attended and received, and there are hopes that a follow-up meeting can be convened. We have, in addition, encouraged more countries in the region to sign the 1951 UN Convention on Refugees. The problem is far from being limited to movements of people by sea—Thailand for example has received very large numbers overland—and there are reasonable prospects for a more coordinated approach to it by regional governments.

Environmental issues have become a major foreign policy preoccupation in recent years, deriving from heightened international awareness of the threats to economies, and even to national security, which can derive from the close connection between the environment and a range of other matters including trade and sustainable development, and social and cultural issues such as population growth and poverty. It is possible that in extreme cases these could become causes of war. Australia has participated in negotiating a number of international conventions such as those on climate change, biological diversity and desertification, and was prominent at the United Conference on Environment and Development (UNCED) in Rio in 1992. Regional interest in these issues has heightened since that conference. Malaysia for example, is sponsoring, with Canada, an inter-governmental working group on forests and the Philippines will this year host the International Coral Reef Initiative, of which Australia is a founding partner. Environmental cooperation is increasingly on the agenda in bilateral relations. During the visit of South Korean President Kim Young Sam in November 1994 issues discussed included cooperation on the development of cleaner energy and the commercialisation of environment management technology.

### **Australia's Image in the Region**

Finally there is the question of Australia's image in the region of which we are now declaredly a part, and of the difficulties that might arise from our having distinctive and sometimes contrasting values and practices. As alluded to earlier in this paper, there are possibly negative perceptions of Australia held by others in the region which could harm us in a range of ways, including in economic and even in security terms. To take one example, if perceptions of us included some or all of us as being selfish, lazy, under-populated and unprepared to take account of regional concerns, then countries hosting refugees, boat people or other unwanted might be inclined to push them off in our direction. Surveys conducted in the region show that there are still lingering images of us in terms of 'White Australia' of being primarily a producer of farm products and raw materials, and of having an unimpressive work ethic.<sup>8</sup> The Department these days is very active indeed in countering negative perceptions, through public diplomacy including the active promotion of Australian

culture and in particular through major trade and investment conferences, an important component of which has been the positive portrayal of Australia as it is and as it wishes to be seen.

An interesting and largely unanswerable question is where are we going? Australia's destiny is clearly linked with the region, including notably with Southeast Asia, but several choices need to be made, essentially by the Australian community. The question of human rights is one which regularly exercises the community, over issues such as Timor. The Government is committed to advancing these views which are held by Australians generally and which derive from our traditions. It remains to be seen whether Australia, which is the only country with Western traditions adjacent to others which are not, will opt for a continuing outspokenness. Australian needs, habits, practices, even Australian society are all evolving. What does seem likely is that we will be always be distinctively different; it also seems reasonable that we can make a virtue of this, presenting ourselves and being perceived as a link between Asian and Western traditions; a parallel bridging role for Australia between those two cultures might also be possible in the future, for it is imaginable then that the contrasts and responses to accelerating technological change could become more pronounced.

It is reasonable to expect that better than perhaps any other we will be sensitive to the issues of fundamental importance to East and West. This can be a real asset to us, across the spectrum of our interests. Getting the balance right among these competing priorities—and finding the resources to address them—will itself be a preoccupation for the Department of Foreign Affairs and Trade. Added to the ones already covered in this paper will be presently unforeseeable crises, terrorist incidents, intelligence policy, routine consular work, natural disasters requiring technical assistance, and external issues of domestic concern—more than ever the Department is necessarily attuned to what is important at home. It is also working closer than ever with the Department of Defence on the relevant issues identified in the first three parts of the 1994 White Paper. Very many of these are issues directly relevant to the Asia Pacific region.

#### Notes

- <sup>1</sup> Harold Nicolson, *The Evolution of Diplomatic Method*, Constable & Company, London, 1954, p. 89.
- <sup>2</sup> Department of Foreign Affairs and Trade, *Corporate Plan 1994-96*, in print, Brisbane, October 1994.
- <sup>3</sup> *Hansard*, House of Representatives, 6 December 1994.
- <sup>4</sup> *Ibid.*
- <sup>5</sup> *Australia's Regional Security*, Ministerial Statement by Senator the Honourable Gareth Evans QC, Minister for Foreign Affairs and Trade, December 1989, Department of Foreign Affairs and Trade, Canberra, 1989.
- <sup>6</sup> *Ibid.*, para 176.
- <sup>7</sup> *Australia Moves to Stop Boat Arrivals*, Media Release by Senator the Honourable Nick Bolkus, Minister for Immigration and Ethnic Affairs, 30 December 1994.
- <sup>8</sup> *Australia Through the Eyes of Asia—Aiding Innovation*, AGPS, Canberra, 1995.

## 4

### Defending Australia: Defence White Paper 1994

*Hugh White*

#### Introduction

When talking about Defence Policy we must keep in mind the extended time frames involved. The new Defence White Paper 1994: *Defending Australia*, itself has a time-frame of about 15 years. In terms of human affairs or policy making that may seem a very long time. Yet, it is short for defence policy makers. Most senior people involved in the defence of Australia are familiar with the phenomenon of equipment that is older than the people who are operating it and in some cases, even older than themselves. The time frames within which they work, for force development and the fostering of international relationships and strategic relations, are very long. Fifteen years is just long enough to start making sense of these things.

The object of this chapter then, is to address two important and particular aspects of the Defence White Paper 1994 with that constraint in mind. The first aspect is the evolution of Australia's strategic circumstances over the next 15 years. What changes can we expect in our strategic circumstances over the next 15 years? Secondly, how does our overall defence policy respond to those changes? In looking at the evolutionary circumstances one must focus first on the end of the Cold War. Surprisingly, to many, the Cold War has not yet finished. Or more correctly, the Cold War may have finished, but the process of wrapping it up has not. This, however, is more a process of working out what comes next, than a process of bringing something to an end, and indeed this latter process may be considered as having only just begun.

#### Global Issues

The best way of considering the process is first to examine it globally, through a very brief series of propositions about how the world will look in the near future and to use that to consider the regional situation. The first proposition is that military



power will still be very important in the mediation of international affairs in the post-Cold War world. Second, the use of military power by nation states, rather than by sub-national groups or trans-national groups of various persuasions will still be the most important form of military power and form of potential conflict. Only nation states will continue to command the resources that can provide large amounts of military capability. Third, the issues between nation states which are likely to lead to the use of military power will remain primarily what might be called—those traditional issues—the core issues of power and independence. The key issues between states are not going to be religion or ideology or culture. And fourth, the focus of those issues will be regional rather than global. When people are worried about their independence, or seeking power over others, they will be focusing in the first instance on their neighbours—countries which are contiguous or close.

Of course all of those are highly contentious propositions. All of them would provoke vigorous debate in any common room of any International Relations Department in this country or anywhere else for that matter. What this chapter is attempting to do is to draw from that set of four propositions, one key point which probably has broad acceptance. Armed force is still very important in the management of our national affairs and in the management of our international relationships. Few could argue against the point that we still need armed force. The second key point that emerges is that our military security will focus increasingly on our region, so that our strategic focus will be increasingly regional.

While that may seem self-evident, it is worth reflecting on our previous Defence White Paper, *The Defence of Australia 1987 (DOA 87)* and noting that the beginning of that White Paper, spelled out very clearly that 'Australia's security ... ultimately depends on preserving stability in the superpower relationship and avoiding war between them, above all nuclear war'.<sup>1</sup> It went on to note that 'the ability of the Defence Force to provide security for Australia in a nuclear war would be very limited and cannot be a determinant of our planning'.<sup>2</sup> This created the need to support the Western community of nations, by the hosting of joint facilities for example. Although in a sense this threat was dismissed as a base for policy making in Defence, there was nonetheless a very clear statement that the key threat to Australia's security was global war. Today, that whole threat has disappeared and what we have instead is a much more regionally focused set of strategic concerns.

### **The White Paper and the Region**

In focusing on that region the first question to ask to ask is: What is that region like? Can we define it? In response, *Defending Australia* defines it broadly. For the purposes of this paper, the region is defined in a way which is at least arguable, and perhaps even contentious. Roughly, the region is said to consist of those countries that fall within the triangle that has its points in Pakistan, Japan and New Zealand. It thus covers the sub-continent (India and Pakistan), Southeast Asia, China, Japan and the Pacific including Australia and New Zealand, as well as the Eastern Indian Ocean. The defining characteristic of the area is that all of the countries in that

region have as their principal strategic preoccupations other countries in the region. This is the defining characteristic of a strategic region: all the countries in the region have their principal concerns with other countries in that region.

Chapter two of *Defending Australia*, attempts to describe how the region will develop strategically over the next 15 years and beyond. In doing so, it recognises the difficulty of doing this, at least to the degree of reliability needed to provide a solid basis for policy making. It therefore tries to identify two key trends which are now evident in the region and which will continue throughout the period covered by the document. These trends will have a clear role in shaping the development of that environment. Having identified those trends, we must then try to manage our defence policy in response to them.

Those two trends are therefore very important for determining how policy makers think about the direction of our defence policy. The first of them relates to the management of strategic affairs in our region. Here, the end of the Cold War brings a historic change in the way strategic affairs are managed. The roles of the outside powers in strategic affairs of the region are declining, relative to the increasing influence of regional powers. This clearly is true of Russia, or what used to be the Soviet Union, which has been a very influential power strategically in this region, even before the First World War and certainly since the Second World War. There are now many questions about the future role for Russia in the Pacific, but it will be much less than the role it had during the Cold War. For our planning horizon, we can sensibly act on the assumption that Russia will not be a major Pacific power, and in particular, not a Pacific maritime power.

### **The US in Asia-Pacific**

The United States has, of course, been the other external power with a major influence on the strategic affairs in our region in the last 50 years and indeed, the last 100 years. Predicting the future of the US strategic presence in the region is much more complicated. There are two axioms which have to be accommodated simultaneously. The first is that the US is not withdrawing from the region. The idea that was around, not so long ago, that the United States might just pack up and leave is simply false. On the other hand, over the long term it is unlikely to maintain the level of military presence, or the strategic role it had during the Cold War. Consequently, the way in which it relates to other countries in the region and the role which it plays in the strategic affairs of the region may change over time.

The US will remain the strongest military power in the world and will retain the capacity to deploy a decisive military force throughout this region for a long time. But in doing that, it will work within a strategic system, a state of strategic affairs, which is increasingly determined by the region rather than by major external powers. The United States will be a vital contributor to strategic affairs in the region, but will not determine those affairs. The role the US plays will depend on two things.

Firstly, it will depend on the quality of its relations with Japan, which are decisive for the way in which the US continues to conduct itself in this part of the



world. Everyone who really matters in Washington and those people who matter in Japan want the US/Japan relationship to work as well as it can and to work as much into the future as it has in the past.

It also depends on how the United States manages its relationships with other countries in the region; China most obviously, but also countries like Indonesia. These are very important countries with which the US has relationships involving both strengths and tensions. How those relationships develop will be important. How the US will balance its strategic interests with trade interests and human rights concerns is still too early to predict.

### **The Asian Ascendancy**

Thus by the year 2010, the end point of the 15 years spelled out in *Defending Australia*, it could well be true that Asian strategic affairs will no longer be determined primarily by powers outside the region. It will be the first time that this has been the case for about 500 years, perhaps the first time since Europeans arrived in the Indian Ocean in the form of Vasco Da Gama. Ever since then, Western powers have advanced the technology of the ships and guns they have brought to bear, and over the years have pretty well dominated strategic affairs and particularly maritime affairs in this part of the world. The result of this change, is that by 2010 the strategic policies of China, Japan and India may all be comparatively more important in determining our security environment. Essentially, strategic affairs, in our region, will be determined primarily by the policies, attitudes, and aspirations of the countries of the region. What we do not know, is how they will bring this about. How effectively will these countries work together? We have had no experience of them working together as a system of states. The only model we really have of the system of states working together like that, is Europe—roughly speaking from the 17th century through to the 19th and 20th centuries. Some of that history is quite happy, but some of course is very unhappy. It is a very mixed model.

The key relationship, will be that between China and Japan, because they are the two strongest powers. But how that relationship will emerge and how it will affect our own security will depend very much on the other countries, not just India, but also the countries of Southeast Asia and East Asia. There are many imponderables in this equation. What will emerge is a new strategic system—a system in which the interests and aspirations of those countries develop, and a way of inter-relating which may or may not be peaceful. There are, however, some positive signs. The processes and psychologies that underline the establishment of APEC and the ASEAN Regional Forum are evidence to the good. But there are some uncertainties, and whether or not the process will work is not yet clear. What we are facing is a region of genuine uncertainty.

Strategists nearly always say the future is uncertain and of course in a sense it is. But this is an uncertainty not as to how a system will work itself out, but as to what sort of system will be developed. What sort of region will we be living and

working in? It is something that is just too early to predict. Indeed, one of the policy challenges we face, is trying to do what we can to shape that system, and ultimately to determine what kinds of relationships those countries will have and what kind of relationships we will have with them.

In summary, that is the first trend—the way in which the changing role of outside powers and the increasing role and function of the regional powers in determining strategic affairs introduce a new element of uncertainty, or a radical element of uncertainty in our strategic deliberations.

The second trend is the strategic consequences of the technological developments, economic growth, and in some respects the political evolution of the countries of the region. Most economists assume that the economic growth we have seen, over the last 10 to 20 years in particular, will persist and that it will increase the strategic potential of the countries in the region. It will increase their capacity to support, deploy and use military power. It will also result in an increase in their actual military capability. Defence capabilities in the region are already increasing, and are a reflection both of increasing defence spending and increasing technological capabilities. We can expect that trend to continue. But it is not just that military capabilities themselves are expanding. There is also the capacity to support military capability, which is expanding even faster and in the longer term, of course, that is what is important.

What is not clear is the pace at which this process will continue to develop. It will depend in many ways on how the region develops strategically—the more unsettled the region, the faster the capability will develop. This means that the kinds of capabilities which the ADF may have to face will also expand over the coming years. Thus, over the lifetime of the equipment we are now buying, which may of course be 25 or 30 years, we would be sensible to assume that much of the qualitative edge, on which we have been able to found the basis of so much of our defence planning in recent years, will have disappeared.

### **Post-Cold War Uncertainty**

Having noted those points it is perhaps worth considering how different this outlook is from the outlook we had in *DOA 87*. As noted earlier, *DOA 87* had a set of global preoccupations which have now largely disappeared and we now have a very clear regional focus. *DOA 87* looked at a region whose broad strategic outline was very stable. That stability of course was imposed by the Cold War. We now look at a region whose broader strategic structure is profoundly uncertain. Furthermore, in 1987 we were acutely concerned about the quality of our bilateral relations with some of our nearer neighbours. Since 1987, the quality of our bilateral relations, including that with Indonesia, and a wide range of other countries in the region, has improved substantially. Lastly, in 1987 we assumed a broad based technological edge as an enduring feature of our strategic circumstances. It certainly would be a mistake to plan on that basis now. In summary, in 1987 our main strategic concern

was the deterioration of the bilateral relationship with one or other of our neighbours within a framework of a fairly stable regional strategic situation.

Today, our principal strategic concern is to prevent a systemic failure in the security affairs of the region, and in which we could find ourselves having a problem. This might not be because a bilateral relationship with a particular country has broken down over some particular problem but because the strategic relations in the region as a whole might have deteriorated, as happened in Europe at the end of the 19th century. That could result in widespread instability. Whether or not that particular characterisation of the changes is apt, it is certainly true that our strategic environment as a whole is more demanding now than it has been since the 1970s and 1980s. One could argue that the changes we are looking at over the period covered by the White Paper and reflected in those two trends, are as substantial as the set of changes we saw in the late 1960s and early 1970s. That period was characterised by a whole series of issues, including the opening up of China, the Guam Doctrine and Britain's policy of withdrawing from east of Suez. Australia, as a result, turned from a policy of forward defence to a policy of self reliance. That policy was spelled out in detail in 1987. Today we are looking at a change in strategic circumstances of a similar magnitude.

#### **Australian Policy Responses**

The second topic of this paper looks at how our policy responds to those changing strategic circumstances. The first thing to note is that the policies developed from *DOA 87* applied a broad view of Defence's role. *Defending Australia* defines the defence task as preventing or defeating armed attack on Australia. Thus, it has a very clear focus on armed attack. It reaffirms very directly and very unambiguously the centrality of a self reliant capability to deny our maritime (sea and air) approaches to hostile forces and to defeat any incursions on Australian territory.

The first point about self reliance is that it is defined in the document in quite unambiguous terms. It talks about defence without 'depending on help from other countries' combat forces'.<sup>3</sup> Depending, is a carefully chosen word. It is not to say we would not welcome any assistance from combat forces of other countries, but that we would not plan on the basis of depending on them. That has some important ramifications for regional engagement.

The focus on the defence of Australia as a criterion for determining what forces and capabilities we need is as strong as our strongest voice in *Defending Australia*. There is a clear reference to the fact that the capabilities which can be developed for the defence of Australia can be used for a wide range of other tasks,<sup>4</sup> and again, this is an important issue in a regional engagement context. But the focus on the defence of Australia as the task which defines requirements for the ADF remains absolutely undiluted. So, the first key element in the policy response to this more demanding strategic environment is to reaffirm the centrality to Australian defence policy of maintaining forces which can deny our maritime (sea and air) approaches and defeat incursions on our territory in a self reliant way.

The second key element is the development of a range of activities and policies aimed at managing our international environment to make such attacks less likely. These are broken into three sub-elements. The first sub-element of our range of efforts to manage the international environment is the maintenance of our alliances and particularly our alliance with the United States. There is an extended discussion of the alliance with the United States in *Defending Australia*. It is quite explicit about taking security undertakings under the Australia, New Zealand, United States (ANZUS) Treaty seriously.<sup>5</sup> It stresses reliance on the United States for assistance in developing our own forces; a reliance that may become more important in some respects in the future. This is particularly so with respect to access to technology.<sup>6</sup> The White Paper also makes explicit the fact that we will continue to rely on the United States extended deterrence capability to defend Australia against the threat of nuclear attack.<sup>7</sup> Overall, one can be reasonably optimistic about the future of the alliance. That is a very important issue for Australia, and with careful management the relationship with the US can remain a very important strategic asset to Australia and to the ADF in helping to maintain our own capabilities for a long time into the future.

The second sub-element is regional engagement, which is discussed in a later chapter of this book. The third is our capacity to contribute to the UN and other global multilateral efforts to preserve peace at the global level. That is recognised as a potentially valuable contribution to our security. The approach of government here is to recognise that we have very important interests in using the UN, as other countries do, to establish an international global regime in which the use of armed force is unlikely to succeed and is therefore unlikely to be used. We are prepared to give a high priority to supporting the UN in particular cases, but that support will not shape our defence posture. Our contributions to it will be carefully examined to ensure that they meet our strategic interests. We have done a good deal of work in very close consultation with the DFAT to define, or at least describe more fully than we have in the past, the criteria and circumstances we use for determining those contributions.

#### **The White Paper: Its Impact on the ADF**

Having described these broad trends, it is perhaps worth analysing a little more carefully how *Defending Australia* sees the development of the ADF. As in *DOA 87* it has attempted to provide some clear guidance on what determines the capabilities we need to undertake the task of defending Australia. The scale and nature of our capability developments are determined by geography and by capabilities that can be brought to bear against us. This does not refer specifically to capabilities in our nearer region, or in the region of primary strategic interest, or to any other similar formula. It simply acknowledges capabilities that can be brought to bear against us in our maritime (sea and air) approaches or on our territory. The White Paper makes the judgment—supported over many years—that major conflict, in the sense of a successful attempt to seize substantial portions of Australian mainland territory,



remains beyond the capabilities of any country in the region or for that matter any country in the world, except possibly the US. The warning we would expect of the development of capabilities to undertake a task of that magnitude would be very long. Thus we are in a position, notwithstanding those points mentioned previously, to put to one side the thought that what we are aiming to do is defend Australia against an invasion. But in developing the sense of what our capability needs are, the White Paper emphasises how the kinds of capabilities which could be brought to bear against us with relatively little warning over that 15 year period will, for the reasons mentioned earlier, increase quite substantially.

*Defending Australia* notes that as the capabilities in the region increase, the levels of conflict possible in short warning time will increase, perhaps substantially. Ensuring that the ADF continues to maintain the capability to respond to the increasingly demanding circumstances which could arise in short warning conflict is one of the key challenges to our defence policy over the coming years. There is a particular focus here on how the decline in our presumption of maintaining a technological edge will effect the way in which we operate. In essence we used to assume that, with reasonable levels of expenditure, we could retain decisive technological advantages, which could make a real difference in conflict across a very wide range of capabilities. It is that assumption which is now under pressure. A lot of what the White Paper talks about in terms of strategic guidance is how we respond to that, and there are several elements to that issue.

The first of these is that we need to use our geography better and that should result in an emphasis on our maritime force capabilities, together with a very clear focus on our capacity to deny our maritime approaches to hostile forces—and to use those areas where we have geographical advantage together with our existing advantage in maritime capabilities. It also means that we may need to start thinking about the different ways in which we can use the ADF. This is indeed foreshadowed in the White Paper which notes that: 'our response to conflict would therefore include options to respond proportionally against military assets or selected infrastructure'.<sup>8</sup> This has broad ramifications for the way in which our forces need to be developed.

One means of maintaining the capability to defend Australia in these more demanding circumstances is to emphasise strongly both joint operations and command, control, communications and intelligence (C<sup>3</sup>I) and to use our existing comparative advantage in those technologies to maintain the lead in them. This is argued forcibly in the White Paper, as is our capacity to use the resources of the community as a whole—depth in defence—drawing on the national support base to supplement the resources of the ADF itself.

The White Paper clearly acknowledges a more demanding strategic environment, particularly in relationship to the capabilities needed to defend Australia. It also provides a broad description of how we propose to manage that task. The big advance in *DOA 87* was acceptance of a greater degree of self reliance in the defence of Australia. Along with the Dibb Review,<sup>9</sup> *DOA 87* developed a very articulate set

of guidance for the kinds of forces we might need for the defence of this country; thereby giving us the precision we have had in our defence planning in recent years.

### **Paying for Self Reliance**

In the currently more demanding circumstances, ensuring allocation of limited resources to continue developing the capacity to defend Australia will require even more precise decisions. Furthermore, we will need to be tough in allocating resources and to be more selective in the areas in which we attempt to develop and maintain a technological edge, or a decisive technological advantage. That will require even more precise strategic guidance than we have at the moment. Thus, the next step in our defence planning evolution is to examine how we can apply our strategic guidance still further to elicit more precise definitions of our requirements. This will be especially important for regional engagement.

Finally, there is the question of how to pay for what we need. There are four key aspects of resources dealt with in the White Paper. The first is the commitment to sustain real growth later in the decade, noting that we are already into 1995. The Government has recognised and has committed itself in the document to the proposition that meeting this more demanding strategic environment will ultimately necessitate sustained real growth in the defence budget. The direction of that growth (the second of the four points) will continue to emphasise investment. But, there is also recognition that personnel and operations cannot be squeezed much further and some areas already need to be more heavily funded.

The trade-off has been a choice between current and future capability. We have opted for future capability and have a commitment to approximately 2 per cent of GDP for defence funding. Whether or not this figure is too small depends on how we spend it, noting that the pressure for continued savings and efficiencies will remain intense. Finding them will not be as easy as it has been in the last few years. Initial savings are always the easiest to identify because the need for some reforms is generally clear. Inevitably, further savings require greater effort and become progressively more difficult to identify and achieve. Nevertheless, the need for them will remain. But, the Government believes that the 2 per cent of GDP is enough and having that commitment to 2 per cent should make it easier for us to argue each year to maintain spending at the present level or perhaps even a little higher. The 2 per cent of GDP figure is especially important as an indication of political intent.

Finally, the White Paper presents a five year budget commitment. It will not result in Defence getting five year's funding committed all at once, as it is not intended to be a five year budget: it is a five year budget commitment. It does provide us with the opportunity to propose to Cabinet our funding needs, for a period of up to five years ahead, outside the normal budget process. This should allow us to present to Cabinet arguments in support of long term funding and about levels of funding, in an environment in which strategic circumstances can receive due consideration. This is a very bold initiative: it is not money in the pocket, but it will help us to sustain funding levels in the future. Overall, the ADF and the



Department should be reasonably pleased with the funding commitments included in *Defending Australia*.

#### Notes

- <sup>1</sup> *The Defence of Australia 1987*, Department of Defence, AGPS, Canberra, 1987: para. 2.4.
- <sup>2</sup> *Ibid.*, para. 2.12.
- <sup>3</sup> *Defending Australia: Defence White Paper 1994*, AGPS, Canberra, 1994: para. 3.3.
- <sup>4</sup> *Ibid.*, para. 3.11.
- <sup>5</sup> *Ibid.*, para. 9.6.
- <sup>6</sup> *Ibid.*, para. 9.10.
- <sup>7</sup> *Ibid.*, para. 9.7.
- <sup>8</sup> *Ibid.*, para. 4.31.
- <sup>9</sup> *Review of Australia's Defence Capabilities*, Report to the Minister for Defence by Mr Paul Dibb, AGPS, Canberra, 1986.

## 5

### Regional Perspectives on Law of the Sea

*Sam Bateman*

#### Introduction

At about the time that the 1982 UN Law of the Sea Convention (LOSC) was finalised, an Indian historian of the law of the sea wrote that there have been 'more changes and progress in ocean law since 1967 than in the previous 200 years'.<sup>1</sup> Until the late 1960s, the law of the sea was largely the preserve of the major Western maritime powers but this situation has changed dramatically in recent decades to meet the needs of newly emergent nations, including some in the Asia-Pacific region, particularly Indonesia, which have been active in defining the law of the sea as we know it at present. Significantly, the pace of evolution of the customary law of the sea has not slowed down since the LOSC was opened for signature and the pressures for change are largely emerging from the Asia-Pacific region.

To appreciate regional perceptions of the law of the sea, we need to think about how the world has changed since 1982 and the long years of negotiation of the LOSC during the Third UN Conference on the Law of the Sea (UNCLOS) in the 1970s and early 1980s. In particular, there have been:

- the collapse of the bipolarity of the Cold War era and the rise of a more multi-polar world, including the concept of regional resilience as put forward by ASEAN leaders in particular;
- associated strategic developments and changes in the nature of international military operations, including a possibility that strategic mobility may not have the same quality that it had during the Cold War years;
- continued rapid economic growth in East Asia encompassing Japan, the four tigers of South Korea, Taiwan, Hong Kong and Singapore, and the three newly industrialising economies of Southeast Asia—Malaysia, Indonesia and Thailand;

- technological improvements in marine resource exploitation, including the ability to conduct seabed and subsoil mining operations at greater depths than before and to conduct fishing operations with greater efficiency; and
- the growth in environmental concerns both as important issues in their own right and as elements of multi-dimensional or comprehensive security which is tending to replace the traditional concept of military security.<sup>2</sup>

All these issues have an important potential impact on the law of the sea. Generally, they tend to strengthen the position of coastal states with their concern for controls over adjacent waters, vis-a-vis the major maritime powers which have lost much of their strategic and political influence in the face of shifts in the global balance of power. Traditionally, the maritime powers have espoused the freedoms of the high seas and the concept of strictly limited controls by coastal states.

This paper first provides a brief history of the law of the sea, as background for an appreciation of regional perceptions of the law of the sea. It then reviews the current situation with ratification of the LOSC in the Asia-Pacific region before addressing some specific issues with the freedom of navigation. Particular attention is paid to the regimes of straits transit passage and archipelagic sealanes passage, which are so important in the Asia-Pacific region. The paper concludes that, despite the entry into force of the LOSC in November 1994, there is still not a satisfactory framework of law of the sea covering regional naval operations.

### Background

Modern international law originated in the sixteenth and seventeenth centuries, with the development of the modern system of states in Europe and the extension of the influence of the European maritime powers around the world. There are two points here. Firstly, as wider European influence was associated with the exercise of sea power and the ability to trade by sea, it is no coincidence that the history of international law is often regarded as the history of the law of the sea. Thus the international legal system, including the law of the sea, remained virtually a white man's club until well into the twentieth century 'to which non-European States would be elected only if they produced evidence that they were civilised'.<sup>3</sup>

Secondly, 'It is significant to note that, while Asian states are said to have no influence on the development of international law, it cannot be denied that this law emerged in response to the need of the European countries to trade with Asian states'.<sup>4</sup> This included espousal of the freedoms of the high seas which are a familiar part of contemporary law of the sea, but which evolved during the heady days of European expansion in the 16th and 17th century. They were enshrined by the Dutch author, Grotius, and remained almost unchanged until recent decades.

The more recent history of the law of the sea has been a saga of tension between the interests of coastal (and port) states on the one hand and those of the user states on the other hand. Until the latter half of the present century, the user states, who

for the most part were the major Western maritime powers, clearly had the upper hand with their concerns especially for navigational freedoms. However, in the last forty years or so, there has been a steady and pronounced trend towards more control by the coastal states over their littoral waters.

This process is sometimes known as creeping sovereignty or creeping jurisdiction. It occurs in both a geographical sense with the extension of the territorial sea to twelve nautical miles and the introduction of the Exclusive Economic Zone (EEZ) and continental shelf regimes, and in a jurisdictional sense with coastal states seeking wider controls over activities in adjacent waters, vessel-sourced pollution and rights of passage. The process has continued in recent years with growing coastal state concern over marine safety and the risks of marine pollution and is evident in regional perceptions of the law of the sea.

Creeping jurisdiction is also evident in the excessive claims countries make to maritime jurisdiction. These are subject to protest by other nations, including the Freedom of Navigation program adopted by the United States. However, it is a reality of the evolution of the law of the sea that the excessive claims of today may well be the customary law of tomorrow. This has been the experience of recent decades, with the extension of the limits of the territorial sea and acceptance of the archipelagic state regime.

Examples of possible excessive claims in the Asia-Pacific region include:

- in a geographical sense, with unrecognised historic water claims (Cambodia and Vietnam), apparently excessive straight baselines for measuring claims (Malaysia, Burma and Vietnam), territorial sea claims greater than twelve miles (the Philippines), security zones which are not defined in the LOSC (China, India and North Korea) and archipelagic claims that do not conform to the rule of the Convention (the Philippines, Tonga and Kiribati); and
- in a jurisdictional sense, with exclusive economic zones in which the coastal state has sought to claim more extensive rights than those generally accepted (India, Burma and the Philippines) and other categories of excessive claims, including restrictions on innocent passage of the territorial sea, requirements for advance notification or even permission for innocent passage by warships, and additional restrictions on transit passage (China, Philippines, Burma, India and Vietnam).<sup>5</sup>

It could be suggested that Australia has manifested a form of creeping jurisdiction with the declaration of compulsory pilotage for parts of the Great Barrier Reef. Although strictly this only applies to the inner route between Cape York and the vicinity of Cairns Roads, or when passing through Hydrographers Passage, the relevant IMO resolution recommends that ships passing through Torres Strait and the Great North East Channel also make use of available pilotage services.<sup>6</sup> Furthermore, a recent study of the potential impact of shipping in the Great Barrier Reef and Torres Strait region and of possible changes to the future management of

shipping operations in the region, has flagged the possibility of extending compulsory pilotage to the Torres Strait despite its status as an international strait.<sup>7</sup>

#### Status of the LOSC

The Convention entered into force in November 1994, 12 months after the sixtieth instrument of ratification was received by the United Nations. By the end of 1994, a total of 69 countries had ratified, acceded or succeeded to the LOSC. The following countries in the Asia Pacific region had done so:

Australia	Philippines
Fiji	Singapore
Indonesia	Sri Lanka
Marshall Islands	Vietnam
Federated States of Micronesia	

Indonesia, Fiji and the Philippines ratified not long after the Convention was opened for signature because, as archipelagic states, they had much to gain from the Convention and had been strong advocates of the regime of the archipelagic state. The reasons for other countries not yet becoming parties to the Convention are complex and diverse. Being a distant water fishing nation, Thailand has much to gain from the LOSC but has not yet ratified, apparently because of the instability of Governments and the problems of reaching an agreed national position on the Convention, including the administrative measures to be taken and the legislation to be adopted for its implementation.<sup>8</sup>

The LOSC now provides the bulk of the conventional law of the sea but, there is much relevant law which is not enshrined in international conventions and is guided by the practice or custom of nations. It is also significant that 'most of the provisions of the 1982 Convention represent a departure from the pre-existing customary law'.<sup>9</sup> This in itself illustrates a fundamental point of this paper, that the law of the sea is dynamic. It continues to evolve under the influence of technological developments, global shifts in the balance of economic power and changing strategic circumstances.

Many of the provisions of the LOSC lack the necessary clarity. There are still many grey areas with the law of the sea which require negotiation between interested parties. These arise as a result of intentional ambiguities or omissions in the convention, or because some implications were not properly appreciated when it was drafted. These difficulties are particularly apparent with provisions relating to the EEZ regime, which is relatively 'new' international law, having only come into being with the 1982 Convention. The precise nature of the jurisdictional regime applicable in the EEZ (said by the 1982 Convention to be *sui generis*) is still in the process of evolution, especially in respect of the prevention of marine pollution and the measures which can be adopted by coastal states, including ones which would have the effect of restricting the freedom of navigation.

The grey areas in the law of the sea pose some problems for Australia as we seek to build closer strategic relations with our neighbours, especially in Southeast Asia, and to promote confidence and trust building throughout the region. Australia's perspective of the law of the sea over the years has invariably been that of the major Western maritime powers. This is the perspective that might is right and extensive freedoms of navigation, overflight, and even to some extent, military operations are available to the international community in the territorial seas, archipelagic waters and EEZs of other States. However, the current law of the sea, including many of the navigational regimes, is nowhere near as black and white as our tactical doctrine would lead us to believe and it more important than ever that sea-going commanders and operations staffs ashore are aware of the grey areas and regional sensitivities.

Straits transit passage, the EEZ and archipelagic state regimes are particularly important in the Asia-Pacific region, yet these are the areas of greatest residual uncertainty as far as the navigational aspects of the law of the sea are concerned. A workshop on international navigation aspects of the law of the sea, held in Honolulu in 1986, identified them as 'still unresolved issues' along with the rights of innocent passage of naval vessels through territorial waters without prior notification.<sup>10</sup>

#### Prior Notification

The issue of the right of innocent passage of naval vessels through territorial waters has long been contentious in the law of the sea, especially whether such passage is subject to a requirement of either prior notification of, or prior permission by, the coastal state.<sup>11</sup> A coastal state may establish restrictions upon the exercise of innocent passage of foreign vessels for reasons such as resource conservation, environmental protection and in certain circumstances may suspend the innocent passage temporarily in specified areas of its territorial sea. These arrangements should be non-discriminatory in their effect.

During the Third UNCLOS leading up to an agreed LOSC, attempts were made by some countries to include in the Convention the right of a coastal state to require prior notification or authorisation of warships for passage through the territorial sea. Subsequently, the United States and the Soviet Union, in reaching agreement on a uniform interpretation of the rules of innocent passage, included a specific statement that neither prior notification nor authorisation is required for innocent passage.<sup>12</sup>

There are still over 40 states around the world which have legislation in place requiring the prior notification or authorisation of the innocent passage of warships. These include the following countries in the Asia Pacific region:

Burma	Cambodia
Bangladesh	China
India	South Korea
Maldives	Pakistan
Indonesia	Philippines
Sri Lanka	Vietnam



There is some uncertainty with regard to the current position of Indonesia on this point. The US State Department document which deals with the responses of the United States to 'excessive national maritime claims'<sup>13</sup> does not include Indonesia in its list of countries requiring prior notification or authorisation, although Indonesian legislation (which pre-dates UNCLOS)<sup>14</sup> has not been rescinded and senior Indonesian officials usually re-affirm the requirement. It may be necessary here to distinguish innocent passage of warships in the territorial sea from such passage in archipelagic waters.

### **Straits Transit Passage**

It has been a long-standing principle of the law of the sea that coastal states cannot restrict the movement of shipping through straits and adjacent bodies of water which are essential routes for international shipping because no convenient alternative is available. With provisions in the LOSC for the extension of the width of the territorial sea from three to twelve miles and the more specific definition of what constitutes non-innocent passage, it was deemed necessary to introduce a new regime of straits transit passage in straits used for international navigation. However, the regime is not without its critics in the Asia-Pacific region. As has been noted, reservations about the regime could well be a reason why Malaysia has delayed ratification of the LOSC.

The seriousness of several accidents in 1992-3 in the Malacca Straits (including one involving the destroyer, *USS Ingersoll*) highlighted the problems faced by littoral states in ensuring safety in vital strategic waterways. The countries adjacent to the Malacca and Singapore Straits perceive that they face an increasing financial burden in maintaining marine safety in these straits, including the costs of navigational aids, hydrographic surveys, traffic monitoring systems, channel dredging and the equipment required to clean up marine pollution. A senior Malaysian strategic analyst has referred to the current straits' transit regime as being 'fundamentally flawed' as it puts the entire burden of managing the straits on the coastal states.<sup>15</sup>

As a consequence, Malaysia has called for the imposition of some type of financial levy on ships passing through the straits. This has not been agreed by the other littoral states although some measure of support is apparent for a higher level of control over shipping. Indonesia has suggested both a system of compulsory pilotage and the compulsory re-routing of larger tankers through the Lombok Straits. Both Indonesia and Singapore backed Malaysia's insistence that Japanese plutonium shipments should not be routed through the Malacca Strait.

### **Archipelagic Sealanes Passage**

The LOSC established the regime of the archipelagic state which allows states, which are constituted wholly of one or more groups of islands and meet certain other criteria specified in the Convention, to draw archipelagic baselines joining the outermost islands and drying reefs. This regime is of great importance in the Asia-

Pacific region, primarily because of the large number of recognised archipelagic states in the region. It is important also because it has been a factor in some other states not becoming parties to LOSC because, while they are comprised solely of islands, they do not meet the LOSC criterion of the requisite land to water ratio.

The exact balance of coastal state and 'user state' rights in archipelagic waters is a vexed issue of the law of the sea, particularly with regard to navigational freedoms. It is an important point to appreciate that the status of archipelagic waters is closer to that of internal waters than that of the territorial sea. They are essentially internal waters of the archipelagic state.<sup>16</sup> Hence, the LOSC is silent on the question of marine scientific research in archipelagic waters. Marine scientific research is deemed in the UNCLOS to contravene specifically the principle of innocent passage and is the subject of detailed principles and procedures as far as EEZs and continental shelves are concerned.

The archipelagic state exercises full sovereignty over archipelagic waters, qualified only by the regime of archipelagic sealanes passage which allows ships of all nations the right of unimpeded, continuous and expeditious passage through archipelagic waters along sealanes which may be designated by the archipelagic state. If sealanes are not designated, then the right of archipelagic sealanes passage may be exercised through the routes normally used for international navigation. Outside these sealanes, ships of all nations have the right of innocent passage only and must abide by the more restrictive provisions of that regime, including recognition of the principle that the archipelagic state may temporarily suspend innocent passage.

It is conventional wisdom, particularly in naval doctrine, that the archipelagic sealanes passage and straits transit passage are in effect the same creature. This is because the two regimes have three fundamental elements in common—non-suspendability, the right of passage in the normal mode (which permits submarines to navigate submerged and warships, under certain circumstances, to operate aircraft in archipelagic airspace), and the right of overflight. This perception of similarity is reinforced by the way in which the LOSC applies many of the provisions of the straits regime *mutatis mutandis* (eg, duties of ships and aircraft during passage and the prohibition of research and survey activities) to the archipelagic sealanes regime.

In fact there are some quite fundamental differences between the two regimes. These are apparent even in the LOSC itself, with Article 38 defining transit passage as the exercise of 'the freedom of navigation and overflight' while Article 53 defines archipelagic sealanes passage as the exercise of 'the rights of navigation and overflight' (although both articles use the word 'right' in their title). Conventional English usage would suggest that 'freedom' is an absolute liberty whereas a 'right' is something conceded or allowed.<sup>17</sup> A right implies more limited competence by foreign ships and aircraft than that exercised by them within the freedom of navigation and overflight under the straits transit passage regime (akin to the freedom of the high seas). This distinction may also be seen in the context of the fundamental difference between the status of territorial seas and archipelagic waters,

in the sense that straits transit passage is through the territorial sea while archipelagic sealanes passage is more akin to passage in internal waters.

Other distinctions can also be drawn between these two passage regimes:<sup>18</sup>

- The right of archipelagic sealanes passage and overflight is restricted to particular routes (and a particular route axis (ie, with no deviation more than 25 miles from the axis line) while there is no similar requirement on ships and aircraft on transit passage to use normal routes or to keep their passage within a certain distance of an axis line).
- The LOSC Article 41 which prescribes detailed procedures for sea lanes and traffic separation schemes in straits used for international navigation does not apply to archipelagic sealanes, which are covered by separate sections of Article 53. However, a careful reading of the latter article suggests that the archipelagic state may have rather more discretion in this regard than a coastal state bordering an international strait.
- Air routes must be above archipelagic sealanes and Article 53 contains frequent references to procedures for archipelagic sea routes which have no parallel in the straits transit regime and do not require reference to any international civil aviation organisation. This leads to a conclusion that the general right of free overflight above archipelagic waters can 'be implemented in practice only by military aircraft'.<sup>19</sup> This interpretation is also supported by reasoning that the right of archipelagic overflight should not lead to any diminution of the sovereignty of the archipelagic state over its air space (a rule expressly stated in Article 49(4) but not in Part III of the LOSC dealing with the transit regime).

It is the existence of these differences that prompts Indonesia and the Philippines to argue that passage through archipelagic straits such as Sunda, Lombok and Surigao, does not qualify for transit passage but for archipelagic sealanes passage. This is on the basis that these straits do not connect parts of the high seas and/or EEZ (as set out in the LOSC Article 37 defining the scope of the transit passage regime) but rather parts of the high seas and/or EEZ with their archipelagic waters. They can be distinguished therefore from, for example, the Straits of Malacca and Singapore which connect high seas and/or EEZ (ie, the Indian Ocean) with another part of the high seas and/or EEZ (ie, the South China Sea).

The designations of sealanes by archipelagic states is emerging as another controversial law of the sea issue in the Asia-Pacific region. Indonesia has advised the IMO that it is considering the designation of three sealanes based on the Sunda, Lombok and Omboi/Wetar Straits (a total of five routes altogether). These are all North-South routes and would not meet the requirements of Australia, which would have an interest in an East-West route through the Indonesian archipelago, in view of the importance of trade between Eastern Australia and Singapore/Malaysia and the

preference for a sheltered route inside the archipelago rather than exposed one in the open Indian Ocean.

The issue is of considerable international interest. Clearly, maritime or user states will wish to maximise the number of sealanes, while archipelagic states will wish to minimise this number. The former would base their argument on the unequivocal statement in UNCLOS Article 53(3) that archipelagic sealanes and air routes 'shall include all normal passage routes used as routes for international navigation or overflight' whilst the latter would justify limiting the number of sealanes on the grounds of safety of navigation and the prevention of marine pollution, as well as for defence and security reasons. The opposing positions were demonstrated by an Indonesian speaker at the December 1994 Canberra Conference on Indonesia, stating that the US required a total of eight sealanes in the Indonesian archipelago (ie, three more than intended by Indonesia) whilst the United Kingdom required 52.<sup>20</sup>

The preferred international position would likely be that flexibility be maintained and sealanes not be designated. This would avoid the question which arises if only a limited number of sealanes are designated, as to what passage regime applies elsewhere along routes which could also be recognised as ones normally used for international navigation. One argument, which Indonesia would pursue, is that once an archipelagic state has proposed archipelagic sealanes for designation and the proposal has been approved by the IMO, only the innocent passage regime applies elsewhere in the archipelagic waters. The alternative argument would be that if an archipelagic state submits a proposal for designation of archipelagic sealanes which does not include **all** the routes normally used for international navigation then archipelagic sealanes passage could still be exercised in the remaining undesignated routes normally used for international navigation.

### Conclusion

In view of the importance of the maritime environment to Asia-Pacific countries, a stable maritime regime is an essential part of the regional security agenda. This involves the sustainable development of offshore resources, the resolution of disputes over maritime boundaries and territory, the maintenance of law and order at sea, the preservation and protection of the marine environment, agreed navigational regimes and procedures for the security of seaborne trade. The law of the sea is that part of international law which provides the legal framework for these activities but, despite the entry into force of the LOSC, there are still many contentious areas. Furthermore, the law of the sea continues to evolve, particularly with regard to the right of coastal states to control navigation within their coastal waters, especially in the case of the territorial sea and archipelagic waters. The issues involved are very important in Asia-Pacific, especially in the context of the cooperative security policies now being espoused for the region.

The discussion in this paper illustrates the potential problems for Australia. The law of the sea and the navigational regimes adopted by Australia are not as

straightforward as we may have believed in the past. The world has changed dramatically in the last decade, but there has been little change in our law of the sea policies—although this does not necessarily imply that there should have been change. Our traditional position on the law of the sea, particularly navigational issues, has been that of the major maritime powers but, as we seek closer security links with regional countries, that position may become anachronistic and likely to bring us into dispute with regional neighbours who hold different perceptions of the law of the sea.

Unfortunately, this paper cannot propose any clear answers to the problems which have been raised. The debate has a long way to go and inevitably many of the questions can only have a political answer. The issues involved are so complex and there are potentially so many conflicting interests involved that a purely legal answer is unlikely to be satisfactory. Operational, strategic and political factors all have to be considered.

### Notes

- <sup>1</sup> R.P. Anand, *Origin and Development of the Law of the Sea*, The Hague, Martinus Nijhoff, 1982, p. 219.
- <sup>2</sup> As the former Foreign Minister of Indonesia told the Seventh ASEAN-ISIS Asia-Pacific Roundtable, 'The ASEAN concept of security implied in its philosophy of regional resilience is closer to the Japanese concept of 'comprehensive security' than the Western concept of security which tends to be limited to military security'. Professor Dr. Mochtar Kusuma-Atmadja, 'Nuclear Issues in the Pacific, with special reference to the Prospects for a Nuclear Weapons Free Zone in South East Asia', Seventh Asia-Pacific Roundtable on Confidence Building and Conflict Reduction in the Pacific, Kuala Lumpur, 6-9 June, 1993, p. 3.
- <sup>3</sup> M. Akehurst, *A Modern Introduction to International Law*, 6th ed., London, Unwin Hyman, 1989, p. 12.
- <sup>4</sup> Anand, p. 5.
- <sup>5</sup> US Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, *Limits in the Seas No. 112 — United States Responses to Excessive National Maritime Claims*, March 9, 1992, p. 59.
- <sup>6</sup> Australian Annual Notice to Mariners No. 22.
- <sup>7</sup> Department of Transport, *Great Barrier Reef and Torres Strait Shipping Study — Volume 1*, Canberra, March 1995, Executive Summary, Recommendation 5, p. 24.
- <sup>8</sup> Sompong Sucharitkul, 'The Entry into Force of the 1982 UN Convention on the Law of the Sea on November 17, 1994—A Thai Perspective', Paper to SEAPOL Tri-Regional Conference, Bangkok, 13-16 December 1994.
- <sup>9</sup> Akehurst, p. 169.
- <sup>10</sup> J.P.L. Fonteyne, 'Review of International Navigation: Rocks and Shoals Ahead', *Maritime Studies*, No. 48, September/October 1989, p. 8.
- <sup>11</sup> For a review of this issue see Shao Jin, 'The question of innocent passage of warships after UNCLOS III', *Maritime Policy*, Vol. 13, No. 1, January 1989, pp. 56-67.
- <sup>12</sup> USA-USSR, Agreement on the Uniform Interpretation of International Law Governing Innocent Passage, 22 September 1989, (1989) 28 ILM 1444.
- <sup>13</sup> US Department of State, *Limits in the Seas No. 112*.
- <sup>14</sup> Regulation No. 8/1962.

- <sup>15</sup> B.A. Hamzah, 'The Security of Sealanes: The Search for an Equitable Straits Regime', Paper for *Eighth International Conference on Sea Lanes of Communication (SLOC)*, Bali, 24-27 January, 1993, pp. 17-8.
- <sup>16</sup> Donald Rothwell, 'Regional Shipping Routes: Law of the Sea Factors', Paper to Joint Workshop on *Regional Maritime Cooperation and Seaborne Trade*, Kuala Lumpur, 7-8 December 1994.
- <sup>17</sup> A similar distinction is apparent in the Bahasa Indonesia version of UNCLOS with Article 38 using the word 'kebebasan' (translating as 'freedom' or 'liberty' while Article 53 uses 'hak' (translating as 'competency' or 'authority').
- <sup>18</sup> This discussion is based on Barbara Kwiatowska and Eddy R. Agoes, *Archipelagic State Regime in the Light of the 1982 UNCLOS and State Practice*, Netherlands Institute for the Law of the Sea, Utrecht University, 1991.
- <sup>19</sup> *Ibid.*, p. 49.
- <sup>20</sup> Rear Admiral R.M. Sunardi at the Australian Institute of International Affairs National Conference on *Indonesia*, Canberra, 26 November 1994.



# 6

## **Environmental Concerns: Their Impact on the Law of the Sea and Naval Operations**

*Robin Warner*

### **Introduction**

There is increasing evidence that states are becoming more concerned with environmental well-being as a component of national security. Greater participation by states in international and regional environmental law treaties, designed to avert trans-boundary environmental harm, attests to this perception, as do public statements by states' representatives in global and regional forums. Archipelagic nations in our region together with Singapore and Malaysia, both bordering on the Straits of Malacca, have expressed concern about possible environmental disasters in connection with the frequent passage of foreign vessels through their archipelagic and territorial waters.

In Australia's case, the intense lobbying at international level to have the Great Barrier Reef (GBR) area designated as a particularly sensitive sea area (PSSA) in 1991, under International Maritime Organisation (IMO) guidelines, in which foreign non-sovereign immune vessels would be required to take on a local pilot, is proof that national environmental protection and threats to our national environmental integrity are taking on greater significance for our own foreign policy. Cooperative environmental protection measures have become a topic for discussion in second track meetings of the APEC regional forum, together with issues such as military trust or confidence building measures, joint surveillance of regional offshore resource zones and economic cooperation. The increasing focus on environmental concerns in treaty making and multilateral consultations suggests that they are slowly ascending global and national political agendas to rival arms control issues as important security concerns.

Already well entrenched in the language of global and regional politics is the concept of military transparency, which translates into activities such as exchange of military information, joint military exercises and training, and arms control

verification regimes. By the early 1990s, arms control diplomacy and other forms of military cooperation were at an advanced stage of sophistication, reaching their zenith in the very comprehensive system of verification provided for in the 1993 Chemical Weapons Convention, which allowed a greater degree of transparency in relation to national weapons facilities than any of its predecessor arms control treaties. The same cannot be said for environmental protection diplomacy which is still in the nascent stages of its development. Methods for verifying compliance with the provisions of many international environmental law treaties are either non-existent or highly dependent on nationally generated action. International sanctions for non-compliance are not clearly envisaged in any of the major international environmental law treaties concluded in recent years.

Characteristic of international environmental debate is the strong North/South dimension, with developing countries demanding that industrialised states provide monetary aid and transfer technology before they will subscribe to environmental protection policies consistent with sustainable development. Within Asia-Pacific, effective enforcement of national environmental laws is clearly at an embryonic stage. The devastation of the Philippines rich coral reef zones and the high industrial pollution levels in Indonesia's rivers are potent examples of environmental neglect. Despite poor national records of environmental protection, foreign transgressions of national environmental laws focus the attention of national authorities and provoke strong diplomatic and political reactions. The limited resources available for marine environmental protection in the Indonesian archipelago will no doubt be concentrated on the major archipelagic sea lanes.

It seems inevitable that as the gravity of global environmental problems intensifies, and in the maritime context I am thinking particularly of land based sources of marine pollution and serious maritime casualties involving oil spills, states in heavy vessel traffic areas will become increasingly concerned with issues of environmental security. Coastal states may seek to enforce more stringent environmental protection regimes in territorial waters, archipelagic waters, straits used for international navigation and exclusive economic zones, particularly against foreign transiting vessels. The view of many commentators is that the effective management of international environmental problems will require a greater degree of transparency among states and international bodies formed to monitor environmental protection. The next century could see a greater degree of regional cooperation on maritime environmental protection similar to that already being pioneered in the field of maritime resource surveillance.

#### **1982 Law Of The Sea Convention (LOSC)**

How does this deepening concern in relation to national and international environmental protection affect existing Law of the Sea regimes, in particular those concerning the navigation and operation of naval vessels?

When the navigational and maritime zones provisions of the 1982 LOSC were negotiated, international environmental law was in its infancy. Part XII of the

Convention on the Protection and Preservation of the Marine Environment is couched in very broad terms, exhorting states to cooperate in the protection of the marine environment and is viewed by many commentators as merely a framework for future regional and international agreements on international environmental protection. Since the adoption of the 1982 LOSC, a complex array of maritime environmental agreements at regional and global level have arisen.

There is now an increasing number of marine environmental restrictions at the domestic and international level which impact on vessel operations. Environmental law issues clearly have the potential to at least qualify some of the provisions of the 1982 LOSC on maritime jurisdiction and navigation. The drafters of the 1982 LOSC, even if they contemplated the interaction of the navigational provisions of the Convention with future environmental protection measures, did not explore or resolve the issues involved in any great detail.

In a prophetic comment at a Law of the Sea Institute Conference in 1991, a senior legal adviser to the International Maritime Organisation is quoted as saying 'new jurisdictional approaches may have to be discussed in order to assess how freedom of navigation will have to be re-defined in the face of the continuous appearance of new risks, and new international regulations introduced to cope with them'.

The provisions of the 1982 LOSC on maritime zones, navigation and the protection and preservation of the marine environment were the first attempt to juxtapose the interests of coastal states in protecting the marine environment of their offshore zones with those of flag states in preserving navigational regimes. Under the Convention's provisions, coastal states, in exercising sovereignty in the territorial sea, can take measures in regard to accidents, emergencies, safety of operations and discharge, except with respect to design, construction, manning or equipment of foreign vessels on innocent passage. National measures may not hamper the right of innocent passage through the territorial sea. Where a ship is exercising its right of transit passage through straits, the bordering states may adopt laws only in respect to discharge of oil and similar substances. Archipelagic states, on the other hand, can apply Part XII of the 1982 LOSC to its full extent to vessels in archipelagic waters outside archipelagic sea lanes, but in adopting laws for archipelagic sea lanes they have to keep in mind that the regulations for sea lanes passage may only refer to vessel discharge.

For its Exclusive Economic Zone, a coastal state may adopt only marine environmental protection laws which give effect to generally accepted international rules, but it may also tighten such rules for a particular, clearly defined area of the EEZ and in ice-covered areas. The regulations of the 1982 LOSC on prevention of pollution do not apply to warships and other vessels owned by governments and in non-commercial service. However, states which are parties to the Convention are bound to adopt measures not impairing operations or operational capability to ensure that such ships act, as far as reasonable and practicable, in a manner consistent with the Convention. As a result of this qualified sovereign immunity, navies in general

are striving to comply with a range of additional international regulations on marine environmental protection. The retention of even qualified sovereign immunity clauses in international environmental treaties for warships and military aircraft will undoubtedly become more difficult to justify and coastal states may act unilaterally to refuse entry to foreign warships which do not comply with their national regulations on marine environmental protection.

In addition to those international environmental measures which impinge on vessel operations, the impact of international environmental measures which restrict navigational rights should be monitored. Proposals for new species of zones to protect the maritime environment on the high seas and in waters under national jurisdiction are now quite common and the continuing spate of maritime casualties involving oil pollution tends to support their creation. At the United Nations Conference on Environment and Development in 1992 and at subsequent meetings of the Commission for Sustainable Development and more recently at the 1994 Annual Meeting of the International Union for the Conservation of Nature and Natural Resources (IUCN), an international environmental Non-Government Organisation (NGO), resolutions have been passed encouraging coastal states to establish marine protected areas under national legislation and encouraging appropriate international mechanisms to establish protected areas beyond the limit of national jurisdiction.

Maritime environmental protection zones do not duplicate the traditional maritime jurisdictional boundaries contained in the 1982 LOSC but frequently straddle areas of high seas, EEZ and territorial seas. This trend can have the result of constraining the movement of shipping in areas where settled maritime boundaries and navigational regimes had previously applied.

### **Marpol 73/78**

One well-established regime of marine pollution prevention is the 1973 MARPOL (International Convention for the Prevention of Pollution from Ships) and its 1978 Protocol. The convention is the most ambitious international treaty covering maritime pollution ever adopted. It deals not only with oil, but with all forms of marine pollution except the disposal of land-generated waste into the sea, which is covered by the London Dumping Convention of 1972. Most of the technical measures in the convention are included in five annexes to the Convention which deal with:

- Annex I—Oil
- Annex II—Noxious liquid substances carried in bulk (eg. chemicals)
- Annex III—Harmful substances carried in packages
- Annex IV—Sewage
- Annex V—Garbage

MARPOL establishes in its Annexes I, II and V the concept of a special area, in which special mandatory methods for the prevention of sea pollution may be employed over and above those applying to sea areas in general, because of the

particular characteristics of that area—high vessel traffic, ecological and oceanographic characteristics.

The outer edge of the Great Barrier Reef has been defined as nearest land for the purposes of Annexes I, II, IV and V of MARPOL, which means that most forms of vessel sourced discharges are prohibited within the GBR area, making that area in effect, a special area under MARPOL. While there are no other MARPOL special areas in Asia-Pacific, clear candidates for such protection would be the Straits of Malacca and perhaps in the future, high vessel traffic areas of the Indonesian and Philippines archipelagos.

While warships are immune from the provisions of MARPOL, there is a qualified obligation on states which are parties to it to attempt compliance with its provisions for warships and non-commercial Government vessels. The RAN is involved in modifying its vessels to achieve compliance.

### **IMO Designated Zones**

Through the International Convention for the Safety of Life at Sea (SOLAS) the IMO has been given the task of identifying areas to be avoided (ATBA) in which there exist navigational hazards, or where it is exceptionally important to avoid casualties because of the environmental damage which would result. The IMO may identify classes of ships which should not transit such areas on the basis of its General Provisions on Ships Routing. There are currently 21 such ATBAs including an area in both the Bass Strait and the Great Barrier Reef.

Probably the most important new zonal concept that has arisen in recent years is the IMO designated particularly sensitive sea area, which may straddle all the maritime zones we have discussed and impact on familiar navigational regimes. Australia led the world in declaring the first of such areas in the Great Barrier Reef Marine Park. That designation provides for compulsory local pilotage in the area but exempts all warships from this requirement. Future designations of PSSAs may not contain such an exemption. Other candidates for designation as PSSAs are the Florida Keys and potentially, the Straits of Malacca.

### **Part XII of the 1982 LOSC**

The 1982 LOSC itself contains provisions, in Article 211(6)(a), for coastal states to identify particular clearly defined areas of their respective EEZs where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognised technical reasons. This can be done in relation to the oceanographical and ecological conditions in such areas, as well as their utilisation or the protection of their resources and the particular character of their traffic. Now that the Convention has entered into force there could be a proliferation of such areas. Again, the Straits of Malacca could well be a prime candidate for such designation.



### **Retention Of Sovereign Immunity Clauses**

An important issue for navies in the future could be the reluctance of some countries in international negotiating forums to acknowledge the continuing need for a sovereign immunity clause for warships and government ships on non-commercial service in international maritime environmental treaties. The customary sovereign immunity clause in environmental treaties generally requires states to adopt measures consistent with the relevant Convention for warships, naval auxiliaries and other vessels and aircraft owned or operated by a state and used for the time being only on government non-commercial service, so far as practicable and so as not to impair operations or operational capabilities. To retain this type of clause in future international environmental treaties, navies will need to demonstrate their willingness and capability to comply with the existing discharge restrictions imposed by treaties such as MARPOL 73/78 and the 1972 London Dumping Convention (disposal of land-generated waste into the sea by dumping) and also to comply with restrictions on navigation introduced to protect sensitive marine environments.

### **Conclusion**

In summary, there is reason for navies to be concerned at the wide range of bases for creating marine protected areas in international waters and waters under national jurisdiction. They should also be concerned at the potential impact such areas could have on the navigational freedoms currently enjoyed by naval vessels. The increasing prevalence of maritime environmental restrictions should become an important consideration for strategic and operational planners, as a factor which could limit the ability to deploy naval vessels at short notice. In addition, if navies wish to retain the benefit of sovereign immunity clauses in international environmental treaties, they should be working towards a higher level of environmental responsibility and advertising their efforts to maintain environmentally sound ships and establishments within the general community.

# 7

## **Naval Cooperation: Present Trends and Future Directions<sup>1</sup>**

*David Shackleton*

### **Introduction**

This chapter builds on earlier ones and specifically addresses:

- developments in regional naval cooperation policy from an Australian perspective,
- likely trends in bilateral naval cooperation between the RAN and the navies of Asia-Pacific,
- the likelihood of greater multilateral naval cooperation in Asia-Pacific, and
- very briefly the Western Pacific Naval Symposium (WPNS), whether it appears to be a sufficient mechanism for fostering greater cooperation, or whether something more tangible is needed.

Chapter 1 of *Defending Australia* notes the priority given to regional engagement by pronouncing that:

Australia's future security—like our economic prosperity—is linked inextricably to the security and prosperity of Asia and the Pacific. Australia's strategic engagement with the region is an integral element of our national effort to make our place in the region. Our defence relationships underpin the development of closer links in other fields. Our ability to defend ourselves and contribute to regional security does much to ensure that we are respected and helps us engage in the region by giving confidence that we can manage uncertainty and assure our security.<sup>2</sup>

Additionally, Chapter 8<sup>3</sup> which deals specifically with regional engagement notes that:

Over the next fifteen years, the strategic environment in Asia and the Pacific is likely to be more demanding and to be determined, more than ever, by the policies and approaches of regional countries themselves. In these circumstances, Australia's engagement with regional countries as a partner in determining the strategic affairs of

the region will be an increasingly important element in ensuring our security. We will develop our dialogue on strategic and defence issues with key countries of the region, and will aim to promote an environment which sustains a stable pattern of strategic relationships and avoids destabilising strategic competition.

The activities which we pursue with regional countries, with these broad interests in mind, will include bilateral programs aimed at cooperation in developing defence capabilities and professional standards appropriate to the legitimate defence needs of the countries concerned. We will continue to foster, through dialogue, an accurate understanding of Australia's strategic interests and security concerns and ensure that we in turn understand the perceptions, concerns and capabilities of neighbouring countries. This will reflect Australia's commitment, shared increasingly by our neighbours, to transparency in defence policy development and force planning. At the multilateral level, we will maintain our firm commitment to the Five Power Defence Arrangements (FPDA). We will participate actively in processes which foster a sense of shared strategic interests and will encourage the continued evolution of cooperative security approaches in the region. We aim to ensure that these processes are inclusive and provide scope for the major powers of Asia and the Pacific to engage constructively with each other and with other countries of the region.

In the defence relationships we promote through these approaches, we will identify opportunities for defence materiel exports and for defence industry collaboration. This will help develop and support Australia's defence industry base, broaden our defence cooperation with regional countries and contribute to Australia's export and overseas investment performance.

Australia has maintained strong defence relationships since the Second World War with particular countries in Asia and the Pacific, especially the countries of ASEAN and the South-West Pacific. The scope, content and quality of our activities with these countries, particularly those in Southeast Asia, will change substantially over the next fifteen years to reflect relationships based more on partnership and shared interests. As we train and exercise together, our relationships will develop new dimensions and depth, including new levels of strategic dialogue and defence industry collaboration.

The activities we develop to support our increasing engagement with the region will focus carefully on specific objectives. In most cases, these activities will not involve substantially greater resources, especially as over time there will be a greater emphasis on reciprocal benefits and cost sharing. We will need to set priorities which accord with our strategic interests for each relationship and each activity.<sup>4</sup>

Activities in support of our regional interests will not in themselves determine the force structure of the Australian Defence Force, but our existing capabilities will continue to provide us with the scope to undertake the full range of activities and projects necessary to support our regional objectives.

This paper is an attempt to put this background into the context of these proceedings and to give some practical flavour to naval practitioners, on what

otherwise could be regarded as being a subject only of interest to those serving in the upper echelons of naval policy making in Canberra. Throughout this paper the term Asia-Pacific is used to describe the totality of our area of interest, and it accords with the area of regional engagement as defined in the White Paper.

#### **Developments in Regional Naval Cooperation Policy from an Australian Perspective**

In a peacetime context, Australia has a long history of using naval diplomacy in Asia-Pacific. It extends from the time of HMAS *Canberra's* regional deployments in the 1930's and our involvement from 1955 to 1971 in the British Commonwealth Far East strategic reserve; to a later FPDA commitment and deployments to the new and emerging democracies of Asia-Pacific. It is important for the purpose of what we are describing here to note the similarity, but nonetheless subtle difference, between the conventional term of naval (or gunboat) diplomacy, and that of naval cooperation. What we are seeing now is the use of naval forces applied in missions which emphasise mutual cooperation, rather than the application of force in achievement of the Government's foreign policies.

Naval cooperation does not have as long a history as naval diplomacy. During the 1950s and 1960s policy makers in Australia did not view Asia-Pacific as important in itself—their interest was only sparked when superpower relations affected the region. As such, this policy encouraged the RAN to remain somewhat aloof from other regional navies and the establishment of bilateral cooperation was not a strategic necessity.

By the early 1970s, this opinion was on the wane, but there was still some official reluctance to commit totally to what some then called our strategic backwater. Southeast Asia Treaty Organization (SEATO) commitments kept us looking at European styles of operations, and our involvement in Vietnam probably added to the notion that we were essentially supporting the US, rather than assisting a legitimate Asian government. Our assistance to Indonesia in gaining her independence, as well as, quixotically, our assistance to Malaysia in confrontation with Indonesia, indicated a shift in our strategic thinking. For the RAN's part we became more sensitive to local attitudes during the 1970s and 1980s and slowly built up our navy-to-navy relations. Cooperation was often limited, however, by the considerable difference between the operating standards of most regional navies and those of the RAN.

Over recent years the RAN has had more contact with those navies and there is now a much improved operating environment. It is interesting to note that the RAN, as an instrument of foreign policy, has been in a position to develop good working relations with many Asian officials over the last 40 or 50 years. Asian culture accords the military a relatively higher status than does Australia's and in many Asian countries there is a long tradition of military influence equating to political power. The higher echelons of government in these countries include numerous current and ex-serving officers, many of whom have long been associated



with, and impressed with Australia's performance and professional credentials through the RAN. This should not be lost on us in the Navy in reinforcing our sense of self-worth.

As a means of reinforcing the utility of the RAN for this role, it is worth remembering that many navies in our region were born from the one cultural background. The Navies of Pakistan, India, Malaysia, Singapore, Brunei, Australia, Japan and the US were all formed from the Royal Navy (RN) model—for better or for worse. The strong uniform similarities and general commonality of operating procedures means, to quite a reasonable extent, that we accept and understand each other well at a basic level. We know how to do business together without expecting a complete osmosis of minutiae, and we accept in a pragmatic sense, without too much suspicion, that each is keeping its own secrets.

#### **The Likely Trends in Bilateral Naval Cooperation between the RAN and the Navies of Asia-Pacific**

The RAN is now focused on establishing equal partnerships with navies in the Asia-Pacific region, with a two-way flow of information where it is relevant to the interests of each. This change from our traditional self-image as the provider is more than a symbolic gesture, as these navies do have experience and knowledge from which the RAN could benefit. For example, they could provide us with assistance in tropical underwater medicine techniques, boarding and detainment procedures for illegal boat people, anti-piracy patrol operational procedures, fast attack craft tactics in areas of high density shipping and around islands, and information on the effect of prolonged exposure to high temperatures and humidity on missile performance. Practically, our modus operandi of developing relations follows the process of:

- ship visits;
- passage exercises at a basic level;
- development of basic interoperability documentation, followed by a progressive increase in exercise sophistication;
- access to basic training courses, including harbour training phases of exercises;
- high level military and political contacts;
- logistics support and cooperation;
- basic bilateral exercises as appropriate to meet respective expectations;
- access to advanced training courses;
- expanded exercise series when each navy feels comfortable with the level of success likely to be accomplished, something which can take quite a while to accomplish;
- personnel exchange programs on a longer term basis, recognising some of the security implications this brings, especially for classified material derived from third party sources, and
- multilateral exercises.

This is not a strict pattern, but one which reflects the type of activities which may be appropriate as navy-to-navy relations develop, and force capabilities improve in the region.

As noted by Ken Booth in his seminal work on *Navies and Foreign Policy*, there are continuing very good benefits accrued through warship visits. The very act of obtaining a diplomatic clearance (DIPCLEAR) for a visit gives a nation the highest level of exposure in government foreign policy and defence circles. The traditional cocktail party still contributes usefully to wider foreign and defence interests.

There is also the interest in helping Australian defence industry. Opportunities can be made for navy ships and personnel to demonstrate the equipment we buy from Australian companies, and the Fleet activity schedule should be responsive to requests for this when it is clear that sufficiently high level approval has been given and the resource implications have been resolved. This is not to say we will become salesmen, however, as industry will have to accept the risk that the RAN will not hide facts about our operational experience with their equipment, including some criticism if it is appropriate. The Navy should not be expected to compromise its long term professional standing to support the short term sale of Australian technology.

The RAN should, however, continue to pay attention to those traditional activities which we have always conducted with regional countries. The cross-decking of personnel for short periods, sports days, and small scale assistance to schools, churches, hospitals and the like, reflect well on our professionalism while keeping us aloof from political associations. As noted earlier, the high regard the RAN enjoys in Asia-Pacific is based on our professional competence, not the eloquence with which we pass comment on local domestic political issues.

Lastly, we must avoid over commitment, and I refer back to the White Paper remarks that regional cooperation will be conducted without significant additional resources, and will not be a force structure determinant in its own right. In this regard, Defence Attaches or Advisers play an important role in assessing the proper ratio of benefit to effort. Still, there is still room for better liaison between Navy Office, Headquarters ADF (HQADF), International Policy (IP) Division and DFAT in considering policy initiatives which advance our wider interests, as well as giving the RAN the practical training and other professional opportunities needed to remain operationally effective.

For the future of bilateral activities, I would expect to see a greater level of work developing with PNG and states of the South-West Pacific, although this will remain at a basic level for some time to come.

#### **The Likelihood of Greater Multilateral Naval Cooperation in Asia-Pacific**

Unlike the European arena where the existence of a common threat led to the formation of NATO, Asia-Pacific is highly unlikely to see the emergence of a unifying alliance based on an external threat, unless a major change occurs in



regional circumstances. There are, however, very real tensions and unresolved problems between states, and it will be necessary to find cooperative security mechanisms to prevent tensions leading to conflict. Bilateral, rather than multilateral activities have the most potential for assisting resolution of some of these issues. In this respect though, it must be acknowledged that formation of ASEAN as well as recent Asia-Pacific foreign affairs initiatives have improved multilateral dialogue in the region.

The prospect of multilateral exercises gaining popularity in Asia-Pacific is presently assessed as low. A significant obstacle to the conduct of multilateral exercises is the high level of political commitment, for defence purposes, that such an exercise implies. *Kakadu* for example is conducted as a Fleet Concentration Period (FCP) as opposed to an Exercise. *Starfish*, on the other hand, was born out of the requirement for FPDA members to exercise annually and it is the largest exercise of its kind in Asia-Pacific, and so far as I am aware, apart from RIMPAC, (the Rim of the Pacific) the only multilateral exercise of note. As the basis for a real response to a threat, some would argue that FPDA has a long way to go. The associated Integrated Air Defence System (IADS) exercise is also seen by some as lacking substance from a navy point of view, but the decision to combine a future *Starfish* and IADS exercise does provide the basis for considerable improvement for all participants. The strong point of the activity is that it provides an opportunity for a meeting of minds amongst several Asia-Pacific navies.

Although Australia is not directly involved, economics have already prompted a small move towards multilateral naval cooperation in Southeast Asia, where progress has been made on an anti-piracy agreement. In this instance, Malaysia, Singapore and Indonesia have drawn up a series of bilateral agreements and there has been considerable discussion on the establishment of a regional maritime surveillance and safety regime. In the South-West Pacific, the signing of the Niue Treaty has provided the vehicle for bilateral cooperation between the signatories, in enforcing their sovereignty over their exclusive economic zones. As a consequence of their economic growth, nations are becoming more interdependent and this means they are more concerned about the potential for the disruption of seaborne trade so, ultimately, sea lines of communication (SLOC) security may evolve into a sovereign interest which can be shared among nations. In particular, Japan is concerned about this issue and over time, is likely to find ways to be more active bilaterally with other regional navies, although at present she is limited to participating with the USN in major exercises. With serialised activities and simple passage exercises (PASSEX), on the other hand, there is more freedom to interact with other nations. Multilateral exercise initiatives could also start to be driven by the USN, as they look to maintain a continued presence in the region on a stricter operating budget.

Notably, too, as part of a regional cooperation forum, the RAN agreed not to force the issue of multilateral exercises in the region. During the first Western Pacific Naval Symposium, the Chief of Naval Staff (VADM M.W. Hudson) and his

regional counterparts agreed that a push for multilateral exercises would be premature and reaffirmed that, for the immediate future, WPNS nations would prefer to operate within bilateral relations. This was a deciding factor in all nations agreeing to continue cooperation in that forum.

#### **An Overview of the WPNS. Does it Appear to be a Sufficient Mechanism for Fostering Greater Cooperation in Asia-Pacific?**

The Western Pacific Naval Symposium aims to increase naval cooperation in the Western Pacific by discussing maritime issues, both global and regional, and generating a flow of information and opinion between our Chiefs of Navies. Since 1988, WPN Symposia have been held biennially and have taken place in Canberra, Bangkok, Hawaii and Kuala Lumpur. The next WPN Symposium will be held in Japan late in 1996.

As our only region-wide navy forum, the success of WPNS has been due to its CNS level representation, which has meant ideas could be agreed without long protracted negotiations. The most encouraging outcome of the Symposia has been the general agreement that there is a very real scope for cooperation and that nations need to build on trust; looking for the matters which can bind us rather than those which might divide us. Encouraging too is the ease with which these matters have been identified. There is now pressure for WPNS to keep moving forward with cooperative ventures. Many of the easier projects have been implemented and those remaining require higher levels of commitment. If the WPNS fails to take on this challenge there is a chance the forum could stagnate, so Chiefs of Navy will need to place it high on their agenda, if it is to survive as a viable cooperation mechanism.

The last meeting was not well attended by the member Chiefs and hence no major commitments were undertaken. I hope this is not an omen for the future of WPNS, as it has produced some useful practical initiatives to date. The RAN will continue to support the forum, although we may have to re-think our approach and assess whether the RAN could take a greater, but unintrusive, role—perhaps to lead from the rear in this case.

#### **Conclusion**

The prospects for greater cooperation and understanding among the navies of the Asia-Pacific region appear good. From an Australian perspective, increased exercise and training opportunities give regional navies confidence in the RAN and a non-threatening understanding of our capabilities. From a navy perspective, we have the ability to influence tactical and other processes which increase our ability to operate more effectively. We are not in a position of overall superiority, either in hardware or intellectual perspective, and it is important that we take careful note of the skills possessed by regional navies which could also be of benefit to the RAN. The increasing confidence and professionalism among regional navies suggest that they will increasingly welcome any such requests for assistance. Increased cooperation will slowly emerge as shared strategic needs are more adequately crystallised.

Asia-Pacific is primarily a maritime region, so for Australia to derive maximum benefit from its program of regional engagement, the RAN should play a major part furthering the nation's objectives. Achieving this is a complex process which includes; encouraging inter-personal relationships among officers of regional navies so that we can develop, conduct and enhance professional exercises with the respective navies; giving low visibility to political and economic issues; and ensuring that the greatest degree of cooperation is taking place between our policy makers and those in the front line.

#### Notes

- <sup>1</sup> I acknowledge the efforts of my staff, and particularly Lieutenant Sharon Dean, in helping to prepare this paper.
- <sup>2</sup> *Defending Australia: Defence White Paper 1994*, AGPS, Canberra, 1994, para 1.4.
- <sup>3</sup> *Defending Australia: Defence White Paper 1994*, AGPS, Canberra, 1994, para 8.1–8.6.
- <sup>4</sup> The cost of regional engagement activities last financial year was conservatively estimated at \$225M, which did not include the cost of PASSEX days, in-port days, operational planning, or workups to reestablish an acceptable level of operational capability on return from deployments.

#### ANNEX

The following Tables show a summary of the bilateral exercises, training and personnel exchanges the RAN has with Asia-Pacific nations.

**Table 1: RAN—Southeast Asian Regional Exercises**

<i>ASEAN Regional</i>	FCP KAKADU FPDA IADS ADEX—Integrated Air Defence System Air Defence Exercise FPDA STARFISH—Maritime exercise
<i>Indonesia</i>	AUSINA PASSEX—two major and two minor fleet unit exercises per year AUSINA PATROLEX—biannual combined patrol NEW HORIZON—biennial maritime exercise
<i>Malaysia</i>	LUMUTEX—formalised passage exercise and harbour training
<i>Singapore</i>	AXOLOTL—diving exercise SINGAROO—maritime exercise
<i>Thailand</i>	AUSTHAI—maritime exercise
<i>Philippines</i>	AUSPHIL—maritime exercise using predominantly Patrol Boat Forces
<i>Brunei</i>	EXERCISES PENGUIN—Patrol Boat surveillance exercise

**Table 2: RAN-South West Pacific Regional Exercises**

<i>SWP Regional</i>	OPERATION SOLANIA—coordinated RAAF/RAN maritime surveillance exercise WEATHER EYE—maritime surveillance
<i>PNG</i>	PARADISE—maritime exercise
<i>Tonga</i>	TAFA KULA—maritime surveillance and platoon level training by Army
<i>Vanuatu</i>	LATE TOFUA—maritime surveillance

**Table 3: RAN Personnel On Regional Attachments And Exchanges (Excluding Embassy Staff)**

<i>Cambodia</i>	Aim: to provide the Royal Cambodian Navy with a workshop facility including machinery and tools, technical training, mooring facilities and a floating dock. 1 x LCDR (Project Director) 1 x LEUT (Assistant PD) 4 x WO (training staff) 2 x LS (construction staff)
<i>Singapore</i>	1 x LCDR/LEUT—Minewarfare exchange starting April 1995
<i>Malaysia</i>	1 x LEUT/LCDR—PWO Exchange 1 x CMDR—Integrated Logistic Support exchange
<i>Indonesia</i>	1 x Dental Officer exchange starting early 1995 1 x LEUT for experience in tropical medicine starting January 1997
<i>Papua New Guinea</i>	1 x LCDR—Attached to the Directorate of Technical Support 1 x LEUT—2IC in Maritime Surveillance Centre 2 x CPO—provide technical advice on the maintenance of PNGDF Patrol Boats

<i>Pacific Patrol Boat Project</i>	
<i>Vanuatu</i> 1 x LCDR 1 x CPOMTP	<i>Solomon Islands</i> 1 x LCDR 1 x CPOMTH
<i>Federated States of Micronesia</i> 1 x LCDR 1 x CPOMTP 1 x CPOETC	<i>Republic of Marshall Islands</i> 1 x LEUT 1 x CPOMTP 1 x CPOETP
<i>Western Samoa</i> 1 x LCDR 1 x CPOMTP	<i>Tonga</i> 1 x LCDR 1 x CPOMTP 1 x CPOETP
<i>Kiribati</i> 1 x LCDR 1 x CPOMTP 1 x CPOETP	<i>Fiji</i> 1 x LCDR 1 x WOMTP 1 x CPOETP
<i>Tuvalu</i> 1 x LCDR 1 x CPOMTP 1 x CPOETP	<i>Cook Islands</i> 1 x LCDR 1 x CPOETC

**Table 4: RAN Individual Training Offered Under Defence Cooperation—FY 94/95**

Country	Training Places Provided
Brunei	3
Fiji	5
Micronesia	1
Indonesia	15
Kuwait	16
Malaysia	10
Philippines	9
Western Samoa	1
PNG	19
Singapore	12
Solomon Islands	4
Thailand	10
Tonga	1
Vanuatu	2
Pakistan	1
<i>Total</i>	109



# 8

## Regional Engagement

*Hugh White*

### **Introduction**

Close examination of the strategic developments covered by *Defending Australia* suggests that there are four questions defence policy makers must ask themselves in relation to the document's mainstay, namely regional engagement.

- Why are we doing it?
- What are we trying to achieve?
- How does it relate to the rest of our policy?
- How should we try to bring it about?

These questions are quite important, because regional engagement is a difficult policy concept to comprehend. It has generated some confusion within Defence and the community at large. The key issue is to work out the balance between regional engagement on one hand, and our policies focused on the defence of Australia on the other. This is a complicated process, involving the various ambiguities which exist in our attitudes to Asia, as they relate both to defence and to the broader national approach to engagement and its consequences.

### **Australia's Relations With Asia**

This paper will begin with a series of five or six specific points about regional engagement as an element in our defence policy. Firstly, regional engagement is clearly part of a wider national development of our relationship with Asia. Defence policy is not working in isolation from broader national policy. Thus, while APEC, for example, has a clear economic focus, it also has some strategic significance. APEC is by no means irrelevant to the things Defence is trying to achieve through strategic engagement. But it is not as though regional engagement for Defence is just hopping on everyone else's band wagon. It is very much part of quite specific defence strategic considerations and it flows directly from the first of those two trends mentioned in the earlier chapter on the 1994 Defence White Paper. It is very much part of the evolution of a new, more complex and much more uncertain

strategic environment in the Asia Pacific region in which the nations themselves have to build a strategic system to manage their region.

Regional engagement for Australia means being part of that process; helping to ensure the utility of the system which is developed. It means ensuring the generation of a peaceful strategic environment and helping to ensure that whatever is generated meets Australia's strategic interests. So, there is a very specific policy focus for Defence and it can be defined as seeking to influence the strategic environment so as to make armed attack on Australia less likely, or more easily managed should it eventuate.

Secondly, regional engagement is thoroughly integral with defence policy. It is not an idea which has been thrust upon Defence: it springs from Defence's own tasks. Furthermore, we in Defence must pursue it in ways which contribute to the organisation's objectives. Consequently, Defence works hard to ensure that our efforts and the broader national agenda in Asia are consistent. Nevertheless, we must continue to ensure that defence dollars are spent on activities which can be justified clearly in defence terms.

Thirdly, regional engagement is not new. It has always been an important element of Australia's defence policy. It always featured strongly in our agenda which involves influencing our strategic environment. Previously, forward defence was pursued in a completely different way, but with a similar objective. We were engaging the region in the aftermath of the Second World War and in the 1970s and 1980s, but always in circumstances different to those existing now. The changes are not the result of some sudden decision that there is a region which we need to know better. They are related to redefining the way in which we go about regional engagement, and the scale of that engagement in the post-Cold War period.

The scale of the task has grown because:

- the strategic environment is becoming more demanding,
- the need for regional engagement has grown,
- there are more opportunities for engagement as improving military capabilities enable regional forces to become more active partners,
- there is a greater scope for cooperation, and
- Australia is more accepted as a strategic partner.

The final point is very important. Australia is becoming more accepted as a strategic partner, not because the people of the region like us better, but simply because they have done the same strategic calculations that we have and have reached the same judgments that we have reached about the direction of strategic affairs in the Asia-Pacific region. Although it might be expressed in different ways, there is a widespread understanding throughout the region of the need to work hard and cooperate more effectively to build a new strategic environment. Already a strong sense of shared objectives has emerged.

### **Regional Engagement and the Defence of Australia**

Of course the main issue with regional engagement is how it relates to that other big question; the defence of Australia. There is an instinctive feeling that they must conflict, or be contradictory; that they cannot be dealt with together. This is true in one sense and false in another. One can argue that there is no consistency in strongly emphasising regional engagement and coincidentally having a strong emphasis on the defence of Australia, as far as policy objectives and implementation are concerned. Some people make the false assumption that through regional engagement the countries in our region are going to be our friends, yet in considering the defence of Australia the assumption is that they can be our adversaries. There is also a view that they must be one thing or the other and that we need to develop policy accordingly. The presumption of course is that they cannot be both friends and adversaries.

In this more uncertain strategic environment, however, both are possible. Our policy has to encompass the possibility that there could be a breakdown of peace in the region. We cannot rule out the possibility, however remote it appears at present, of a regional threat to Australia at some point.

Another important issue which emerges from that process is that regional engagement is not simply a matter of treating the whole region like New Zealand. New Zealand is one of the few countries in the world with which we cannot imagine being in conflict; a judgment which colours our entire relationship with that country. The same is also true of the United States and of the United Kingdom. At least for the foreseeable future our management of regional engagement must reflect the fact that we want to be friends, and that we will work hard to be friends, but that we cannot assume that we will always be friends. This is not contradictory: our policy is to remain on good relations with other countries and to exploit those good relations as much as possible, while at the same time ensuring that if the policy does not succeed we will be as well situated as possible.

Inevitably, however, we could have some very tough choices at the margins. For example, we will need to decide whether to reveal certain techniques or capabilities; whether to spend our money one way or another in support of the defence of Australia, or more broadly in support of regional engagement. These choices at the margins will be very important and many of them will be very hard choices to make. But that is precisely because they are at the margins. Their existence does not mean that the overall structure is contradictory, only that there comes a point where our two sets of objectives meet and require compromise if rational decisions are to follow. Thus, if there seems to be a contradiction between regional engagement and defence of Australia, there comes a point where the compromises have to be made. The choices are very difficult but they do not indicate that the policy itself is confused.

The same applies to the means we use to bring about regional engagement and defence of Australia. The most significant means is the financial commitment which, for regional engagement, is estimated to be little more than 2 per cent of the

Defence budget. If we continue to refrain from optimising our capabilities for the defence of other people's countries or for cooperation with other people's forces, rather than for defence of Australia, then regional engagement is unlikely to start absorbing the defence budget to the point where our ability to defend Australia, in a narrower sense, is called into question. I do not think that there is a fundamental contradiction between trying to engage the region to the extent we are suggesting and concentrating on the defence of Australia. But, in making choices, inevitably there will be some difficult decisions at the margins. Will we spend a certain amount of steaming time for an exercise which specifically enhances our own capabilities, or will we conduct an exercise in Southeast Asia which will be a more direct contribution to regional engagement? However difficult these choices will be, they will not undermine the coherence of the overall policy.

Another issue in which there is a sense of contradiction to some is maintenance of the relationship with the US. Despite this, there is no suggestion that we cannot achieve our goals in the region, while coincidentally achieving our requirements of the alliance with the US. The objectives in both cases are very similar. The acceptance in Asia of our relations with the US and in the United States of our objectives for regional engagement, together with a recognition by each of the other parties of the mutual benefits which apply, are sufficiently strong for us to be confident that careful management on our part will be to the advantage of all parties.

In summary, there is no contradiction between regional engagement and defence of Australia, even if there will be many tough marginal choices as to how we allocate resources to meet both demands. A key aspect of regional engagement is that it is not about buying affection or good will. As is the case with other countries we support it for very clear defence reasons. It is very much a case of self-interest.

### **Strategic Uncertainty**

Articulation of our specific objectives in regional engagement is difficult, partly because our strategic situation is so fluid. If it were more clearly settled, as it was for example during the latter phases of the Cold War, articulation of our regional objectives could be done precisely and concisely. But because of the existing fluidity it is in some ways easier to specify what we want to avoid. Ultimately, we want to prevent any country from developing the capability; that is platforms, bases and operating modes, to threaten our maritime (sea and air) approaches, to make major attacks on our own territory or to be able to use substantial military force against Australia.

Some particular circumstances, not present today, would make this a possible outcome. One would be an Asia-Pacific region dominated by a hegemonic power. Such a power could deploy a substantial force against Australia. Another circumstance would involve a major external power, not necessarily hegemonic, establishing a significant presence in Southeast Asia. One of our aims is to prevent these unlikely but potentially dangerous circumstances from arising.

Like other aspects of defence policy, regional engagement is a long term business. Alliance relationships, or even good working defence relationships with other countries, cannot be established over night. Even our own experience shows that they take many years. The result of our efforts is that we have a good set of relationships on which to build, and our focus now must be on establishing relationships which will benefit us in the potentially volatile strategic environment of the future. A pessimistic view of our desired outcome would see a stable balance of power. Inevitably, regional countries will be competing strategically in different ways, but preferably managed so that armed conflict is not an outcome. Optimistically, we want a community of strategic interests, in which all the regional countries recognise that their strategic interests are congruent, and thereby minimise the scope for strategic competition. We cannot afford to assume that the optimistic outlook will prevail and because of our responsibilities in Defence we may need to accept the pessimistic approach and be satisfied with establishing a stable balance of power.

One step towards achieving this is that we have a community of states each well enough armed to defend themselves. We want to see the development of capabilities in the region (in Malaysia, Singapore, Indonesia and Papua New Guinea (PNG) for example) that provide the capacity for self-defence. It is also in our interest to ensure that regional countries do not have a capacity to threaten their neighbours, noting that our influence over such issues could be quite limited. We also want a region in which countries lack political or ideological motives for strategic competition. There must be no anxiety among them resulting from external strategic threats.

These aims will be met more easily in a region supporting habits of dialogue for problem solving. The alternative, resolving conflicts by resort to armed force, must be avoided if at all possible. Avoidance of the use of armed force can be assured, or at least promoted, by retaining the maximum possible US presence in the region. Finally, we want a region which is prepared to recognise Australia's strategic significance. In this sense, our bilateral relationships, while still evolving, are also well established and have been recognised and respected throughout the region. Many of these issues can be described by the term 'goodwill' but there is more to it than that. We do not just want people to think of Australia as a nice place and of Australians that we are nice people. We want them to recognise our interests and significance in the region and to respect us for the part we can play in ensuring regional security.

### **Implementing Regional Engagement**

Finally, this paper will describe how we aim to achieve our objectives, noting again the long term focus which will be needed. We are not expecting to train foreign military students or conduct exercises and see an immediate result. But at the same time, we must maintain a clear linkage between our activities and our objectives. This is important because we go about achieving these objectives in ways which vary by region and by country. *Strategic Review 93* used terms like 'strategic



partnership' and 'constructive commitment' to describe how we conduct our regional relationships, but these terms can convey the idea that in a specific region like Southeast Asia the same framework is applied to each relationship. This is just not so. Each relationship is unique and is treated as such.

Despite this, there are some characteristics which apply broadly to the range of our relationships. Firstly, with PNG and the South-West Pacific our objective is really very simple. Ultimately, we are seeking strategic exclusion or strategic denial. We want to prevent hostile stronger powers from penetrating the region and being able to operate from it against Australia. Because in this region military forces are small, or even non-existent because of the smallness of the countries themselves, activities which promote an Australian defence presence can be difficult to identify. Thus, our current activities have a quite strong aid element—defence cooperation in the traditional sense—which will remain fundamental to our efforts in the South-West Pacific for a long time to come. It is complex and demanding to run these relationships, but the objectives are at least reasonably simple.

In Northeast and South Asia, we are not building upon very strongly established relationships and our objectives are much more modest. Our objectives are to:

- establish a dialogue with the countries of these regions;
- develop an understanding of their strategic perceptions;
- encourage them to conduct their strategic policies consistent with the security interests of Australia and the region generally; and
- develop a modest level of cooperation on some more practical level, if only in the long term.

In Canberra, there is some debate about which of these countries should be sought after by Australia for closer relationships. Undoubtedly, much consideration is needed before we can determine how we want these relationships to develop, and how far we want to take them. And almost certainly, whatever happens will happen very slowly, to take account of potentially quite substantial problems in particular cases. With Japan, for example, these could be manifested through the constitution. In this regard the Navy to Navy talks held between the RAN and the Japanese Maritime Self Defence Force (JMSDF) in 1994 were a significant advance.

In considering relationships with other potentially major powers; India and Australia have found it difficult to establish consistently strong ties. Similarly, developing a substantial relationship with China has proven to be problematic, and even now we are only emerging from the post—Tiananmen freeze and the baggage associated with it. None of these relationships is likely to consume huge resources. To the extent that they do consume resources, however, the Navy is likely to find itself playing a substantial part.

Southeast Asia, by contrast, will remain the major focus of our regional engagement; and for good reasons. Countries of this region carry strategic weight in their own right. Southeast Asia is, of course, our strategic bridge to the more powerful countries of Northeast Asia and South Asia. Thus, Southeast Asia is an enduring and legitimate focus of our greatest efforts in regional engagement. While

our objectives there are complex, we can work from a sound foundation in our existing defence relations. Perhaps the important issue is how those relations will develop. Firstly, we have a very strong set of bilateral relationships, firmly founded on defence cooperation. Yet, over the last 10 years, defence cooperation in Southeast Asia has moved quite sharply from equipment oriented activities towards activities much more oriented to training and personnel. Even so, defence cooperation is likely to continue evolving for the foreseeable future. The point is that 10 years from now, our relationships must have developed a renewed rationale, if for no other reason than that they will not be sustained by the sums of money we spend, which are limited by any measure. In future, our focus will switch to cost sharing in many cases, and we will be favouring relationships which contain provisions for reciprocity.

This proposed change will create a challenge for us, because Australia is most experienced at managing two kinds of international relations; alliance relationships as we do with the United States and the old style defence cooperation relationships. By contrast, we have had very little experience of maintaining a relationship with another country on an equal basis and this is something we very much need to do.

So, with what do we propose to replace the traditional defence cooperation relationships? There is undoubtedly the prospect of more exercises and more training opportunities; preferably on a cost sharing basis. Cost sharing is preferable because the kinds of capabilities which are emerging in the region are predominantly maritime, in which we do have skills, most of which have been acquired at significant cost to ourselves. Furthermore, we are contemplating countries not now submarine capable, but about to become so; countries moving from being gun navies to being missile navies, and now taking anti-submarine warfare (ASW) and maritime surveillance seriously. They are looking for some significant new capabilities and we can help to provide them.

One particular example of this is the potential for arms sales which has strategic and industrial benefits for our own defence industry. It also has regional engagement benefits, as we know from our own relationship with the US. Regional defence relationships can be enhanced if regional nations use the same or similar systems. That is another issue which will impact heavily on the RAN's activities because of the types of capabilities we can provide. For example, we have a ship building industry in Australia, but we do not have a substantial aircraft industry. So, any big contracts in the region will almost certainly be for naval capabilities, thus offering some interesting opportunities, but also some real challenges in respect of the information which we choose to release. There is also much scope for the exchange of ideas, especially at the strategic level.

Finally, there is a new multilateral agenda, which is primarily a reflection of changing strategic circumstances and perceptions in the Asia-Pacific region, but which still owes a great deal to Australian diplomacy and initiative. It has happened faster than we expected and while its ultimate shape is not yet clear, it is unlikely to become a regional alliance. It is becoming more vigorous in terms of diplomatic

activity and much more tightly focused on specifically military affairs. These developments will make the process much more demanding of us. While we have experience with multilateral relations through the Five Power Defence Arrangements, which have been very successful and will remain very important, the new multilateral agenda could develop quite quickly and in ways that will test our ability to manage relationships.

#### **Conclusion**

In conclusion, I must reiterate that the Navy is absolutely at the forefront of all that is happening in regional engagement. The region is a maritime one, and always will be. The RAN has a very strongly established set of linkages already, with good early work done by the Western Pacific Naval Symposium. Noting the successes achieved within this forum, we must not allow it to stagnate. Fleet exercises like *Kakadu*, are the beginnings of the acceptance of regional multilateral activity, although they are not exercises in the traditional sense. With the Japan—Australia Navy to Navy talks, the RAN has been able to establish discussions whereas other attempts at the higher policy levels have proved more difficult to manage. The focus mentioned earlier in this paper will see the Navy inevitably helping in the development of regional capability, because the RAN's capabilities are just what regional countries want. Most or all of the systems built in Australia which might be of interest to countries in the region are naval systems. There will be many requests for assistance and, in terms of our overall defence policy, managing them will be quite a challenge.

## 9

### **Regional Engagement In Practice: Implementing Policy—A View From The Field**

*Don Chalmers*

This paper gives a view from the field on implementing the current defence policy with respect to regional engagement. In implementing this policy we in Maritime Command are very mindful of three of the first four paragraphs of Chapter Eight of *Defending Australia* which inter alia note that:

Over the next fifteen years the strategic environment in Asia and the Pacific is likely to be more demanding and to be determined, more than ever, by the policies and approaches of regional countries themselves. In these circumstances, Australia's engagement with regional countries as a partner in determining the strategic affairs of the region will be an increasingly important element in ensuring our security. We will develop our dialogue on the strategic and defence issues with the key countries of the region, and will aim to promote an environment which sustains a stable pattern of strategic relationships and avoids destabilising strategic competition.

The activities which we pursue with regional countries, with these broad interests in mind, will include bilateral programs aimed at cooperation in developing defence capabilities and professional standards appropriate to the legitimate defence needs of the countries concerned. We will continue to foster, through dialogue, an accurate understanding of Australia's strategic interests and security concerns and ensure that we in turn understand the perceptions, concerns and capabilities of neighbouring countries.

Australia has maintained strong defence relationships since the Second World War with particular countries in Asia and in the Pacific, especially the countries of ASEAN and the South West Pacific. The scope, content and quality of our activities with these countries, particularly those in Southeast Asia will change substantially over the next fifteen years to reflect relationships based more on partnerships and shared interests. As we train and exercise together, our relationships will develop new dimensions and depth.

The emphases of our naval activities are therefore:

- bilateral programs to develop capability and professional standards appropriate to legitimate needs; and
- dialogue to improve transparency and understanding of cultural, strategic and security issues.

Within the region, in implementing policy, we have three different approaches, which this paper will outline separately. However, over-arching these different policies we seek to be seen as a competent and professional maritime force, able to conduct complex maritime operations, not only in the maritime approaches to Australia and areas of immediate strategic interest for the defence of Australia, but also along our sea lines of communications, and with those nations proximate to those trade routes with whom we might share common interests.

With respect to Southeast Asia, this paper looks at our naval relationships with the nations of ASEAN; Indonesia, Singapore, Malaysia, Brunei, Thailand and the Philippines. Indonesia is seen as being particularly important to the security of Australia, while we regard Malaysia and Singapore as important regional partners, and Thailand, the Philippines and Brunei as countries which have the potential to add depth and resilience to our defence links with the region as a whole.

In providing practical support to the engagement policy it is important to note that the relationship with each country is different, that they have developed in quite different historical contexts and that the speed of development in the future will be different for each nation. It is important that the individual relationships be allowed to develop within each country's comfort zone.

### Indonesia

Firstly, with Indonesia, our Fleet to Fleet relationship has developed steadily and seems to be able to endure the ups and downs of the political relationship. We now have senior Indonesian officers who have attended high level training courses in Australia, who have had ongoing exposure to the RAN through the planning and conduct of exercises, and in some cases have their children being educated in Australia. We should not underestimate the importance of these personal relationships, not only with Indonesians, but throughout the region, and we should endeavour to build on this through our current programmed activities.

The Joint Development Zone in the Timor Gap and the coordinated and combined patrolling of that area provides us with a focus for operations which not only encompasses the various patrol exercises we conduct, but also *Exercise Cassowary* (conducted twice per year—once in the Timor Gap) and the establishment of a direct communications link between the headquarters of Australia's Northern Command (NORCOM) and Indonesia's Eastern Fleet. At the major event level, cooperation occurs through two *Ausina* exercises and *Exercise New Horizons* each year, in which we seek to develop common procedures and enhance our ability to operate together.

We achieve much more than that of course. The Indonesians insist on detailed planning and detailed pre-exercise preparation. There is much to be gained during

these periods, as it is here that contacts are made and experience shows us, that it is in these pre-exercise activities that the success or otherwise of an exercise at sea is largely determined. Dealing as partners during these periods of planning and preparation is critical to the development of the relationship.

It has been interesting to observe the Indonesian approach to FCP *Kakadu*. On the first occasion they sent observers only, then for the second one in 1995 they sent one ship for the harbour week and participated fully in the planning. Perhaps in 1997 we may see full participation. In all probability it will depend on their own assessment of whether they can perform well in the gathered company.

The strengths in our relationship with Indonesia lie in our support of the relationship, in our commitment to transparency, our knowledge of our own capabilities and the professional approach we take. They are also based on our acknowledgment of the Tentara Nasional Indonesia-Angkatan Laut's (TNI-AL) ability to use its equipment to its full potential and through all redundancy modes. Perhaps most importantly, however, has been the personal contact and the slow development of personal relations between members of the two navies. That being said, we must in the future ensure that our people have a better understanding of the culture and development of the Indonesian nation, Indonesia's perceived strategic and security issues, and its system of government. Even more importantly, we must be able to articulate to Indonesians the same facets of Australian life and policies.

### Singapore

Singapore's is a young Navy, developed from the country's excision from Malaysia after the confrontation period of the 1960s. The Republic of Singapore Navy (RSN), above all others in the region, has embraced technology and clearly has the knowledge base to exploit weapons and sensor systems through their full potential. Exercises with the RSN provide benefit for our operations in the maintenance of operational standards. Nevertheless, as we know from our own past experiences there are inevitably areas where a developing navy has 'holes' and it is here that our Fleet to Fleet relationship is important. Our participation in exercises in their tactical trainer and the fine work that Commander Ted Walsh has undertaken in the damage control and firefighting areas has been and will continue to be important.

Our relationship with senior officers is growing through our contact on a day to day basis but is particularly facilitated by RSN and RAN senior officers attending the US Naval War College where enduring relationships are established. In the past we have conducted passage exercises with Singapore but these have developed a complexity to the point where a separate bilateral exercise (*Singaroo*) is now conducted. On a bilateral basis we also conduct an annual clearance diving exercise (*Axolotl*).

Singapore and Malaysia are also, of course, important members of the FPDA and as such participate in the annual exercise *Starfish* (the second largest in which the RAN participates) and in the IADS air defence exercises. Like the RAN, the RSN is seeking to ensure maximum value for every day at sea and to some extent, sees the



need to move the exercise onto the next level of complexity. This will occur when in 1997 the major Air Defence Exercise (ADEX) and the Maritime Exercise will overlap. In practical terms, it will provide a much more realistic tactical scenario, with better use being made of our navies' surface assets than has perhaps been the case in past ADEXs. Undoubtedly, the strength of the relationship with the Singaporean Navy lies in our mutual professionalism and the ability of both navies to embrace and exploit technology. What we must do, however, is guard against assuming a European orientation when working with a navy whose culture is predominantly Chinese.

### **Malaysia**

Our relationship with the Royal Malaysian Navy (RMN) is different and undergoing significant change. We currently enjoy the legacy of the good will that has flowed from the RAN's close association with the birth of the Malaysian Navy. Their first two Chiefs of Navy were Australian, and many of the early Commanding Officers were RAN officers. Even today their current crop of senior officers served as Midshipmen at Dartmouth and in the training ship alongside Australians. At Dartmouth we were the closest of the colonials lined up against the common enemy. All of that has served us well as the Navy to Navy relationship has flourished, irrespective of the state of our political relations. Now and into the future, however, we will have to work on a new basis for the relationship and develop our personal contacts carefully. At the fleet level, this will start with planning conferences, training periods and port visits. However, with Malaysia, perhaps more than with any other country in the region it is important that we come quickly to understand their culture and how even the smallest indiscretion on our part can affect the relationship.

In terms of our overall relationship with the RMN we have to be careful not to force the pace—lest we are seen to have colonial aspirations or to be overbearing Europeans on one hand, whilst still enunciating a desire to be part of Asia. In short, we must allow the RMN to be seen to be a major partner; helping to set the agenda and in particular controlling the timing of the implementation of that agenda. This is particularly so in our discussions about reform of FPDA processes and in developing exercise planning. Malaysia has the potential to embrace and maintain a technologically advanced navy and to participate in complex multi-threat operations.

With the second group of ASEAN navies (Thailand, Brunei and the Philippines) our engagement is aimed at providing depth and resilience.

### **Thailand**

Our interaction with the Royal Thai Navy (RTN) is through personal contact and the annual Australia-Thailand naval exercise (AUSTHAI). Like others in the region, the RTN does participate in *Kakadu*. The emphasis has been on fleet shore training periods which are single focus in nature, while AUSTHAI has also developed as a single focus exercise. The feature of this approach is that the RAN assists in

developing standard operating procedures (SOPs) which are then exercised in RAN and RTN units.

The RTN is in a period of rebuilding, which includes a most optimistic acquisition program of high technology units. The ability to embrace and sustain such technology may well be strengthened through focussed training, which may also be the best avenue in strengthening the relationship between the two navies.

### **Brunei**

With Brunei, our relationship at the operator level is growing steadily. We have trained many of their officers in our Navy and they would appear, like the Singaporeans, to have the ability to develop a small technologically advanced navy for their specific needs. We currently conduct one single patrol boat exercise per year and this will continue. In time, Brunei may join the FPDA exercises, which would help in our interaction and their professionalism. As Brunei's Navy evolves, our level of relationship will need review.

Perhaps, of more significance is our increasing involvement with the navies of Northeast Asia and South Asia.

### **Northeast Asia**

Our engagement in Northeast Asia is mainly through port visits to, and passage exercises with, the navies of Japan and Korea. The passage exercises tend to be at a fairly low level of complexity, but of course we exercise with both navies in the biennial RIMPAC exercise series conducted by the USN. Our relationship and our exercising with the navies of these two nations at any level is highly desirable. Both are at the other end of long sea lines of communications for a significant proportion of our trade. The fact that we exercise and provide a presence in such far flung waters with our deployments, helps demonstrate the RAN's ability to conduct maritime operations effectively along the lengths of our trade routes.

### **South Asia**

Our relationship and our ability to engage with India at the fleet level has been challenging. Although we have not been able to get the level of port visits and exercises that we desire, we have been able, however, to maintain a level of personal interaction through reciprocal attendance on various staff courses and senior officer visits.

### **South-West Pacific**

Last, but by no means least significant, is our relationship with the maritime forces of the small island nations of the Pacific. In this region our engagement is really quite different. In the South Pacific we need to be ever mindful of not swamping these tiny nations with levels of maritime sophistication, which are either not relevant or beyond their levels of technological development. It is the reason why

the *Fremantle* patrol boats take the brunt of the engagement in the region. They are both relevant operationally and in terms of complexity. Our assistance with the Pacific Patrol Boat, surveillance and training has been a very good example of practical engagement tailored to meet the needs of the nations concerned. There is, however, a need for all of our people to have an understanding of the culture of the South-West Pacific, of its development and of our part in it. It is important that we not be seen in the South-West Pacific to be taking a superior position lest we quickly be perceived to have colonial aspirations of our own.

Having thus given a brief overview of the RAN's current engagement in the region as a whole, it is perhaps timely to reflect on the level of resources required to maintain this on an ongoing basis. Engagement at present is essentially conducted through low level but time consuming bi-lateral activities. Competing with these demands is the requirement to have our ships maintained at levels of capability which we may need, to fight and win. There is a fine balance to be set. This means that every day we spend at sea needs to be a quality day, and we need to ensure that where possible our ships passage in company; ideally within a task group so that we can maintain the best possible standards. On the other hand it is important that during our exercises with the nations of our region, we move at their pace in terms of increasing complexity and towards multilateralism. It is most important that our people understand why we need to move at their pace and why it is that we conduct or participate in exercises that do not perhaps always contribute to our higher levels of readiness. There is a broader horizon and the challenge to our commanders in the front line is to make sure that their subordinates understand that reality.

## 10

### Regional Engagement and Defence Industry—The Thrust into Asia

*Bob Wylie*

This paper addresses defence exports and looks specifically at them as a practical manifestation of the Government's policy of regional engagement. It attempts to answer the questions as to why the Government, the Department of Defence and the RAN in particular are involved in defence exports. Finally, it looks at the potential change in the defence exports field and how that is going to be achieved.

In 1993/94 defence exports were worth approximately \$70 million. Of that \$70 million, some 8 per cent, or about \$6 million worth went to Southeast Asia. These figures, however, do not include figures for services. Defence exports on these figures are defined as goods that are subject to the control of the customs prohibited export list. The key point here is that these figures are conservative. They exclude a keen area of service growth generally, which if the rest of the economy is any indication, is a major source of competitive advantage for ourselves.

So why is the Government in the defence export business? Why is the Department of Defence in the defence export business? And what is in it for the RAN? The basic policy premise for our participation in defence exports is that participation in the competition for regional defence business, within a framework of responsible defence export controls, is a legitimate endeavour for Australian companies and one which can advance important Australian defence and wider national interests. The need for a workable set of controls defines the traditional point of entry for the Defence organisation into defence exports. Until about three or four years ago, when people thought about defence exports, they really thought about the application of defence export controls. This is primarily driven by the fact that the sale of military goods and services overseas is inherently sensitive and engages a broad range of often mutually exclusive policies.

The sale of defence goods and services overseas will engage a variety of operational interests as well. Of particular and immediate concern, particularly in the context of the debate about the technological edge in our region, is the sale of Australian developed high technology surveillance systems. For example, one of our crown jewels, the Over The Horizon Radar—*Jindalee*. This generates intensive

debate and highlights the range of interests engaged by defence exports. In most cases they will almost certainly engage Defence international policy interests. The potential for mutually satisfactory collaborations with Malaysia for the construction of offshore patrol vessels for both navies has major implications for the Australian-Malaysian defence relationship, and indeed, for the Australian-Malaysian national relationship, let alone the relationships with the two nations' immediate neighbours. The sale of defence goods and services also has major and compelling defence industry policy interests.

Defence exports are not going to solve our balance of trade problems, but successful participation in the competition for overseas business at the micro-economic level means a great deal to the individual companies concerned. More importantly, successful participation of Australian industry in competition for overseas business can convert to direct and immediate benefits to the RAN and the ADF generally. Companies which can participate successfully in international business, leaving aside the dollars they earn, will, as a matter of course, have to improve their productivity. They will have to tighten up their management. They will need to be far more adaptable and subtle in their use and exploitation of the technology available to them. Most importantly, their commercial viability will be enhanced beyond a level which is often the case when they are plugged into the Australian tax payers' pockets alone.

These types of defence industry policy advantages are of potentially great significance to the RAN and the ADF, at a time when documents such as the new Defence White Paper are highlighting a thrust for Australian industry involvement in the defence of Australia, continuing, but increasing the trend that we have seen for some years now. At one extreme for example, is a warning from Australian Defence Industries (ADI) about the fact that in four years time orders for Steyr rifles for the Australia Army will finish and unless something happens in terms of other orders, the Lithgow manufacturing plant will have to close. That has rather significant implications for a policy of defence self reliance.

There are also the foreign policy and domestic political interests which defence exports engage. On the negative side for example, the sale of 1950 vintage Mirage aircraft to Pakistan did not particularly advance our relationships with India, highlighting how some tricky foreign policy balances have to be made. A decision to approve in principle the sale of Steyr rifles to Indonesia, leaving aside the industry policy, has significant foreign policy implications and also domestic political implications. Thus, in terms of the spectrum of interest that defence exports engage one can see a consequent need for defence export controls. Yet at the end of the day, there are some important commercial interests for Australian companies to be gained by winning overseas defence business. For example, the Australian Army is at least four or five years from buying a laser based target designator system. A small company that worked, until recently, above a fruit shop in Queanbeyan, Electro Optical Systems, has developed quite a sophisticated system that is to be trialled by the Australian Army, without a commitment. It had,

however, to team with a US company competing for US Army business long before it got into position to compete for Australian Army business, and we are going to see more of those sorts of patterns develop.

It is not the intention of this paper to outline how all the competing interests mentioned are going to be reconciled, except to say, that in principle, defence exports are going to be administered. They will be controlled by a system of permits, and those permits are going to require case by case consideration. Members of the ADF are already involved in the defence export business and their involvement will escalate. ADF personnel will be involved in the detailed consideration, or the management of some of the complexities involved in deciding whether or not to permit export of what kind of 'widget' at what level of development, and to which countries. In this respect, there is a series of mechanisms set up to look at the limits that would apply to technology transfer. For example, with a capability like Nulka, long before the company concerned has actually applied for defence export permit, there is a need to debate how to define the RAN's operational interest in the system. Having defined the RAN's operational security interest in that case, there is the need to define how to protect it and then to decide what to do about marketing the system.

Some may ask, why are we in that marketing business? This paper has already touched on some of the general benefits in terms of micro-economic adjustments that companies can bring to bear if they are allowed to sell overseas, but I think there are a couple of more basic points that need to be made about this issue. Defence exports are really, simply a natural and organic outflow of two basic thrusts.

Firstly, they are a natural outcome of our economic development, of the internationalisation of our economy and of the rapid growth of our region, which is seen for example, both in the growth of our manufactured exports of about 8 per cent a year, and particularly in the growth in the exports in our elaborately transformed manufactures, which defence exports predominantly are, of about 12 per cent a year. Much of that growth is generated by the region of which we are a part. The same basic economic forces which apply to those broad trade areas apply in broad terms to defence exports, particularly the export of military goods and services. For example, Amalgamated Wireless Australia (AWA) is marketing telecommunications and radio communications equipment to Indonesia. It follows, as the night does the day, that AWA Defence Industries is going to build on that radio telecommunications business to look at military communications business.

Secondly, it is a natural outcome of the whole thrust of the framework of government policy, as covered in an earlier chapter by Hugh White, describing how the Defence organisation is engaging with our neighbours. It is engagement through an increasingly comprehensive pattern of dialogue and interests, which evolves from intensely practical things of the type that Admiral Chalmers has described in his chapter. That is the most natural demonstrator effect. If it is the RAN's objective to present itself as a professional confident force in this region, then the way it uses



equipment and the equipment it uses are all part of the overall package of observation. Members of the RAN are salesmen simply by being professional.

One of the things which follows from this, is that mutually beneficial defence business can complement and support the other well established patterns of the defence relationships we are building in our region. Mutually beneficial defence business is no trite little truism. We have a tendency to think about defence exports as a one way street, the selling of our goods and services on terms that suit us. One of the things which follows, however, in this business, is that the more we succeed in selling to our neighbours (at present from a very modest \$6 million dollar base), the more our neighbours will want to sell us. It may well start, for example, with palm oil sales as was the case for Russia with the sale of MIG 29s to Malaysia. That was a big part of the offsets package, as I understand it. In the case, for example, of the Steyr rifle deal with Thailand, the Thai Government's offsets policy is likely to see us look quite seriously at buying, at least for test and evaluation purposes, 155mm ammunition, which Thailand manufactures and we presently have to import from the United States. There will be a growing architecture of two way trade in the defence business, if material cooperation and defence exports are going to have anything like the kind of contribution they need to make to the overall package.

So, how is the Department of Defence handling this complicated business of defence exports and regional engagement? We are somewhat over two thirds of the way through developing a program to get this right, and along the way we have made some mistakes from which valuable lessons have been taken. The consultative arrangements that are required to get defence exports going effectively are still a little raw. However, there has been remarkable progress in the last two years in the pattern with which the Defence organisation, as a whole, has come to grips with the complexity of policy implications involved in selling high technology equipment into the region. In a practical sense, people are coming to grips with the problems, defining their interests and acknowledging the commercial parties' interests as well. All are now working within policy and political envelopes in a way that is really quite heartening.

What are we doing in our region? In Indonesia, the main activity is still in developing the personal relationships, that demonstration of competence referred to by Admiral Chalmers. The Indonesian armed forces do very little defence business as such. They buy some goods and services, but the key procurement agency in Indonesia is Doctor Habibie's Agency for Energy, Industrial and Technological Development—MBPIS. In Indonesia, defence procurement, particularly of major items is used as an instrument for national development, as is also the case in Malaysia. What we have tried to do, and the Defence Science and Technology Organisation (DSTO) people and agencies like the Department of Industry Science and Technology are crucial here, is to build an appreciation, in key areas of Indonesia, of Australia's industrial technological competence in niche areas of interest to both Indonesian operational requirements and at least as important,

Indonesian national development aspirations. One of the more interesting examples is the marketing of the laser airborne depth sounder (LADS). This is raised not because it is going to solve our defence trade deficit, but because it is being marketed not to the Indonesian Navy, but to a combination of the Indonesian Resources Ministry and Doctor Habibie's organisation. Yet it is a system we developed for military purposes.

In the case of Indonesia, what does the future hold? Organisations like DSTO are going to be crucial in defining an agenda of cooperation and potential business. But we will have major difficulties in transiting some of the cultural differences that make for different ways of doing business. We are going to have a major problem in sorting out quite radically different business practices, and the key leveller will be the ability of companies to work that interface, with the Defence organisation standing back in support. It raises a sharp question as to what the role of the Defence Attache or Adviser is? For example, how far does a Defence Attache go in supporting the sale of Australian defence goods and services, before he compromises his role as a projector of Australian military interests and becomes a salesman? The answer varies dramatically, depending on which regional capital you are in. What we have tried to do is to put in place a trade commissioner specialising in defence goods and services in the three key capitals, Bangkok, Kuala Lumpur and Jakarta.

In Singapore, we are not promoting many defence goods and services with one single exception, that of Nulka, which for us is a test case for coming to grips with the Singaporeans on security concerns, intellectual property protection and so on. The main thrust of our activity with Singapore is support for Singapore's deployments to our country, and that is what the Singaporeans need of us more than anything else-room.

In Malaysia, the patrol vessel program has generated extraordinary momentum, but it has been over sold almost to the point where it has become a touchstone of the overall relationship between the two countries. There is always a danger of things going too far and we need to manage those types of projects very carefully. But win, draw or lose, working through it with Transfield and the Defence community as a whole, working out how to package and market a common naval requirement, develop a design solution to that common naval requirement, work through a procurement process and other Australian Government activities as collateral for that procurement process, has been extraordinarily instructive for all concerned—Navy, Defence and the Government.

What are the soft points and where are the areas of change? The soft ones are legion. We have yet to sort out crucial issues like how to define the actual benefits that accrue to all the parties involved. For example, if the Australian Submarine Corporation (ASC) succeeds in marketing a mine hunter catamaran to Saudi Arabia, what is in it for the RAN, in terms of ASC's capabilities? Undoubtedly, the RAN is going to be asked to provide crucial support, such as training. But, in the case of the Collins Class submarine program, for example, training assets are excruciatingly short. How do we engineer an environment in which scarce RAN training assets can

be augmented to accommodate overseas marketing? Is that augmentation funded by part of sales? This is a tricky issue, but we are having a similar debate on the Northern Training area. How do we do it? The RAN does not have the capacity to train additional submariners. It is also going to be stretched to train its own mine countermeasures personnel. Yet, while the crucial ingredient of the sale will be the technology, the whole package will need to be considered, and there will be those requirements for through life support and most importantly training. This presents a major area of challenge for us as a policy, and we have to get that right before we get too much further advanced in the process.

Another issue which is of principal importance will be, how to explain, more convincingly than we have done to date, to the Australian public, the complex and subtle balance of interests engaged in sales of defence equipment. For example, we need to be able to explain Steyr rifles sales to Indonesia in a way that stops press articles grossly exaggerating the value of the business concerned, and thereby creating a political dilemma which has nothing to do with the intrinsic substance of the sale. How do we manage that? How do we manage at the practical level, the relationship with an organisation like Austrade? The number of people in the defence exports area of the Defence Department is not going to grow. What will be increasingly important to the success of defence exports is getting the Defence organisation as a whole to define its interests and to engage in proportion to those interests. Where does Austrade fit into that loop, and how do we marry that up? What is the balance in our overseas activities and between what Austrade is trying to do, what we in the Exports and International Programs Branch of the Department of Defence are trying to do, what the Attaches are trying to do and what the RAN in terms of navy to navy relationships is trying to do?

Another challenge will be, for example, expanding our relationships in terms of security and domestic political sensitivities. Would we let Singapore's Keppel dockyard repair our vessels? It is one thing to do it in a dockyard in Brisbane, but what about in Singapore? If not, why not? If we let the New Zealanders repair our range of engines, why not the Singaporeans? We are going to replace the Caribou. Doctor Habibie will be the first to tell us that he has got just the aircraft for us. How seriously do we take the inimitable offer of the CN235 as a Caribou replacement? We certainly cannot trifle with it.

In conclusion, defence exports, is an issue which is here to stay. The competition for regional defence business is intense and is probably going to escalate. We will have some successes and we will have a lot of disappointments. The problems associated with our management of matters such as the sale of Steyr rifles to Thailand and Indonesia have been complex, and both at the political level and commercial level, they show just how far we have yet to progress. But, ultimately, success will not come from one part of the Department going it alone: it will be the Defence organisation, teaming with Australian companies, which will bring about successful outcomes in terms of our national policy of regional engagement.

# 11

## Conclusion

*Jack McCaffrie*

Whilst Regional Engagement is now firmly the cornerstone of Government policy, its implementation as part of Defence policy has some far reaching implications for the practitioners in the field. As noted in the introduction, the proceedings on which this monograph has been based had as an aim to 'flesh out' what the key issues were. The forum allowed Commanding Officers (COs) of Fleet units engaged at the 'sharp end' especially, to contribute their experiences with the practical elements of regional engagement and its implications for RAN operations.

Perhaps the most important issue raised was that concerning the trade-off which the RAN has to make between readiness levels, regional engagement tasks and other associated issues. RAN ships are required to maintain prescribed readiness levels, involving work-up and ongoing exercises against various forms and levels of threat. There is a view among some of the practitioners that not all the exercises which occur under the banner of regional engagement are of equal value, nor always of sufficient intensity to allow ships to maintain the minimum level of operational capability (MLOC) specified. However, it is also recognised that ships will inevitably have trouble maintaining MLOC whenever they are away from firing ranges and other training facilities and thus the problem is not related only to the extent of commitments to regional engagement.

Among possible solutions to this problem of maintaining the required MLOC is the provision of more training assets (targets and air support, for example) for ships deployed in the region and arranging for exercises to be conducted sequentially to make best use of available assets. While the latter solution has potential and is being pursued, there is already a shortage of training assets within Australia, making it unlikely that any could be deployed into Southeast Asia without detriment to other training commitments. Innovation and technology may be the way of the future in providing at least some of the answer. There is also the possibility for greater use of simulation, noting that useful packages with the necessary level of simulation are becoming available in the USA and may well be available to the RAN in the future. Deployable targets are also a distinct future possibility. Other possible (partial) solutions may include random sea checks and deployment of the sea training group overseas. However, the general consensus from those in the field



is that neither of these latter options seems likely to ease the situation unless there are training facilities of some kind provided for deployed ships.

The problem of maintaining readiness also raises some concerns with the difficulty of attaining and maintaining the operational level of capability (OLOC), especially in the absence of training facilities, and taking account of the probability that individual ships will not necessarily be at the required MLOC when they begin to work up to OLOC. An associated issue, however, is the absence of a commonly understood definition of MLOC. Establishing what is meant by OLOC is generally agreed to be the first step—it being the state of readiness needed for a ship to be able to engage in combat operations. MLOC could then be measured as the number of days training effort short of that point for any given ship. The fact that measurement of OLOC itself had not been seriously attempted until relatively recent times makes the problem more complex. As yet, for example, there is no agreed performance measure for ASW. Some comfort, however, can be derived from the realisation that the problem is not limited to the Navy and that the problem is different for each of the Services.

The second key issue associated with the implementation of regional engagement for the practitioners is that associated with the difficulties in preparing for exercises in the region; again a factor of substantial commitment to regional engagement and the inability to provide training assets to the extent desired. This situation is often exacerbated through the consequent repetition of more simple training evolutions and the inevitable difficulty of maintaining interest levels among ships' companies. However, if one takes the position that there is no need for ships to remain at the highest level of operational capability at all times, then the region can provide a much more rigorous training environment in many respects than our own training areas. Nevertheless, even accepting the growing importance of our strategic partnership with the region, there is a generally agreed recognition of the need for RAN to extract real value from its exercises with regional partners—the flow of benefits must be two ways.

An important element of Australia's defence policy pronouncements in the recent past has been the need for us to retain a 'technological edge' with respect to other countries in the region. Although the description has changed to 'competitive edge' there are a number of questions that need to be resolved as to what is meant by this concept. These include such issues as; the continuing need for such an edge, the need to be able to measure it, and to determine against whom it ought to be measured. It is generally agreed that no matter how sound and comprehensive security relations might be between neighbours there will always be certain information which individual countries would not wish to share with others. Australia needs to formalise its own system for determining the releasability of information, noting the difficulty of managing a system which seeks to be too comprehensive.

There are also two related issues to the RAN's growing involvement in the practical implementation of the policy of regional engagement. Firstly, is the question of the RAN's future surface combatant capability, and especially the

possibility of being without an area air defence capability, with its many implications, not least being a more limited capacity to participate in coalition activities. Secondly, is perhaps the more important issue of continuing to ensure that the people involved, ie. the ships' companies are thoroughly briefed and educated so that they understand why deployments to Southeast Asia are such important components of our defence effort. Although, many Commanding Officers are satisfied with the general level of understanding, there is a feeling that more attention needs to be given to understanding the region's different cultures and how we need to respond to them. There is also a need to educate the wider defence community to the reality that Asian deployments by ships of the RAN were not 'pleasure cruises'. They involve extended absences from home, hard and often repetitive work, and visits to ports, some of which no longer offer attractive and affordable rest and recreation for ship's companies.

Overall, the forum on which these proceedings have been based served very effectively in providing those at the 'sharp end' (our ships' Commanding Officers and their people) with valuable insights into the policy making process and into the growing importance to us of regional engagement. It also served to demonstrate to them where they and their ships' companies fitted into the policy framework, and how they contribute to our defence and foreign policy objectives in the region. Equally importantly, the forum provided the opportunity for the Commanding Officers to inform those involved in the policy making process of the implications of their policies on the RAN as an organisation and on individual ships and their crews. This was especially important in light of the acknowledged difficulties faced by Commanding Officers and operational planners in fulfilling regional engagement commitments, while at the same time maintaining the required level of operational readiness and morale.



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Regional engagement has evolved into a fundamentally important part of Australia's security policy in recent years. It recognises explicitly that Australian security involves more than defence of territory against armed attack. The policy also recognises that national security has become a multidimensional matter and one in which multilateral approaches are becoming ever more necessary. Consequently, there is a growing need for policy advisers and policy implementers to be fully aware of the implications of Australia's engagement with the region.

This work provides a rarely seen perspective of the security aspects of regional engagement and is the result of a Royal Australian Navy sponsored workshop which brought together eminent academics, policy advisers and senior RAN officers, including several warship commanding officers,

Included in this selection of papers from the workshop are contributions which examine several key aspects of regional engagement; including the strategic environment, foreign and defence policy, international law, and defence industry. Most importantly, it also provides an RAN perspective which highlights the extent of the Service's involvement in the region as well as noting some of the challenges associated with its contribution to Australia's security policy.

As Australia's security interests in the region are continuing to grow this work will be of immediate interest to everyone who has an interest in the development and workings of Australia's security policy.