

Securing Australia's Maritime Approaches

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Australia has a long coastline, important offshore territories and wide maritime approaches. Securing them against unlawful incursions is a demanding task. This article reviews current policies, responses, threats, concepts and capabilities for securing the maritime approaches. It identifies reasons why a focus on these approaches is now more important than ever. The article concludes that while considerable progress has been made towards a more integrated approach to the task, particularly with the establishment of the Border Protection Command, there is still some way to go before a fully effective, efficient and integrated system is in place for securing Australia's maritime approaches. The article recommends the establishment of an Australian Maritime Surveillance and Enforcement Authority to provide this system.

Australia is in the fortunate position of having no land boundaries with any other country. We can only be reached on, under or over the sea. Securing Australia's maritime approaches is a vital security requirement regardless of whether the perspective of security is a traditional one of security against military attack, or a more comprehensive, non-traditional view. In current circumstances, the latter view is particularly relevant with an unambiguous need to secure Australia's maritime approaches against a range of non-traditional threats, including illegal entry of people, the smuggling of drugs or other contraband, unlicensed foreign fishing activity, disease, and in a worst case scenario, the entry of terrorists or a weapon of mass destruction (WMD).

Most attention over the years has been given to the northern approaches to the mainland and the offshore island territories. Due to the geographical proximity of these waters to the archipelagos to our North, these areas are where levels of risk are higher. By far the largest amount of surveillance and patrol effort is expended in the North with only intermittent fisheries protection patrols and occasional surveillance flights in southern waters. The exception is the area around the sub-Antarctic islands (primarily Heard and McDonald Islands) where considerable illegal fishing occurs in the exclusive economic zones (EEZs) off those islands. Nevertheless, there are no grounds for complacency about the southern maritime approaches. Incidents of drug smuggling¹ and people smuggling² have occurred in those waters and they should not be regarded as immune from illegal incursion.

¹ The most notorious incident in southern waters occurred in April 2003 when the North Korean cargo ship *Pong Su* was detected landing heroin off Lorne in Victoria. After a four-day pursuit, the ship was intercepted by the RAN off Sydney and brought into port. Carmel Egan, 'The

The coastline of mainland Australia is nearly 36,000 kilometers in length.³ The EEZ around Australia and the offshore territories measure 8.15 million square kilometers,⁴ nearly 20 per cent larger than the Australian mainland. If the EEZ claimed off the Australian Antarctic Territory (AAT) is added, Australia's EEZ is approximately twice as large as the continental land mass. Australia's island territories are mostly a long way offshore. The Heard and McDonald Islands are over 2,400 nautical miles (nm) southwest of the mainland. The Cocos and Keeling Islands are some 1600 nm northwest of Perth and Christmas Island is 1,500 nm west of Darwin, but less than 200 nm south of Java. The area over which Australia has search and rescue (SAR) responsibility is about ten per cent of the earth's surface.⁵ The challenge of discharging our responsibilities and exercising our rights over such a large maritime domain for which Australia has sovereignty or sovereign rights, or has accepted some degree of responsibility, is a major one. However, successive Australian Governments have failed to meet this challenge fully and this situation continues to the present day, despite rhetoric to the contrary. This observation is particularly pertinent at present while the focus of Defence policy is mainly on activities away from Australia.

Current Policy and Responses

BACKGROUND

Australia's approach to securing the maritime approaches has generally been one of "muddling through". Managing the civil dimension of securing

stowaway cargo', *The Australian*, 6 March 2006, <<http://origin.theaustralian.news.com.au/printpage/0,5942,18358339,00.html>> [Accessed 6 March 2006].

² In May 1999, the small Panamanian-registered cargo vessel *Kayuen* was intercepted while attempting to sail into Jervis Bay and escorted to Port Kembla, where 69 illegal Chinese immigrants were found hidden onboard. It appears that this ship traveled across the north of Papua New Guinea and down the east coast of Australia well outside the Great Barrier Reef with the intention of transferring the illegal immigrants to a small craft off Port Hacking, south of Sydney. This incident came only six weeks after a similar one when 60 illegal Chinese immigrants landed undetected at Scotts Head (NSW) on 10 April 1999.

³ The total length of Australia's coastline is 59,736 kilometres, if the coastline of islands is taken into account. Geoscience Australia, 'Coastline Lengths', <<http://www.auslig.gov.au/facts/dimensions/coastlin.htm>> [Accessed 15 January 2004].

⁴ Geoscience Australia, 'Australia's Oceans and Seas', <<http://www.auslig.gov.au/facts/dimensions/oceans.htm>> [Accessed 15 January 2004].

⁵ This paper regards search and rescue (SAR) arrangements as a related element of securing our maritime approaches largely because the capabilities (i.e. ships, aircraft, and surveillance and monitoring systems) are similar. The failure to make this link with responsibilities divided between different agencies was a major reason why the initial handling of the *Tampa* affair in September 2001 was ineffective. SAR is an activity that requires a high level of cooperation and coordination. The AUSREP system maintained as a SAR tool by Australian Maritime Safety Authority (AMSA) has now become an important tool of Australia's maritime domain awareness of offshore areas. AUSREP is primarily a ship reporting system that provides a SAR function. It involves commercial ships reporting their position regularly while passing through the Australian SAR area. <http://www.amsa.gov.au/Shipping_Safety/AUSREP/> [Accessed 3 July 2007].

Australia's maritime approaches has over the years been reactive, lacking in strategic vision and generally uncoordinated. The situation has been described as follows:

Changes made to arrangements over the years have generally been ad hoc and in response to a specific crisis. Divisions of responsibility are spread widely between agencies of both the Commonwealth and the states. To the extent that maritime enforcement and compliance is a system, it is one of "distributed responsibility," often characterized by less than optimum coordination and cooperation between the agencies involved.⁶

This *ad hoc* approach of "muddling through" has a long history. There have been many inquiries into the civil maritime surveillance requirements, and primary responsibility for the function has been shifted between agencies on several occasions along with changing threat priorities.⁷ Illegal fishing was the main concern of maritime surveillance in the late 1960s and early 1970s, but the focus shifted to illegal migration with the Vietnamese "boat people" in the mid- and late 1970s, and then to drug smuggling in the 1980s. It returned to "boat people" in the late 1990s and early 2000s before the threat of maritime terrorist attack took centre stage more recently.⁸

Successive Defence White Papers in the 1970s through to the 1990s acknowledged the importance of the "sea-air gap" under the Defence of Australia doctrine, and that attacks on Australia could only come from or through the archipelagos to our North. However, it was only in the 2000 White Paper that a clear statement of the importance of a maritime strategy to Australia was included:

The key to defending Australia is to control the air and sea approaches to our continent, so as to deny them to hostile ships and aircraft, and provide maximum freedom of action for our forces. That means we need a fundamentally maritime strategy. Our strategic geography, our relatively small population and our comparative advantage in a range of technologies all dictate that our defence should focus on our air and sea approaches.⁹

However, before that policy could take effect, there was the tragic attack of 11 September 2001 on the World Trade Centre in New York, and Australia became involved in the War in Iraq and the fight against terrorism in Afghanistan. These events took Australia onto a path of Defence policy that

⁶ Sam Bateman, Anthony Bergin, Martin Tsamenyi, and Derek Woolner, 'Integrated maritime enforcement and compliance in Australia', in D. Rothwell and D. VanderZwaag (eds), *Towards Principled Oceans Governance - Australian and Canadian approaches and challenges*, Abingdon, Routledge, 2006, p.119.

⁷ A list of the reviews up until 2000 may be found in: The Auditor General, *Coastwatch Australian Customs Service*, Audit Report No.38 1999-2000, Canberra, Australian National Audit Office, 2000, p. 111.

⁸ Anthony Bergin and Sam Bateman, *Future unknown: The terrorist threat to Australian maritime security*, Canberra, Australian Strategic Policy Institute, 2005.

⁹ Australian Government, *Defence 2000 – Our Future Defence Force*, Canberra, Department of Defence, 2000, p. 47, paragraph 6.6.

lessened the attention given to securing our maritime approaches, other than in terms of Australian Defence Force (ADF) assistance “in support of civilian agencies to protect Australia’s borders and economic interests, including against people smuggling and illegal fishing”.¹⁰ Then, as the *Defence Update 2005* notes:

Borders as security barriers are now much less effective. National borders offer little protection from terrorism or the consequences of WMD and their proliferation. While as an island continent Australia enjoys some natural protection, we cannot be assured that our borders will remain inviolate.¹¹

CURRENT ARRANGEMENTS

Responsibility for securing Australia’s maritime approaches is spread widely between agencies of both the Commonwealth and the states.¹² There are about twelve Commonwealth agencies with some interest in the requirement.

Coastwatch is a branch of the Australian Customs Service (ACS) with a RAN two-star officer seconded as Director-General Coastwatch, who also serves as Commander of the Border Protection Command (BPC) (initially established in 2005 as the Joint Offshore Protection Command or JOPC), a joint organisation of the ADF and the ACS. The BPC coordinates the aerial surveillance program and the surface response operations when required by “client” agencies, develops intelligence systems for maritime surveillance and enforcement, and manages the Australian Maritime Identification System (AMIS) discussed in more detail later in this paper. It also conducts risk assessments and develops plans for surveillance and response missions based on strategic and tactical needs.¹³ When the JOPC was established in 2005, it was characterised as a “whole of government approach” to meet current security threats, particularly that of terrorism.¹⁴ This is the very approach that commentators had called for in the past,¹⁵ although the system still remains basically one of “distributed responsibility” with the BPC responsive to client agencies with respect to non-military threats.

The ACS is responsible for controlling the importation of illicit drugs and illegal goods, and border protection generally. It also controls the National Marine Unit (NMU) of Australian Customs Vessels (ACVs), which has grown

¹⁰ Australian Government, *Australia’s National Security – A Defence Update 2003*, Canberra, Department of Defence, 2003, Section 6.

¹¹ Australian Government, *Australia’s National Security – A Defence Update 2005*, Canberra, Department of Defence, 2005, p. 4.

¹² The following description of agency responsibilities is an updated version of Bateman, Bergin, Tsamenyi and Woolner, *op. cit.*, pp. 121-122.

¹³ ACS Home page, Border Protection Command, <<http://customs.gov.au/site/page.cfm?u=5639>> [Accessed 1 July 2007].

¹⁴ Australian Government, *Australia’s National Security – A Defence Update 2005*, p.10.

¹⁵ Bateman, Bergin, Tsamenyi and Woolner, *op. cit.*, pp. 121-122.

over the years both in size and responsibilities, as well as a number of chartered vessels manned by a civilian crew and a team of Customs officers. The ACS is progressively assuming greater operational responsibility for securing Australia's maritime approaches, rather than the ADF. In May 2007, the Federal Minister for Justice and Customs announced an extra \$147.3 million for the ACS to provide additional protection for Australia's borders and stronger support for counter-terrorism.¹⁶ Most of this additional expenditure is related to securing the maritime approaches with \$79.5 million over four years to develop, implement and operate the AMIS, and \$31.7 million over four years for the charter of a vessel to provide security around Ashmore Reef and Cartier Island in the Timor Sea.

The Office of Transport Security (OTS) is a new key player in securing Australia's maritime approaches. Established in the Department of Transport and Regional Services in Canberra in 2004, it is the principal security regulator for the maritime industry, including the implementation of the International Ship and Port Facility Security Code by Australian ports and shipping, and for the offshore oil and gas industry. OTS includes a Transport Security Operations Centre operating 24 hours a day and seven days a week, and staff posted in major ports and overseas. Its responsibilities include making security risk assessments of ships sailing towards Australian ports.

The Australian Federal Police (AFP) is responsible for Commonwealth law enforcement, often in conjunction with state police forces. The AFP may be involved in the prosecution of offences against Commonwealth law in virtually all areas of maritime jurisdiction such as fisheries, navigation, marine environmental protection, and illegal importation.

The Australian Fisheries Management Authority (AFMA) manages Australian and licensed foreign fishing within the Australian Fishing Zone (AFZ) under policies administered by the Department of Agriculture, Fisheries and Forestry. AFMA takes enforcement action against illegal fishing both by foreigners and nationals, but has limited operational and investigative resources of its own, relying instead on other agencies, primarily on the BPC for enforcement and compliance, and on the AFP to conduct criminal investigations on its behalf. The Department of Environment and Heritage is responsible with associated portfolio agencies, such as the Great Barrier Reef Marine Park Authority, for preserving ecosystems in Australian waters, including the establishment of marine parks and marine protected areas.

The responsibilities of the Australian Quarantine and Inspection Service extend to the prevention of the spread of exotic diseases through importation of infected insect, animal or vegetable material. These include national

¹⁶ Minister for Justice and Customs, Senator David Johnston, '\$147.3 Million Budget Boost to Strengthen Customs Border Protection Capabilities', *Press Release*, 8 May 2007.

arrangements for the management of ballast water and introduced marine pests.

The Department of Immigration and Citizenship (DIC) manages the entry of individuals into Australia. It takes enforcement action against people smuggling and alleged illegal immigrants, including their removal from unauthorized transport to appropriate accommodation. There has been a significant reduction in recent years in the number of illegal entrants into Australia by sea, and the government attributes this to the effectiveness of its policies to defeat people smuggling.¹⁷ It has also recently developed plans to work with Indonesia on initiatives that would deter or prevent “boat people” from leaving that country.¹⁸

The Australian Maritime Safety Authority (AMSA) is responsible for shipping safety and the prevention of ship-sourced pollution in Australian waters. This includes implementation of port state control measures in Australian ports, including a network of regional offices around the country. AMSA provides maritime safety services in Australia and Australia’s allocated area of SAR responsibility. This includes SAR operations for vessels in distress and for aircraft at sea through Australian Search and Rescue (AusSAR), which is part of AMSA.

The Department of Defence is the major supplier of Commonwealth resources securing the maritime approaches. Efforts to streamline the Defence contribution to whole-of-government efforts to provide offshore security were put in place in July 2006 with the consolidation of several separate operations for countering unauthorized arrivals, illegal fishing and smuggling; and for patrols in southern waters and around offshore installations into one mission, Operation RESOLUTE, directed by the JOPC (now the BPC).¹⁹

The Department of Foreign Affairs and Trade (DFAT) is responsible for treaties with other countries, including maritime boundary agreements. This includes the Torres Strait Treaty with Papua New Guinea.²⁰ DFAT has a Torres Strait Treaty Liaison Officer based in Thursday Island, who manages the treaty arrangements on a day-to-day basis and is closely involved in securing the Torres Strait against illegal entry.

¹⁷ Australian Government, *Fact Sheet 73 – People Smuggling*, Canberra, Department of Immigration and Citizenship, 30 January 2007, <<http://www.immi.gov.au/media/fact-sheets/73smuggling.htm>> [Accessed 30 May 2007].

¹⁸ Mark Metherall, ‘Plan to stop boat people’, *The Sydney Morning Herald*, 2 May 2007, <<http://www.abc.net.au/ra/pacbeat/stories/s1781856.htm>> [Accessed 2 May 2007].

¹⁹ Minister for Defence, ‘Strengthening Australia’s Maritime Security’, *Media Release 108/2006*, 17 July 2006.

²⁰ 1978 Treaty between Australia and the Independent State of Papua New Guinea concerning the Maritime Boundaries between the Two Countries, including the Area known as Torres Strait, and Related Matters, done in Sydney, 18 December 1978, in force 15 February 1985. [1985] ATS No. 5.

All states and territories maintain water police elements, although the capabilities vary from state to state.²¹ In some states, there are also fisheries and boating safety agencies with an “on water” enforcement capability, as well as volunteer coast guards to provide a local response to boating accidents. The water police deal with SAR incidents and criminal activities in state waters. Their work may extend beyond the three nm limit, particularly for SAR incidents. In some circumstances, state or territory police officers may act as authorized persons under relevant Commonwealth legislation. Several memorandums of understanding (MOUs) have been signed between the AFP, ACS and state/territory police forces directly related to maritime law enforcement. However, these MOUs are limited to the achievement of specific objectives, such as the interdiction of drugs and “boat people”, and exclude other criminal activities.

Has the System Measured Up?

There have been many incidents over the years that have revealed deficiencies in the prevailing system for securing Australia’s maritime approaches. These have usually attracted much publicity and often led to a government inquiry prompting some change to the existing system. However, these changes have invariably been at the margin, and it was not until the establishment of JOPC in 2005 that an appropriate “whole of government” approach became evident, although it still has some way to go. It is instructive to review several incidents that have occurred during the last decade to see how the system has measured up, and what lessons might be learned for the future.²² They are certainly all examples of what can go wrong if the system for securing Australia’s maritime approaches is not effective.

“BOAT PEOPLE” IN THE LATE 1990S

An upsurge of “boat people” arrivals in the late 1990s revealed inadequacies in the existing system of securing the maritime approaches. On 12 March 1999, 26 illegal immigrants appeared in the northern suburbs of Cairns. They had landed from a vessel that had transited through Torres Strait and the Great Barrier Reef and had not been intercepted, despite having been reported on several occasions by Torres Strait pilots and detected as a “a non-complying vessel” by the REEFREP system.²³ An editorial in *The Weekend Australian* of 20-21 March 1999 described it as “inexplicable and inexcusable” that a vessel could get so far along the Australian coast without

²¹ New South Wales has the most capable water police force with several seagoing vessels. It recently ordered a 31 metre “military-style” ocean patrol vessel. ‘\$11m police boat’, *Canberra Times*, 22 January 2007, p. 2.

²² The disclaimer should be noted that these incidents were mainly not a result of personal failure, but rather should be seen as demonstrations of systemic failure.

²³ REEFREP is a mandatory ship reporting system for ships using the Torres Strait and the inner route of the Great Barrier Reef. <http://www.amsa.gov.au/Shipping_Safety/REEFVTS/> [Accessed 3 July 2007].

interrogation.²⁴ An independent inquiry of the incident was later conducted by Air Vice-Marshal Alan Heggen RAAF (Rtd).

Then another incident occurred on 10 April 1999 when a vessel with about sixty illegal Chinese immigrants beached near Scott's Head on the NSW mid-North coast. Reports suggested that this vessel had escaped detection by running in directly from several hundred miles out to sea, but even so, it still revealed serious weaknesses in Australia's coastal surveillance system. The Prime Minister responded quickly by announcing a Prime Ministerial Task Force chaired by the Secretary, Department of the Prime Minister and Cabinet, to conduct a thorough review of the issues involved with the incursion, and to make recommendations on the strengthening of coastal surveillance procedures and systems.

The two reviews revealed a serious lack of coordination and information sharing between key agencies. As a consequence, the corporate structure of the ACS was revised, a RAN two-star officer was appointed as Director General Coastwatch, additional ADF personnel were seconded to Coastwatch, and a National Surveillance Centre was established.

TAMPA

On 26 August 2001, the Norwegian container ship *Tampa* rescued 433 "boat people" and four or five Indonesian crew from the sea between Christmas Island and Java. The Australian Government declined any real assistance to the *Tampa* and instructed the ship to remain outside Australian territorial waters. The rescued asylum seekers were later transferred to the amphibious ship HMAS *Manoora* and moved to an improvised detention centre in Nauru. Overall this incident reflected adversely on Australia's ability to secure the maritime approaches and brought little credit to Australia as a maritime nation. For political advantage, the Australian Government ignored long-standing maritime traditions and a formal obligation under the 1982 UN Convention on the Law of the Sea (UNCLOS) to provide assistance to people and vessels in distress at sea.²⁵ The government's actions have been strongly criticised in maritime forums around the world, including at the International Maritime Organization (IMO).²⁶

The *Tampa* incident showed a reactive and uncoordinated approach to securing the maritime approaches. In the light of media reports and presumably intelligence that there were asylum seekers in Indonesia preparing to leave for Australia, an effective system would have anticipated

²⁴ loc. cit.

²⁵ Michael White, 'MV Tampa and Christmas Island Incident - August 2001', *Maritime Studies*, no. 122 (2002), pp. 7-17; and Michael White, 'Tampa Incident: Shipping, international and maritime legal issues', *Australian Law Journal*, vol. 78 (April 2004), pp. 101-113.

²⁶ F.J. Kenney and V. Tasikas, 'The Tampa Incident: IMO Perspectives and Responses on the Treatment of Persons Rescued at Sea', *Pacific Rim Law and Policy Journal*, vol. 12, no. 1 (2003), pp. 143-178.

the need for increased surveillance and patrols in the area between Christmas Island and Java, and deployed assets accordingly. AusSAR rightly treated the matter as a SAR operation and was left to respond without any initial “whole of government” appreciation of the illegal entry implications. A Coastwatch aircraft manned by civilian personnel was the only maritime surveillance and enforcement asset in the area, until HMA Ships *Arunta* and *Manoora* arrived several days later.

SIEV-X

On 19 October 2001, a heavily overloaded suspected illegal entry vessel (SIEV), known as SIEV-X, sank between Java and Christmas Island with the drowning of 352 men, women and children. Serious questions were later raised about the extent of Australia’s responsibility for and response to the tragedy, including about the effectiveness of Australia’s intelligence, surveillance and SAR operations. These matters were investigated by the Senate Select Committee on a Certain Maritime Incident, which found that it was

extraordinary that a major human disaster could occur in the vicinity of intensive Australian operations, and remain undetected until three days after the event, without any concern being raised within intelligence and decision-making circles.²⁷

The SIEV-X affair led to allegations of government misconduct with a ‘cover-up’ of key issues and the misleading of the senate and the community,²⁸ and suggestions of less than effective inter-agency coordination in dealing with the situation.²⁹ Despite government obfuscation on where the vessel actually sank, it was suggested very strongly that SIEV-X was inside ‘the Australian surveillance zone’ when it sank.³⁰ Only two explanations are possible of Australia’s lack of an effective response to the SIEV-X sinking: either there was a government cover-up of Australia’s knowledge of the events, or the surveillance and SAR operations at the time were inadequate and poorly coordinated. The incident also suggested some lack of appreciation among responsible government personnel of “the safety of life obligations that all Australian Government agencies and personnel are required to fulfil”.³¹

VIARSA

In August 2003, the Uruguayan long-line fishing boat *Viarsa* was pursued by the chartered Australian patrol vessel *Southern Supporter* from the AFZ off

²⁷ The Senate, *Select Committee on A Certain Maritime Incident- Report*, Canberra, Commonwealth of Australia, October 2002, paragraph 9.145, p. 288.

²⁸ Tony Kevin, *A Certain Maritime Incident – The Sinking of SIEV-X*, Carlton North, Scribe Publications, 2004.

²⁹ David Marr and Marian Wilkinson, *Dark Victory*, Crows Nest, Allen & Unwin, 2003, pp. 236-237.

³⁰ *Ibid.*, p. 232.

³¹ The Senate, *Select Committee on A Certain Maritime Incident*, paragraph 9.152, p. 289.

Heard Island to midway between South America and South Africa in the South Atlantic. This chase lasted 21 days and covered 3,900 nautical miles through rough seas, snowstorms, and areas of icebergs and icy sea conditions. The *Viarsa* was suspected of fishing illegally in the AFZ and carrying an illegal catch of Patagonian toothfish.³²

This incident revealed disturbing issues with the system of maritime surveillance and enforcement then in place.³³ It sent a ship that, due to its lack of capability for boarding other vessels in the likely sea conditions, was unable to perform its mission effectively; and permitted the pursuit to continue despite obvious risks to the ships and their crews. It created a confused command position on the *Southern Supporter* with three officers sharing responsibility for the mission: the senior ACS officer, the senior AFMA officer, and the ship's captain; and was compelled to use a scratch team of private security guards from South Africa to affect the boarding and arrest. Lastly, the whole incident, including two lengthy but unsuccessful court proceedings, was hugely expensive. Although the ACS now charters a more capable vessel to undertake patrols in the Southern Ocean, responsibility for operations remains shared between different agencies.

MALU SARA

Overnight on 15 October 2005, the small patrol boat *Malu Sara*, owned and operated by the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) (now DIC), sank in rough weather in the Torres Strait, and five people perished.³⁴ The subsequent enquiry showed that the vessel was poorly equipped and maintained, and operated by an unlicensed skipper. Furthermore, the search was not well handled, particularly at the local level in Thursday Island.

The main duty of the *Malu Sara* and her four sister vessels, which had only been delivered by the Australian Government earlier in 2005, was to monitor illegal incursions by persons and vessels in the Torres Strait. However, the procedures for the operation and maintenance of these vessels were clearly inadequate, and questions should be asked about the wisdom of DIMIA maintaining its own fleet of patrol boats in the Torres Strait when the ACS and ADF also have vessels based there. If a single, professional organization had existed for securing the maritime approaches in the Torres Strait, the *Malu Sara* and people onboard may not have been lost.

³² The full story of this incident may be found in G. Bruce Knecht, *Hooked: A True Story of Pirates, Poaching and the Perfect Fish*, Crows Nest NSW, Allen & Unwin, 2006.

³³ Sam Bateman, 'Hooked: A True Story of pirates, poaching and the perfect fish', Book Review, *Maritime Studies*, no. 149 (July/August 2006), pp. 27-28.

³⁴ This account of the loss of the *Malu Sara* is taken from: Tony Koch, 'Lost at sea', *The Weekend Australian*, 24-25 February 2006, pp. 17 and 26.

PAST AND FUTURE TRENDS

There are compelling reasons why a focus on the maritime approaches is more important now than it was a decade or two ago. The need to secure Australia against the risks of the maritime transportation system being used by terrorists, and to protect offshore oil and gas installations against attack, has already been mentioned. However, this is no easy task. There is a “tyranny of distance”, with some Australian ports and offshore oil and gas installations being located in remote areas. Attacks on offshore facilities have occurred in the Middle East.³⁵ Australia has about fifty-six offshore installations in the Timor Sea, North West Shelf and Bass Strait, and security resources will always be spread thinly. Ensuring the timeliness of response to a maritime terrorist threat or incident will invariably be difficult. These factors place a premium on intelligence and surveillance to provide early warning of a threat.

Crimes at sea have become more prevalent and are increasing.³⁶ These crimes include piracy, maritime terrorism, drug trafficking, human smuggling, illegal fishing; and offences against the marine environment, such as illegal dumping and ship-sourced marine pollution. Australia is particularly vulnerable to the illegal entry of people and goods due to our wide maritime surrounds and the difficulties of ensuring an adequate rate of effort to provide an acceptable probability of detection and interception. Illegal entrants continue to reach the coast undetected,³⁷ and presumably these may be less skilled at avoiding detection than smugglers might be.

Then there is the growing importance of oceans management, particularly marine environmental protection and the conservation of fish stocks.³⁸ The trigger for this activity was the entry into force of UNCLOS in 1994, which greatly extended Australia’s area of maritime jurisdiction. However along with the potential benefits of large maritime zones, there are also increased obligations to maintain safety, protect the marine environment, manage marine resources, and generally maintain good order at sea. Globally, increased marine environmental awareness has led to greater regulation of the oceans and marine activities. There has been a commensurate requirement for increased policing at sea. It is also very likely that

³⁵ Three Iraqi offshore oil terminals were attacked in the Persian Gulf in April 2003 by explosive-laden speedboats.

³⁶ UN General Assembly 2002, *Oceans and the law of the sea – Report of the Secretary General*, 7 March 2002 (UN document A/57/57), p. 26, paragraph 134.

³⁷ The most notorious recent example is the landing undetected on Cape York in January 2006 of 43 asylum seekers from the Indonesian province of Papua. Tom Allard and Andra Jackson, ‘Boat people to test Jakarta ties’, *The Age*, 19 January 2006, <<http://www.theage.com.au/news/national/boat-people-to-test-jakarta-ties/2006/01/18/1137553651577.html>> [Accessed 4 June 2007].

³⁸ This importance is reflected in Australia by the introduction of the National Oceans Policy now being implemented by a system of regional marine plans. See <<http://www.environment.gov.au/coasts/oceans-policy/index.html>> [Accessed 1 June 2007].

Australia's maritime surveillance and enforcement operations in the future could extend to the EEZ off the AAT.³⁹

Illegal, unregulated and unreported (IUU) fishing has become a serious global problem. It is increasingly seen as one of the main obstacles to the achievement of sustainable world fisheries.⁴⁰ Measures to achieve more effective monitoring, control and surveillance of fishing activities are receiving greater attention around the world. Australia has been particularly concerned with measures to control IUU fishing, as well as restrictions on commercial whaling. With the decline in fish stocks, fisheries protection and law enforcement have become major tasks. These tasks are particularly demanding for Australia both in northern waters and around the sub-Antarctic islands.⁴¹

Concepts and Capabilities

CONCEPTS

Securing Australia's maritime approaches requires a mix of capabilities for surveillance, patrol and response—ships, aircraft and systems. "Surveillance", "patrol" and "response" are different activities. Aircraft are the main surveillance assets but satellites and land-based radars systems might also be used. Contemporary concerns also include surveillance and identification systems for developing maritime situational awareness ("maritime domain awareness"), and for long-range identification and tracking (LRIT) of vessels, including the use of automatic identification systems.

Both ships and aircraft carry out patrols. They provide deterrence by demonstrating a physical presence. However, they also ensure that the means are available to identify a suspicious target that has been detected by other means. Response invariably requires a surface ship to board and, if necessary, detain a suspicious vessel. Ensuring a reasonable probability of interception with an adequate number of "hulls in the water" might be more demanding of resources than it is to provide sufficient surveillance

³⁹ Anthony Bergin and Marcus Haward, 'Frozen Assets: Securing Australia's Antarctic Future', *Strategic Insights*, no. 34, Canberra, Australian Strategic Policy Institute, April 2007; and Barry Patterson, 'The Growing Importance of the Polar Regions to Australian and Canadian Strategic Thinking', *Maritime Studies*, no. 153 (March/April 2007), pp. 12-17.

⁴⁰ High Seas Task Force 2006, *Closing the Net: Stopping illegal fishing on the high seas*, London, IUU Fishing Coordination Unit, Department for Environment, Food and Rural Affairs, 2006, p. 1.

⁴¹ The illegal entry of Indonesian fishing vessels into northern Australian waters, after increasing significantly in recent years, has declined somewhat in 2007. Forty-nine foreign fishermen from six fishing vessels were brought into Darwin in May 2007, but foreign fishing vessel activity in northern waters for the first four months of 2007 was down by ninety per cent compared with the same period in 2006. Minister for Fisheries, Forestry and Conservation and Minister for Justice and Customs, 'Forty-nine foreign fishers caught in border protection swoop', *Joint Statement*, DAFF07/056AJ, 23 May 2007, <<http://www.mffc.gov.au/07/056aj.html>> [Accessed 3 June 2007].

capabilities to ensure a reasonable probability of initial detection. Detecting illegal activity can be the easier part of the requirement, while an adequate and timely response is often more demanding of resources.

SHIPS

The main surface assets currently employed in securing Australia's borders comprise:

- Fourteen *Armidale* Class Patrol Boats (ACPBs). These vessels are 56.8 metres in length and 270 tonnes in displacement, have a speed of 25 knots, and are armed with a 12.7mm deck gun. They are a great improvement over their *Fremantle* Class predecessors, but their seakeeping capabilities are still limited and they have had some defects.⁴²
- Two *Huon* Class minehunters, HMA Ships *Huon* and *Hawkesbury*, which are now employed as patrol vessels.⁴³ These vessels are 52.5 metres in length with a displacement of 720 tonnes and a speed of fourteen knots. They have better seakeeping qualities and range than the ACPBs.
- Eight *Bay* class ACVs managed by the NMU and deployed at various locations around Australia. These vessels are 38 metres in length with a speed of 20 knots and a range of 1,000 nm at 20 knots.
- The ACV *Triton* is a 98-metre trimaran leased by the ACS to provide patrol and mobile base facilities in northern waters, primarily around Ashmore Reef and Cartier Island. It carries machine guns and is manned by a civilian crew of fourteen and up to twenty-eight armed ACS officers.
- *Oceanic Viking*, a 105 metre, 9,000 tonne ice-strengthened vessel, leased by the ACS for patrolling Australia's Southern Ocean EEZs. It carries machine guns and can launch an armed boarding party.
- A variety of smaller craft operated by Federal, State and Territory agencies. Four new medium patrol boats were ordered by the ACS for basing in Darwin, Gove, Weipa and Thursday Island in April 2007.⁴⁴

⁴² In early 2007, the seven vessels of the class then in commission were withdrawn from service temporarily due to defective fuel pumps. Mark Dodd, 'Navy struggles to fix fault in patrol boats', *The Australian*, 5 February 2007, <<http://www.theaustralian.news.com.au/story/0,20867,21171009-601,00.html>> [Accessed 1 June 2007].

⁴³ Michael Brooke, 'Huons reactivated', *Navy News*, vol. 49, no. 9 (June 2006), <<http://www.defence.gov.au/news/navynews/editions/4909/topstories/story10.htm>> [Accessed 1 June 2007].

⁴⁴ 'Four New Customs Vessels', *Australian Maritime Digest*, no. 157 (1 May 2007), p. 1.

Analytical studies would likely show that twenty-four primary response vessels (i.e. fourteen ACPBs, two minehunters and eight *Bay Class*) provide an inadequate response capability for the mainland waters, as well as around the offshore territories. Furthermore, the size of Australia's marine jurisdictions, the distances involved, and typical sea conditions suggest that an ideal response force for Australia would comprise four types of vessel. Their broad characteristics are set out below and summarised in Table 1.⁴⁵

Table 1: Types of Response Vessel – Indicative Characteristics

Classification	Displacement	Approx. Length	Approx. Range	Desirable Max Speed	Armament/Equipment
Ocean Patrol Vessel	2000 tonnes	75 metres	9000 nm at 14 knots	20 knots	57 or 76 mm deck gun; Helicopter
Offshore Patrol Vessel	350 tonnes	50 metres	3000 nm at 15 knots	25 knots	30 or 40 mm deck gun
Coastal Patrol Vessel	170 tonnes	35 metres	1500 nm at 16 knots	30 knots	25mm deck gun
Inshore Patrol Vessel	50 tonnes	10-20 metres	500 nm at 16 knots	30+ knots	Small arms

Ocean Patrol Vessels: These are required for an ocean-going response capability around the mainland and off Australia's remote island territories, including the sub-Antarctic islands and the AAT, and possibly also for assistance to the Pacific island countries. They should have long range and good sea-keeping qualities. At least some of the class should be ice-strengthened. In view of the difficulties of maintaining air surveillance in waters at long distances offshore, these vessels require an organic helicopter.

Offshore Patrol Vessels: These vessels would provide the main capability for response in the mainland EEZ, although they should also be capable of deployment to the Cocos and Christmas Islands, the Coral Sea territories and to the Pacific island countries closer to Australia. They should be capable of operating offshore from the Australian mainland and the island territories in sea conditions up to sea state 6. The ACPBs and two minehunters provide this capability at present.

Coastal Patrol Vessels: These vessels would provide a fast littoral and coastal response, principally in northern waters and out to the limits of the EEZ. The ACS *Bay* class vessels are a large example of this type of vessel, although they are slower than the requirement and may have sacrificed speed for range and sea-keeping qualities.

⁴⁵ This section is based in part on the paper: Geoff Rohan, 'Fisheries a Valuable Resource', in Doug MacKinnon and Dick Sherwood (eds), *Policing Australia's Offshore Zones – Problems and Prospects*, Wollongong Papers on Maritime Policy, no. 9, Wollongong, Centre for Maritime Policy, University of Wollongong, 1997, pp. 36-48.

Inshore Patrol Vessels: A variety of smaller patrol craft required for inshore operations and operated by the ACS, State water police, and other State and Commonwealth agencies, although these fleets should be rationalized as far as possible.

AIRCRAFT

Civil aviation contractors provide the main aerial surveillance of Australia's maritime approaches within a fully operational system managed by Coastwatch. The contractor provides aircraft, crew, operational support, maintenance and related services. Coastwatch is responsible for monitoring contractor performance, operations and training. The fixed wing aerial surveillance operator is Surveillance Australia Pty. Ltd. Rotary winged surveillance and air transport in the Torres Strait area is provided by Reef Helicopters of Cairns. The main surveillance capability is provided by Bombardier Dash 8-202 aircraft fitted with a range of sensors and capable of patrolling up to 100nm beyond the EEZ.⁴⁶ There are also smaller aircraft for medium range seaward operations and visual littoral search. Flying hours available for coastal surveillance have increased considerably over the last few years.

In addition, the RAAF provides some support with P3C Orion aircraft surveillance, primarily in waters from Perth south about to Newcastle. Since the contracted aircraft are normally deployed in the north of Australia, this is the major surveillance capability over southern waters. RAAF aircraft, either P3C or C130 Hercules transport aircraft, are employed if a mission is required beyond the range limits of the Dash-8 aircraft. The new Boeing 737 Airborne Early Warning aircraft being acquired by the RAAF are also relevant, although it is understood that their ability to detect surface contacts is limited.

Unmanned aerial vehicles (UAVs) may also be used for surveillance, with the advantages of higher fuel economy and greater endurance than manned aircraft. Defence conducted a trial in 2006 to investigate the feasibility of using UAVs in a maritime surveillance role in cooperation with patrol boats and other assets to protect the North West Shelf Area.⁴⁷ The trial also involved a modelling and simulation exercise in which a Global Hawk UAV was used for maritime surveillance operations under various conditions, and in situations not encountered during the real world trial.⁴⁸ Currently, defence project AIR 7000 provides for the acquisition of High Altitude Long

⁴⁶ These aircraft were being upgraded in 2007 with a Surveillance Information Management (SIM) System and improved electro-optics, infrared sensors, radars and satellite communications. 'Stronger Aerial Surveillance in Northern Australia', *Australian Maritime Digest*, no. 155 (1 March 2007), p. 1.

⁴⁷ Parliamentary Secretary to the Minister for Defence, 'North West Shelf Trial report to be released', *Media Release*, PARLSEC 014/2007, 21 March 2007.

⁴⁸ Parliamentary Secretary to the Minister for Defence, 'Joint maritime surveillance do-able with unmanned aerial system', *Media Release*, PARLSEC 015/2007, 22 March 2007.

Endurance UAVs for maritime patrol and other surveillance that will complement the capabilities of manned systems, such as the P3C aircraft and its successor.⁴⁹

SURVEILLANCE SYSTEMS

Satellites: Satellites potentially provide a reliable and low-operating cost surveillance system. However, they have some disadvantages, including an inability to maintain continuous cover of an area of interest, and vulnerability to a degradation of performance by bad surface weather. The latter factor may be particularly significant in Australia's northern maritime approaches, due to the monsoonal weather conditions experienced at some times of the year. Australia has no dedicated satellite surveillance capability at present, although Defence has access to allied satellite intelligence data on a highly classified basis.

Over-the-Horizon Radar: The Jindalee Operational Radar Network (JORN) is an over-the-horizon radar system that enables the distant monitoring of strategic areas to the north and north west of Australia. The ADF, Customs, Coastwatch and other government agencies use JORN data to greatly improve the country's knowledge of activities in the sea-air gap, and the national surveillance picture.⁵⁰ JORN can detect targets up to 2000km away from our coastline. However, because it relies on target Doppler and can be degraded by surface weather, it is believed to have poor capability against small surface targets.

Australian Maritime Information System: Maritime domain awareness (MDA) is an integrated approach to maritime security to meet the threats of maritime terrorism, illegal immigration, drug smuggling, illegal fishing and marine pollution. It is aimed at answering basic questions about what is going on in the maritime surrounds. What shipping is in the area? What is it doing? Where is it going? What is the cargo? What other maritime activity is out there? The implementation of MDA requires comprehensive and specific knowledge of the marine environment; less specific knowledge about geography, weather, shipping routes, fishing areas, etc; and intelligence management centres to collect, fuse and analyse all source intelligence, make vulnerability assessments, and provide a single, integrated picture of relevant information within the area of interest.⁵¹

⁴⁹ Mark Thomson, *The Cost of Defence – ASPI Defence Budget Brief 2007-08 – Sixty million, two hundred & seventy-one thousand, four hundred & thirty-eight dollars and thirty-six cents per day*, Canberra, Australian Strategic Policy Institute, May 2007, p. 193.

⁵⁰ Deanna Nott, 'Radar System ready to go on line', *Air Force News*, undated, <<http://www.defence.gov.au/news/raafnews/editions/4504/topstories/Story11.htm>> [Accessed 4 June 2007].

⁵¹ Based on Tim Campbell, Madhavi Chavali and Kelley Reese (eds), *Meeting the Homeland Security Challenge – Maritime and other Critical Dimensions*, Report of Inter-agency Meeting held at The Royal Sonesta Hotel, Cambridge MA, 25-26 March 2002, p. 54.

In Australia's case, the AMIS will provide MDA of Australia's maritime approaches, covering up to 1,000 nautical miles from Australia's coastline. On coming inside this distance, vessels proposing to enter Australian ports will be required to provide comprehensive information such as ship identity, crew, cargo, location, course, speed and intended port of arrival. Within Australia's EEZ, the aim will be to identify all vessels, other than day recreational craft.

Long Range Identification and Tracking of Ships: The proposed global system for LRIT is a related development. Largely at the behest of the United States, the IMO has been discussing plans for LRIT. It would be part of general arrangements for enhancing MDA to detect and monitor illegal activity at sea. However, the right of a coastal State to require ships that are not entering a port in that State to identify themselves is uncertain under current international law. There is no complete consensus on the political, legal or financial implications of LRIT, and it has become a sensitive issue confronting the international shipping industry.⁵² However, the regulation implementing LRIT is expected to enter into force on 1 January 2008.⁵³

Pros and Cons of a Coastguard

This section addresses the advantages and disadvantages of moving towards a more integrated organization for maritime law enforcement and securing Australia's maritime approaches. This involves consideration of what is usually referred to as a "coast guard", although in Australia at present this is "dirty word" with the government, while the Opposition continues to promote the concept. However, as shown by the Malaysian Maritime Enforcement Agency and the Korean National Marine Police, a force does not have to be called a "coast guard" for it to fulfil the coast guard function. In effect, Australia already has a "coast guard". It is a loose organisation comprised of Coastwatch, the NMU of the ACS, some ADF units under the overall direction of the BPC, and AusSAR.

The NMU of the ACS, along with the Maritime Patrol and Response Unit that operates the *Oceanic Viking*,⁵⁴ comes nearest to being a "coast guard". This is particularly so with the movement noted earlier of the ACS assuming greater responsibility operationally for securing Australia's maritime approaches. However, its current personnel arrangements do not meet the

⁵² Craig Eason, 'Freedom and Security: the dilemma of vessel tracking', *Lloyd's List* online, 21 April 2006.

⁵³ International Maritime Organization, 'Long range identification and tracking (LRIT)', *Fact Sheet*, <<http://www.imo.org/home.asp>> [Accessed 5 June 2007].

⁵⁴ Australian Customs Service, *Maritime Patrol and Response Unit*, <<http://www.customs.gov.au/site/page.cfm?u=5503>> [Accessed 1 June 2007].

criteria for a disciplined para-military force. NMU crews are civilian public servants employed under the Customs Certified Agreement 2004-2007.⁵⁵

The division between civil and military responsibilities is part of this debate. Australia has tended to draw a careful line between civil and military maritime surveillance. However, the BPC represents some bridging of that boundary, and continuing to draw a distinction between military and civilian responsibilities in securing the maritime approaches may well be a luxury that Australia can no longer afford. A distinction between military and civilian responsibilities may have made sense when the civil area of interest was mainly along the littoral, but it makes less sense now that the civil surveillance area is much larger, concepts of security more intertwined, and surveillance and intelligence systems more technologically advanced and expensive.

ARGUMENTS FOR A COAST GUARD

There are several reasons for establishing a separate coast guard.⁵⁶ Legal considerations are important. A coast guard should be a para-military organization and its personnel should be sworn members of a disciplined force. Its officers must have the ability to enforce national maritime laws with wide powers of arrest over both foreigners and national citizens, but in many countries, there are constitutional and political reasons why military forces should not be involved in policing duties against national citizens.⁵⁷ Just as a clear distinction applies between the powers and roles of the military on land and those of the civil police, a similar distinction applies at sea between the powers and roles of a navy and those of a coast guard.

Coast guard units are more suitable than warships for employment in border areas or other sensitive areas where there might be political tensions between parties. In such areas, the arrest of a foreign vessel by a warship may provoke tension, whereas arrest by a coast guard vessel may be accepted as legitimate law enforcement. A basic clash also exists between the military ethos of applying maximum available force and that of law enforcement, which is more circumspect and usually involves minimum force.

Another reason relates to the concentration of navies on their increasingly more complex war-fighting or military role. Navies are attracted to larger vessels that can carry more weapons and sensors and are less vulnerable.

⁵⁵ Australian Customs Service, *National Marine Unit – Employment Conditions*, <<http://www.customs.gov.au/site/page.cfm?u=4338>> [Accessed 1 June 2007].

⁵⁶ These issues are explored more fully in Sam Bateman, 'The Growing Significance of Coast Guards in the Asia-Pacific: A Quiet Development in Regional Maritime Security', in Aldo Chircop, Moira L. McConnell and Scott Coffen-Smout (eds), *Ocean Yearbook 20*, Chicago, Chicago University Press, 2006, pp. 505-531.

⁵⁷ Hugh Smith, 'The Use of Armed Forces in Law Enforcement', in MacKinnon and Sherwood (eds), *op. cit.*, pp. 74-97.

Smaller numbers of larger vessels are claimed to have advantages over larger numbers of smaller vessels.⁵⁸ However, the quantity of hulls in the water is more important for the policing role than their quality.

While naval warfare has become more complex, policing at sea has become more complicated. The “policeman” at sea, regardless of whether he or she is a naval officer or a coast guard officer, must be more legally aware of his/her powers, rights and obligations than was the case previously. There are more international conventions relating to law and order at sea now than there were twenty years ago, and national legislation covering maritime space and uses has increased accordingly. It is no longer the case that naval personnel can undertake maritime policing satisfactorily on a part-time or *ad hoc* basis.

Through not having a clearly identified “coast guard”, Australia may not be able to play a full role in regional maritime cooperation forums that are becoming more common in Asia as more countries establish separate coast guards. The Heads of Asian Coast Guards’ forum is particularly influential, having established the Regional Cooperation Agreement against Piracy and Armed Robbery at Sea (ReCAAP), and its Information Sharing Centre in Singapore.⁵⁹ Lastly, there is the issue of costs, with coast guard vessels and aircraft generally being less expensive than naval units.

ARGUMENTS AGAINST A COAST GUARD

Proposals for the establishment of an Australian coast guard have been described as “conceptually flawed”:⁶⁰

They would, if implemented create an over emphasis on lower end capabilities, drain financial resources from a navy which could ill afford to lose them, impact upon naval personnel resources and opportunities for junior officers, and duplicate resources and responsibilities between civilian and military roles.⁶¹

This however, is pro-naval view that ignores the national interest. The latter requires secure maritime approaches, and if it is more cost-effective to use lower-end capabilities for the task, then it is appropriate that they be used. Whether or not it drains resources from the Navy is a matter of government priorities and budgetary decision-making.

⁵⁸ Norman Friedman, *Seapower as Strategy – Navies and National Interests*, Annapolis, Naval Institute Press, 2001, p. 242.

⁵⁹ All ASEAN nations, Japan, China, Korea, India, Bangladesh and Sri Lanka are working under the agreement to set up an information network and a cooperation regime to prevent piracy and armed robbery against ships in regional waters. ReCAAP entered into force in September 2006 but Indonesia and Malaysia are still not parties.

⁶⁰ John Reeve, ‘Maritime Operations and Counter-terrorism: An Australian View’, in Jack McCaffrie (ed), *Positioning Navies for the Future: Challenge and Response*, Broadway NSW, The Sea Power Centre-Australia and Halstead Press, 2006, p. 108.

⁶¹ Ibid.

The impact on naval personnel and the possible duplication of effort are two aspects that do require further consideration. However, there are different models for a coast guard. There is no reason, for example, why the RAN should not continue to operate and man the ACPBs and minehunters within a coast guard framework, although legislation may be required to give their crews wider powers than they have at present. Norway offers a model whereby naval personnel are seconded to the coast guard for periods of duty during which they are given wider powers under national coast guard legislation.

A “NATIONAL FLEET”?

The National Fleet concept adopted by the US Navy and the US Coast Guard is also pertinent. This recognises the distinction between warships optimized for war-fighting and coast guard vessels designed for maritime policing.⁶² As Colin Gray has suggested, navies and coast guards are “driven by the beats of different drummers”.⁶³ Navies are interested in higher-end of capability, but lower-end capabilities are acceptable to coast guards. They are more interested in having a sufficient “hulls in the water” to provide a satisfactory level of presence and response than in the level of capability. As well as ships and aircraft, the National Fleet concept in the US includes consideration of command and control arrangements, support facilities, and integrated concepts of operations and intelligence.

The National Fleet concept makes much sense for Australia. To some extent we are moving towards that idea with the BPC, which provides a level of operational integration for operations and intelligence. However, an integrated approach to force structure is missing at present. The ADF and the ACS as the two main providers of ships and aircraft for securing the maritime approaches still do their “own thing”. Planning for a national fleet would overcome the current capability gap with the lack of any ocean patrol vessel other than the civilian vessels on charter to the government. These vessels do not present a very professional image of Australia as a maritime nation, and as was demonstrated by the *Viarsa* incident, can lead to problems of command and control.

Conclusions

Australia is moving towards a Coast Guard by “stealth”, in that the government has not specifically articulated a policy that gives additional responsibility for securing the maritime approaches to the ACS. It would be better now to “bite the bullet” and formally recognize the relevant parts of the ACS as an Australian “coast guard”, along with the BPC to coordinate military and civilian requirements. If the Australian Coast Guard name is

⁶² Department of the Navy and US Coast Guard, *National Fleet – A Joint Navy/Coast Guard Policy Statement*, Washington DC, 3 March 2006.

⁶³ Colin S.Gray, ‘The Coast Guard and Navy – It’s time for a “National Fleet”’, *Naval War College Review*, vol. LIV, no. 3 (Summer 2001), p. 116.

unacceptable to the government, then the organization might be given some other name, such as the Australian Maritime Surveillance and Enforcement Authority (AMSEA).

Along with the establishment of AMSEA or a similar agency, other actions would be required. The agency should be covered by its own legislation that would allow it to take a degree of enforcement action independent of other agencies. Its operational personnel should be sworn officers and part of a disciplined force with a chain of command, and able to be more closely integrated with the ADF in time of an emergency. Similarly, the Coastwatch aircraft should be manned and operated by AMSEA officers rather than by civilian personnel as they are at present. It would also make sense to bring AusSAR within the AMSEA organization.

Unfortunately, as was noted by the author and others in the context of maritime enforcement and compliance, this may not happen.⁶⁴ Each Commonwealth department does its “own thing” and none has the power to control the way another department discharges its administrative responsibilities. Each is responsible for its own set of government legislation and it can be difficult to develop legislation, such as that which would reflect a holistic approach to securing Australia’s maritime approaches, because it would transcend inter-departmental boundaries. “Turf protection” is alive and well in Canberra and this will not change until a powerful minister accepts the need for change and is prepared to act accordingly. This minister would have responsibility for overall policy and legislative development for surveillance and enforcement to secure Australia’s maritime approaches and would be supported by an agency, such as the suggested AMSEA, with the requisite authority and capabilities.

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⁶⁴ Bateman, Bergin, Tsamenyi and Woolner, *op. cit.*, p. 138.