

University of Wollongong - Research Online

Thesis Collection

Title: Contemporary maritime pressures and their implications for naval force structure planning

Author: Bruce Clark McLennan

Year: 2006

Repository DOI:

Copyright Warning

You may print or download ONE copy of this document for the purpose of your own research or study. The University does not authorise you to copy, communicate or otherwise make available electronically to any other person any copyright material contained on this site.

You are reminded of the following: This work is copyright. Apart from any use permitted under the Copyright Act 1968, no part of this work may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of the author. Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

Unless otherwise indicated, the views expressed in this thesis are those of the author and do not necessarily represent the views of the University of Wollongong.

Research Online is the open access repository for the University of Wollongong. For further information contact the UOW Library: research-pubs@uow.edu.au

University of Wollongong Thesis Collections

University of Wollongong Thesis Collection

University of Wollongong

Year 2006

Contemporary maritime pressures and
their implications for naval force
structure planning

Bruce Clark McLennan
University of Wollongong

McLennan, Bruce C, Contemporary maritime pressures and their implications for naval force structure planning, PhD thesis, Centre for Maritime Policy, University of Wollongong, 2006.
<http://ro.uow.edu.au/theses/604>

This paper is posted at Research Online.
<http://ro.uow.edu.au/theses/604>

NOTE

This online version of the thesis may have different page formatting and pagination from the paper copy held in the University of Wollongong Library.

UNIVERSITY OF WOLLONGONG

COPYRIGHT WARNING

You may print or download ONE copy of this document for the purpose of your own research or study. The University does not authorise you to copy, communicate or otherwise make available electronically to any other person any copyright material contained on this site. You are reminded of the following:

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. A court may impose penalties and award damages in relation to offences and infringements relating to copyright material. Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

**CONTEMPORARY MARITIME PRESSURES
AND THEIR
IMPLICATIONS FOR NAVAL FORCE STRUCTURE PLANNING**

A thesis submitted in fulfilment of the
requirements for the award of the degree

DOCTOR OF PHILOSOPHY

from

UNIVERSITY OF WOLLONGONG

by

BRUCE CLARK McLENNAN

GDSS (jssc), GDBA (dist) (QUT), MMDS (UC), MMS (dist) (UoW)

CENTRE FOR MARITIME POLICY

2006

CERTIFICATION

I, Bruce Clark McLennan, declare that this thesis, submitted in fulfilment of the requirements for the award of Doctor of Philosophy to the Centre for Maritime Policy, University of Wollongong, is wholly my own work unless otherwise referenced or acknowledged. The document has not been submitted for qualifications at any other academic institution.

Bruce C. McLennan

8 November 2006

**CONTEMPORARY MARITIME PRESSURES
AND THEIR
IMPLICATIONS FOR NAVAL FORCE STRUCTURE PLANNING**

TABLE OF CONTENTS

Title Page		i
Certification		ii
Table of Contents		iii
List of Tables, Figures, Illustrations		vii
Abstract		viii
 Chapter 1	Introduction	 1
	The Security Environment	2
	The Contribution of Research	6
	Methods and Sources	9
	Chapter Structure	10
 Chapter 2	Navies as Instruments of National Policy	 15
	The Span of Maritime Operations	15
	Strategic Maritime Theory	20
	Sea Command and Sea Control	28
	Contemporary Force Structure Capability Development	30
	The Changing Emphasis for Naval Force Structure	32
 Chapter 3	Sea Power Dominance – The Empires of <i>Pax Romana</i> and <i>Pax Britannica</i>	 36
	The Empire of <i>Pax Romana</i>	36
	The First and Second Punic Wars	37
	Mithridate and the Scourge of Cilician Pirates	44
	The Imperial Roman Navy	48
	The Empire of <i>Pax Britannica</i>	57
	Trade, Colonies and the Navy	58
	The Evolution of the Colonial Squadrons	64
	The Empire Falters	69

	Conclusion	71
Chapter 4	The Empire of <i>Pax Americana</i>	73
	Cold War Offensive Deterrence	73
	United States' Military Ascendancy	74
	The Confidence of Unilateralism	76
	American Imperium	78
	The Empire of <i>Pax Americana</i>	81
	Policing the Peace of America	84
	Re-structuring the Fleet	89
	Globalisation—The Triumph of American Capitalism	91
	Maritime Trade—	
	The Consolidated Ocean Web of Communications	92
	Crisis of the Nation-State	98
	Conclusion	102
Chapter 5	The Asymmetric Response to Technology	105
	The Supreme Super Weapon and Naval Panacea	105
	Low-Intensity Warfare	108
	Maritime Terrorism	114
	Piracy and Armed Robbery at Sea	117
	Belligerent Rights	121
	Summary	124
	Weapons of Statecraft	126
	Network-Centricity	129
	Conclusion	131
Chapter 6	The Great Oceanic Common	133
	The Early Juridical Nature of the Sea	133
	The Canary Islands	135
	Africa's West Coast Trade	136
	Discovery of the New World	139
	The Treaty of Tordesillas	141
	The Protestant Challenge	144

	Hugo de Groot	146
	John Selden	148
	America's Advocacy for Freedom at Sea	150
	Trade Liberalisation and the Hague Conferences	154
	Conclusion	158
Chapter 7	Ocean Exploitation and Enclosure – Modern Oceans Governance	159
	The Intensification of Users and Uses	159
	Coastal State Unilateral Assertions	162
	Early Attempts at Law of the Sea Codification	166
	1982 United Nations Convention on the Law of the Sea	173
	Exclusive Economic Zone	178
	Conclusion	184
Chapter 8	Australia's Maritime Strategic Imperatives	186
	The Island Fortress	188
	The Invasion Planning Paradigm	189
	Australia's Regional Maritime Environment	193
	East Timor and INTERFET	197
	Background to the East Timor Intervention	199
	Operation <i>Stabilise</i>	202
	In Summary	207
	Australia's Domestic Maritime Environment	208
	Timor Sea Joint Petroleum Development Area	212
	Consequential Security Prospects	215
	The Antarctic Treaty System	217
	Refugee Movements across Maritime Boundaries	224
	People Trafficking	228
	The Australian Illicit Fishing Industry	230
	Conclusion	235

Chapter 9	Naval Force Structure Implications – An Australian Case Study	237
	The Nature of Expeditionary Warfare	240
	Not Merely an Army Escorted by a Fleet	243
	The Ship-of-Expedition Over the Shore	245
	United States Expeditionary Capabilities	246
	The Australian Amphibious Requirement	248
	Small vs Big Ship Options	250
	The Constabulary Requirement	252
	The Ship-of-Law	259
	The Inevitable Transition	262
	The Coast Guard Debate	263
	An Ocean Patrol Ship	271
	Project <i>Deepwater</i>	273
	Flexible Support Ships	276
	Conclusion	278
Chapter 10	Conclusion	281
	The Historical Legacy	285
	 Bibliography	 296

**CONTEMPORARY MARITIME PRESSURES
AND THEIR
IMPLICATIONS FOR NAVAL FORCE STRUCTURE PLANNING**

LIST OF TABLES, FIGURES, ILLUSTRATIONS

Figure 1	The Span of Maritime Operations	19
Figure 2	The Changing Emphasis for Naval Force Structure	35
Figure 3	<i>Pax Romana</i> - The Roman Empire 1AD	52
Figure 4	<i>Pax Britannica</i> – The British Empire 1897	61
Figure 5	Distribution of British Warships 1897 & 1912	70
Figure 6	Consolidated Ocean Web of Communications	95
Figure 7	Treaty of Tordesillas 1494	142
Figure 8	Maritime Zones of Jurisdiction	177
Figure 9	Effect of the 200nm Coastal State Jurisdiction	179
Figure 10	East Timor and INTERFET	203
Figure 11	Australia’s Maritime Jurisdiction (post 1982)	211
Figure 12	The Antarctic Treaty and the Convention for the Conservation of Antarctic Marine Living Resources Areas	219

**CONTEMPORARY MARITIME PRESSURES
AND THEIR
IMPLICATIONS FOR NAVAL FORCE STRUCTURE PLANNING**

ABSTRACT

The contemporary determinators of Australia's naval force structure are generally derived from threat based calculations as modelled through scenario focused exercises. Analysis, future capability development, and force structure planning, are principally configured for high-intensity war-fighting roles against a similarly sophisticated enemy, in the defence of the Australian mainland—in the belief that forces structured for the defence of Australia and its approaches can meet all the tasks asked of it by the Government. The underlying assumption is that geostrategic imperatives should shape strategy as well as force structure. The focus remains firmly affixed to 'contest' and the assertion of strategic security to the detriment of constabulary control. It also drives the tendencies for 'bigger/brighter and more gigabytes' that lead to the unsatisfiable demands in defence expenditure and the over-specification of required capability.

This thesis argues that a historical trend analysis offers a further dimension in appreciating naval force structure emphasis, claiming that there are at least three contemporary pressures that should be exerting influence on a nation's naval planning—these pressures are maritime geopolitical evolution through a dominant sea power hypothesis, the asymmetric response to technology that has changed the character of warfare, particularly at sea, and the inevitable progression of ocean exploitation and enclosure that has dawned the modern era in oceans governance. All three forces are applying their pressure in a similar direction—away from the traditional ship-of-war, towards the ship-of-law and the ship-of-expedition over the shore.

To argue this thesis there are three supporting suppositions:

The first supposition contends that we have entered the era of *Pax Americana*—an era of unchallenged maritime supremacy. Like the eras of *Pax Romana* and *Pax Britannica* before it, with *Pax Americana* ruling the oceans and guaranteeing the freedom of

navigation, there is now an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the seas—combat and contest—and towards those naval forces that are going to use the sea control given to them—regulation and utilisation.

The second, that the character of warfare has changed: that conventional warfare has moved to the Third World. Yet the modern ship-of-war is at the forefront of technological development and the product of a nation's technical ability and resource. It is designed to fight against a similarly sophisticated enemy; against a platform that resembles itself in technical sophistication. It is also a weapon of statecraft, as only States can afford the infrastructure and costs to support them. If conventional warfare has indeed moved to the Third World, then it has also moved against States that do not have the technical skills and resource base to support the modern warship—the traditional ship-of-war no longer has an equally sophisticated enemy.

The third, that the modern practise of State sovereignty expansion and ocean enclosure that has dawned the modern era of ocean governance is a fundamental evolution in ocean usage. It is now being reflected in, or by, the increased awareness of, and emphasis on, 'constabulary tasking' such as resource management, environmental protection, immigration regulation, quarantine inspection and trans-national crime enforcement—the demand for a ship-of-law.

CHAPTER ONE

INTRODUCTION

The tragedies of the Bali bombing and the World Trade Centre in New York are visible manifestations of a shift in the security paradigm which may, over time, prove as transformational as the Bolshevik revolution of 1917.

Alan Dupont, 13 November 2002¹

Seventy per cent of the earth's surface is covered by sea and over two thirds of the world's population lives within 100 miles of it; 80 per cent of the world's capital cities and nearly all major centres of international trade and military power can also be found there.² Over 150 of the 185 member States of the United Nations are coastal States.³ Since the 1970s, and certainly since the United Nations Convention on the Law of the Sea was signed in 1982, most of these coastal States have extended their national jurisdiction out to 200 nautical miles,⁴ and in some cases well beyond that. Most human maritime endeavour (shipping, fishing, oil exploration etc) and a substantial proportion of the world's economic and political activity is conducted within the coastal zone—a narrow strip of land and sea on average no wider than 300 miles: an area that the modern military planner refers to as the 'littoral'.⁵ This is the area where the major trade routes intersect, and where the world's most important problems are likely to be encountered.⁶

Economically, the traditional use of the sea is as a medium for transport. Ships still account for 99.5 per cent of trans-oceanic trade, the volume of which has increased by a factor of eight since 1945; and 'the World Bank's current forecast is that by 2012 world

¹ Alan Dupont, 'Transformation or Stagnation? Rethinking Australia's Defence', inaugural presentation of the Australian Security in the 21st Century lecture co-hosted by the Menzies Centre and Australian Defence Industries, Parliament House, Canberra, 13 November 2002.

² The United Nations reports 'Oceans cover almost three quarters of the Earth's surface, comprise nine-tenths of its water resources and are home to over 97 per cent of all life.' Source http://www.un.org/Dept/los/convenmition_agreements/convention_20years/oceansourceoflife.pdf viewed 11 January 2005.

³ *BR 1806: British Maritime Doctrine*, Second edition, MOD, DSDA (Print Centre), Keynsham, 1999, Chapter 2, 14.

⁴ Referring to both national sovereignty and sovereign rights.

⁵ Littoral—The areas to seaward of the coast which are susceptible to influence or support from the land and the areas inland from the coast which are susceptible to influence or support from the sea. Source: Royal Australian Navy Doctrine Number 1 (RAN Doctrine 1), Department of Defence, Commonwealth of Australia.

⁶ Geoffrey Till, *Seapower, A Guide for the Twenty-First Century*, Frank Cass, London, 2004, 241.

seaborne trade will have doubled in terms of ton-miles and this trend will continue.’⁷ One third of that trade is in oil and petroleum products, about half of that originating in the Middle East and most going to one of the three geo-economic blocks—North America, Western Europe and North East Asia. Fish provides about 25 per cent of the world’s supply of animal protein.⁸ The bulk of the world’s catch is taken in the relatively shallow waters of the continental shelf.⁹ For some States, fishing can represent a substantial proportion of their economic activity and the potential for over-fishing, or contamination by pollution, are today major concerns for almost all the world’s fisheries.¹⁰ However, nothing has motivated coastal States to extend jurisdiction more than the prospect of hydrocarbon exploitation.¹¹ In addition to these more traditional uses, the modern developing potential of poly-metallic sulphides, metallic nodules and direct ocean energy extraction has the potential to change our concept of what constitutes sea wealth, and what constitutes national interest.¹²

The Security Environment

During the Cold War, the security environment on which Western naval planning was premised was structured on East-West security relations that were organised around two strong and opposing alliances—NATO and the Warsaw Pact.¹³ Force structure planning assumptions were relatively stable because the active deterrent role played by the

⁷ Geoffrey Till, ‘Maritime Trade Introduction’, in Geoffrey Till (ed), *Seapower at the Millennium*, Sutton Publishing, Gloucestershire, 2001, 177.

⁸ ‘Every year, almost 90 million tons of fish are captured globally, providing by far the largest source of wild protein for human consumption.’ Source *Oceans Source of Life* http://www.un.org/Dept/los/convenmition_agreements/convention_20years/oceansourceoflife.pdf viewed 11 January 2005.

⁹ ‘About 90 per cent of the world’s fisheries fall under the jurisdiction of coastal States.’ Source *Oceans Source of Life*.

¹⁰ ‘About 50 per cent of fish stocks are fully utilised and another 25 per cent are over fished, leaving only 25 per cent with some potential for increased fish harvests.’ ‘Ocean pollution is estimated to cause some 250 million cases of gastro-enteritis and upper respiratory disease every year, costing societies world wide about \$1.6 billion a year.’ ‘The consumption of uncooked sewage contaminated shellfish causes some 2.5 million cases of infectious hepatitis each year, at a cost of approximately \$10 billion annually.’ Source: *Oceans Source of Life*.

¹¹ The United Nations report: ‘Off shore oil production accounts for about 30 per cent of total world oil production, and offshore gas production accounts for about half the world production.’ ‘Marine minerals—including offshore oil and gas, gold, tin, diamonds, sand and gravel—have been estimated to generate nearly \$US 1 trillion every year.’ Source: *Oceans Source of Life*.

¹² For examples see http://www.yoto98.noaa.gov/yoto/meeting/energy_316.html; http://www.nrel.gov/otec/mineral_extraction.html; and <http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmsctech/291/291ap32.htm>

¹³ Mike Lawrence Smith & Matthew R.H. Uttley, ‘Tradition and Innovation in Maritime Thinking’, in Andrew Dorman, Mike Lawrence Smith and Mathew R.H. Uttley, (eds), *The Changing Face of Maritime Power*, Macmillan Press Ltd, Basingstoke, 1999, 1.

military was well defined and clearly understood,¹⁴ and force structure was based on threat-based calculations, configured primarily for high-intensity war-fighting roles, as modelled through scenario focused exercises.

However, the Cold War has ended; as has the planning clarity and monolithic focus it provided. The United States is now acknowledged as the world's hegemonic military superpower. Not since *Pax Britannica*, and *Pax Romana* before that, has any one nation ever been so dominant in its sea power that it could just assume its ability to control the oceans of the world. The era of *Pax Americana*, at least at sea, is upon us. As a consequence of this unchallenged maritime supremacy, there comes an emergent realisation to shift the balance of naval force structure away from what might be termed 'combat and contest' towards 'regulation and utilisation'. With *Pax Americana* ruling the oceans, there is now relatively less need for maritime forces that are intended primarily to fight for the control of the sea and relatively more need for those that are intending to use it. This, indeed, appears to be the theme underlying the United States Navy's own strategic formulation, ...*From the Sea*¹⁵ and its development through to *Sea Power 21*.¹⁶ It has also given rise to the recent regional emphasis on regulatory, amphibious and 'peace support' orientated expeditionary warfare capabilities.

In parallel, there has also been a technological dimension that has transformed the nature of battlefields. The modern warship is a complex surveillance and targeting platform. It is, and always has been, at the forefront of technological development and fits naturally as the end product of a nation's technical sophistication and resource base. Due to its sophistication, the modern warship has evolved as a weapon of statecraft—as only States can afford the infrastructure and organisational costs to support it. And like most other highly sophisticated military platforms, the modern warship is designed to fight against a similarly sophisticated enemy; it is a weapon of statecraft that is designed to fight against a platform that resembles itself, in inter-State warfare. But, with the proliferation of nuclear technology, the nature of the battlefield has changed. Ironically, the end

¹⁴ Admiral P.D. Miller, 'Both Swords and Plowshares: Military Roles in the 1990s', *RUSI Journal*, April 1993, 13.

¹⁵ See also John H. Dalton, J.M. Boorda, and Carl E. Mundy Jr, *Forward... from the Sea*, Department of the Navy, 1994 and John Dalton, Jay Johnson, C.C. Krulak, *Department of the Navy 1998 Posture Statement—Forward... from the Sea: Anytime, Anywhere*, Department of the Navy, 1998.

¹⁶ www.chinfo.navy.mil/navpalib/cno/proceedings.html and www.nwdc.navy.mil/Concepts/Sea_Power_21/Sea_power_21.aspx

product of centuries of large-scale inter-State warfare, the nuclear weapon, has effectively prevented the most significant powers, and their allies, from fighting each other. Conventional warfare has moved to the ‘Third World’, against States that do not have either nuclear weapons, or nuclear capable allies. These ‘Third World’ States are also the very same States that do not have the technical sophistication and resource base to support the modern warship. The modern ship-of-war no longer has an equally sophisticated enemy.

Against this background of geopolitical change and technological development there has also been an evolution in the area of State sovereignty expansion and oceans enclosure that has dawned the modern era of oceans governance. From *Mare Liberum*¹⁷ and the freedoms that it principled, to the ‘internationalisation of the oceans’ during the European age of discovery and the industrial revolution, and now to the rebirth of *Mare Clausum*¹⁸ and ocean jurisdiction partitioning, the oceans have progressively been exploited and as a consequence, regulated. This fundamental change in ocean usage has been reflected in, or by, the increased awareness of, and emphasis on, peacetime ‘constabulary tasking’ such as resource management, environmental protection, immigration regulation, quarantine inspection and transnational crime enforcement—the ship-of-law. Vice Admiral Shackleton makes the observation that:

Navies are being expected to participate in an increasing range and tempo of operations. At the same time, navies have to keep their focus on their primary combat role. This apparent dichotomy creates a number of issues: what is the right balance for navies between a focus on combat operations and other roles? What is the risk of losing a focus on combat, yet what is the chance of being perceived as irrelevant if we do not pick up these expanding peacetime roles?¹⁹

This thesis argues that a historical trend analysis offers a further dimension in appreciating contemporary naval force structure emphasis. The thesis also argues that

¹⁷ freedom of the seas – See Hugo Grotius, ‘The Freedom of the Seas, or the Right which belongs to the Dutch to take part in the East Indian Trade’, translated by Ralph Van Deman Magoffin, in James Scott’s ed., *Carnegie Endowment for International Peace*, Oxford University Press, New York, 1916.

¹⁸ closure of the seas – See John Selden’s tractate *Mare Clausum, seu de Dominio Maris* dated 1618 (although it was not published until 1635).

¹⁹ Presentation by Vice Admiral D.J. Shackleton, AO, RAN to IMDEX 8 May 2001, titled *Regional issues which shape the strategy and development of the region's maritime forces and those of their allies*. At that time Vice Admiral Shackleton was the Chief of Navy, Royal Australian Navy.

there are at least three contemporary pressures that should be exerting more influence on a nation's naval force planning: shifting the balance of force structure from a combat and contest orientation, needed to gain control of the oceans, to a regulation and utilisation orientation, needed to govern and use the oceans. It also argues that there are 'winds of change' at play influencing modern naval force capability development and that the determination of Admiral Shackleton's perception of 'relevance' should be influenced by these three contemporary pressures. They are the products of historical patterns identified through imaginative expectations and disciplined by time.

To attach a practical context to these three contemporary pressures, this thesis uses Australia as a case study. Australia has been chosen as it is allied to the United States under ANZUS, and is therefore readily covered and is influenced by the security umbrella offered during the modern *Pax Americana* era. Secondly, Australia, as a regional medium power, has a Western, developed, 'First World' order national infrastructure and outlook. Australia is therefore responsive to the attributes and transformations that come about with technological change. Thirdly, Australia, as an island continent, is fundamentally maritime. The three contemporary pressures identified therefore should dominate Australia's perception of naval force 'relevance' and they should inform both Australia's naval force structure and the future direction of Australia's maritime strategy.

To argue this case, this dissertation will draw its deductions by first attempting to identify the historical cyclic patterns, trend oscillations, and the succession of linear advancements that have occurred through time, and that have influenced naval force structure development in the past. To add relativity, these patterns and trends will be conditioned by the culture and the underlying realities of their particular time. From a naval force structure perspective, this thesis will then evaluate the naval force structure changes that occurred during the sea power dominance of the imperial eras of *Pax Romana* and *Pax Britannica*, and link these pressures to our own era of *Pax Americana*. It will attempt to understand the progression and manifestation of the technological developments, in particular the advent of the nuclear weapon, that have transformed the nature of battlefields and given birth to the modern asymmetric threat. This thesis will then trace the historical evolution of ocean exploitation, of the coastal States' expansion of sovereignty into the global commons, and the coastal States' interest in controlling its

new territory. It will emphasis the ‘winds of change’ that should be applying pressure and changing the structural emphases of modern naval force structure development. Finally, it will conclude with the significance that the winds of this historical analysis are all:

- blowing in the same direction;
- influencing the force structure of modern western navies; and
- accentuating a change of emphasis away from the traditional concept of the ship-of-war and towards the ship-of-law and the ship-of-expedition across the shore.

The Contribution of Research

A host of naval strategists and historians have attempted to articulate the philosophy behind *Mare Liberum* and the geopolitical influence of military power at sea. Of these, by far the most famous was the United States’ sea power evangelist Captain Alfred Thayer Mahan (1840-1914) whose study *The Influence of Sea Power upon History 1660-1783*,²⁰ won international acclaim and persuaded a generation of political and military practitioners. Providing a more refined and intellectually analysed version of naval history was Sir Julian Corbett (1854-1922) with his *Some Principles of Maritime Strategy*,²¹ and the many articles and letters written by his student Admiral Sir Herbert Richmond (1871-1946)²² who articulated the function and value of the modern naval instrument. Most importantly, they both advocated that to secure command of the sea was a means and not an end in itself. Command of the sea is only useful for the end it serves. This dissertation seeks to rationalise that end, today, and for Australia.

Of a more contemporary nature Ken Booth’s 1979 *Navies and Foreign Policy*²³, Eric Grove’s 1990 *The Future of Sea Power*²⁴, and Harold Kearsley’s 1992 *Maritime Power and the Twenty-First Century*²⁵ all add a broader spectrum to the Navy’s utility. In particular Eric Grove’s development of Ken Booth’s sliding ‘degree of force’ pictorial²⁶

²⁰ Alfred Thayer Mahan, *The Influence of Sea Power upon History 1660-1783*, Naval Institute Press, Annapolis, 1890.

²¹ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Longmans, Green & Co, London, 1911.

²² Admiral Sir Herbert Richmond, *National Policy and Naval Strength and Other Essays*, Ernest Benn Ltd, London, 1928, *Naval Warfare*, Ernest Benn Ltd, London, 1930, *Statesmen and Sea Power*, Ernest Benn Ltd, London, 1946, and the many articles that appear in the *Naval Review*.

²³ Ken Booth, *Navies and Foreign Policy*, Holmes and Meier, New York, 1979.

²⁴ Eric Grove, *The Future of Sea Power*, Annapolis, Md., Naval Institute Press, 1990.

²⁵ Harold Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Company Ltd, Aldershot, England, 1992.

²⁶ See figure 1 in this dissertation.

displays the span of naval operations that has now been accepted as official doctrine in the larger Commonwealth navies²⁷ and underwrites this thesis in determining the breath of naval participation in the maritime tasks of diplomacy, constabulary, and military. For medium powers, Richard Hill's 1986 *Maritime Strategy For Medium Powers*²⁸ is as insightful as it is essential for the constructors of medium power naval force structure. For the United States, their own doctrinal papers starting with ...*From the Sea*²⁹ published in 1992, and the works of Norman Friedman³⁰ and Edward Rhodes,³¹ have shaped the extent of modern maritime strategic philosophy—it being reflective of the global geopolitical circumstance of the modern world.

Likewise, a host of academics, environmentalists, international lawyers, and maritime practitioners have attempted to rationalise the strategic significance of an increasingly complex array of rules and guidelines dealing with what States can and cannot do in ocean areas, and how they can exercise their rights, duties and obligations. First and foremost amongst these rules is the 1982 United Nations Convention on the Law of the Sea. It codifies a comprehensive legal framework and imposes basic obligations within an unprecedented regime for marine environmental protection and 'soft law' instruments dealing with the oceans and activities at sea.³² Within Australasia the many

²⁷ Australia, Canada, United Kingdom and New Zealand. See Commonwealth of Australia, *Australian Maritime Doctrine*, Defence Publishing Service, Canberra, 2000 and New Zealand Ministry of Defence, *Maritime Forces Review—Key findings*, January 2002.

²⁸ Richard Hill, *Maritime Strategy for Medium Powers*, Croom Helm, London, 1986.

²⁹ Sean O'Keefe, Frank B. Kelso II, and C.E. Mundy Jr, ...*From the Sea: Preparing the Naval Service for the 21st Century*, Department of the Navy, September 1992, Reprinted in U.S. Naval Institute *Proceedings*, November 1992.

See also John H. Dalton, J.M. Boorda, and Carl E. Mundy Jr, *Forward... from the Sea*, Department of the Navy, 1994 and John Dalton, Jay Johnson, C.C. Krulak, *Department of the Navy 1998 Posture Statement—Forward... from the Sea: Anytime, Anywhere*, Department of the Navy, 1998.

³⁰ Norman Friedman, *Seapower as Strategy: Navies and National Interests*, Naval Institute Press, Annapolis, 2001.

³¹ Edward Rhodes '...From the Sea and Back Again: Naval Power in the Second American Century' *Naval War College Review*, Spring 1999, Volume L11, Number 2, 15.

³² 'A growing number of detailed international agreements on the protection of the marine environment, as well as the utilisation, conservation and management of marine resources have been adopted under the unifying framework of the Convention. One of the most significant is Chapter 17 of Agenda 21, negotiated during the 1992 United Nations Conference on Environment and Development (Earth Summit) as a complement to the Convention.' For further information see *Oceans: The Source of Life – UN Convention on the Law of the Sea 20th Anniversary (1882-2002)*, http://www.un.org/Dept/los/convention_agreements/convention_20years/oceansourceoflife.pdf viewed 11 January 2005. Also 'While the regime for the oceans is commonly viewed within the context of a general, universal convention for the law of the sea, the contemporary scope of global oceans law extends far beyond that single instrument. Indeed, the law of the sea is broad, far-reaching and reflective of the increasingly complex, interdependent nature of contemporary international relations. In this regard, by the end of the 20th Century there has emerged a pronounced trend towards worldwide participation in and adherence to the multifaceted legal regime established to manage the oceans

published articles of Sam Bateman³³, Andrew Mack³⁴, James Goldrick³⁵, Martin Tsamenyi³⁶, and Dick Sherwood³⁷ all come to the fore. However, very few have taken the next step of proposing to restructure naval forces to meet these changing national maritime interests, although all note ‘the need’ whether through civilian agencies or the existing military structures.³⁸ Of the established international naval historians and strategists, Nien-Tsu Alfred Hu,³⁹ James Cable,⁴⁰ and Ken Booth⁴¹ all emphasise that a coastal State’s obligations under the Law of the Sea Convention should influence its maritime constabulary competence, and Geoffrey Till, in his most recent book *‘Seapower: A Guide for the Twenty-first Century’*,⁴² stresses the growing salience of ‘good order at sea’ issues such as maritime transport, resource protection, sovereignty control and environmental protection. However, they do not enter into the entirety of the force structure debate as it pertains to the vital interests of the State; the fundamental strategic rationale as to why a navy exists. In particular, Geoffrey Till suggests that these new constabulary roles be best undertaken by the general-purpose utility of the modern warship; arguably a very expensive option, one that is beyond the resources of

... Viewed as an integrated whole, these agreements comprise at the beginning of the 21st Century an intertwined, sophisticated international legal regime for managing ocean activities.’ Christopher C. Joyner, ‘The international ocean regime at the new millennium: a survey of contemporary legal order’, *Ocean & Coastal Management*, Number 43, 2000.

³³ Sam Bateman & Dick Sherwood (eds), *Ocean Management Policy: The Strategic Dimension. Wollongong Papers on Maritime Policy*, University of Wollongong, Australia, 1994, and Sam Bateman & M. Ward (eds), *Australia’s Maritime Interests – Views From Overseas – Occasional Papers in Maritime Affairs: 6*, Australian Centre for Maritime Studies Incorporated, Canberra, 1990.

³⁴ Andrew Mack (ed) *A Peaceful Ocean?*, Allen & Unwin, Sydney, 1993.

³⁵ James Goldrick, ‘Medium Power Navy’, *Maritime Strategies in Asia*, White Lotus Press, Thailand, 2002, 62.

³⁶ Martin Tsamenyi, Sam Bateman & J. Delaney, (eds), *The United Nations Convention on the Law of the Sea: What it Means to Australia and Australia’s Marine Industries*, Wollongong Papers on Maritime Policy No.3, University of Wollongong, Australia, 1996 and Martin Tsamenyi and M. Herriman, (eds), *Rights and Responsibilities in the Maritime Environment: National and International Dilemmas*, Wollongong Papers on Maritime Policy No.5, University of Wollongong, Australia, 1996.

³⁷ Dick Sherwood, *The Navy and National Security: The Peacetime Dimension – Canberra Papers on Strategy and Defence*, Strategic and Defence Studies Centre, Canberra, 1994; Dick Sherwood, ‘The Utility of Navies in Peacetime’, in *Issues in Maritime Strategy: Presentations of the Royal Australian Navy Maritime Studies Program*, edited by G. Cox, Directorate of Publishing Defence Centre, Canberra, 1994; and David Wilson and Dick Sherwood, (eds), *Ocean Governance and Maritime Strategy*, Allen and Unwin, St Leonards, NSW, 2000.

³⁸ See also Eric Grove ‘The security of shipping: a global perspective’, *Maritime Studies*, Number 99, Mar/Apr 98, 34-27 and ‘Sea Power in the twenty first century: the 1995 ANI Vernon Parker Memorial Oration’, *Journal of the Australian Naval Institute*, Volume 21, No 3, August/October 1995, 8-12.

³⁹ See Nien-Tsu Alfred Hu and James K. Oliver, ‘A Framework for Small Navy Theory: The 1982 U.N. Law of the Sea Convention’, *Naval War College Review*, 41, no. 2, Spring 1988, 37-48.

⁴⁰ See James Cable, *Diplomacy At Sea*, Macmillan, London, 1985.

⁴¹ See Ken Booth, *Navies And Foreign Policy and Law, Force and Diplomacy at Sea*, Allen and Unwin, London, 1985.

many coastal States in the numbers that are needed to exercise control in their newly acquired real-estate.

The contribution of this thesis is to suggest that next step. That the post-Cold War *démarche* has not resulted in any breakthrough in strategic theory, but, rather in a recrudescence of the application of ‘naval force’ in areas such as power projection from the sea (expeditionary) and constabulary operations, at the expense of operational plans that emphasise large-scale naval confrontations. This thesis argues these points through the historical impression of geopolitical evolution and the re-emergence of the historical patterns (or oscillations) that have occurred under the single sea power dominating eras of *Pax Romana* and *Pax Britannica*, and now *Pax Americana*. For Australia, it argues that her preoccupation with a very tenuous ‘conventional invasion’ force structure imperative and the defence of the sea-air gap between the Australian mainland and the Indonesian archipelago is conceptually weak and strategically outdated. The future threats to Australia’s maritime interests will take other forms, such as neo-nationalist guerrilla movements, religious fundamentalism, terrorism, new age mercenaries, pirates, people smugglers and global crime syndicates. While there is no suggestion in this thesis that expeditionary and constabulary tasks should ever become the Navy’s absolute pre-eminent influence in force structure planning, it does suggest that if the pincers of financial stringency were to invest in the navy’s inter-State warfighting role as a forlorn hope, it may be desirable to give a greater priority to the changing maritime interests of the State and to the real tasks that might actually be encountered. It is a matter of planning emphasis, operational relevance, and fleet balance.

Methods and Sources

This thesis is primarily a normative study of a leading contemporary strategic issue based on historical analysis. It is a study in naval strategic geopolitical ascendancies and the implications these may have for naval force structure planning. In its setting are the strategic hypotheses promoted by Captain Alfred Thayer Mahan USN, Sir Julian Corbett and Admiral Sir Herbert Richmond that have influenced the modern era. It has also been seasoned by a personal career in naval force capability development and naval

⁴² Geoffrey Till, *Seapower: A Guide for the Twenty-first Century*. See also his books *Maritime Strategy and the Nuclear Age*, 2nd edition, Macmillan, London, 1984; and *Modern Sea Power – Volume I*, Brassey’s, London, 1987.

operations that has created an intuitive scepticism that ‘bigger’⁴³, brighter and more gigabytes’ might not necessarily be better—might not even be relevant.

The dissertation uses five types of sources: official policy documents and statements primarily from the United Nations, the United States and Australia’s Defence doctrine and White Papers; published studies, articles, dissertations and historical texts; news reports, newspaper articles and media broadcast interviews; historical treaties, papal bulls and proclamations; and discussions, lectures and presentations undertaken at the Australian Command and Staff College over the period of four years that the author was first a member of the project team and then as directing staff.⁴⁴

The only caveat that needs to be registered is that this dissertation seeks to demonstrate the historical paradigms that have created new resource pressures in naval force structure planning, and it emphasises a prominence in specialist power projection and constabulary platforms. In undertaking this task, the zealousness in argument should not be interpreted as pre-eminence, but only as a change in relative emphasis. The essence of a Navy must remain its military character. Latent violence is the Navy’s currency for diplomatic impact, law enforcement credibility, and as the ultimate protector of the State’s maritime interests.

Chapter Structure

The next Chapter, *Navies as Instruments of National Policy*, informs the reader on the role of navies, the span of maritime operations, and the historical evolution of maritime strategy. It argues that navies, as the traditional effectors of maritime strategy, have always fulfilled a much wider function than just shipping protection and fighting battles at sea. Navies exist in order to use the sea to further their nation’s interests. It emphasises the modern strategic concept of ‘Sea Control’ and how this concept has focused contemporary Australian naval force structure development onto a ‘combat and contest’ orientation. It then introduces the historical challenge to this orientation, when Sea Control is given, when the adversary does not align itself to comparable degrees of

⁴³ In this context ‘bigger’ infers more expensive, not necessarily an increase in size. Warship costs are more heavily influenced by the weapons, sensors and shock standards contained within, rather than the physical amount of steel needed for their construction.

⁴⁴ 2000-2003 inclusive. Also includes a period on the staff of the Royal Australian Navy Staff College at Balmoral, Sydney.

military sophistication, and when the national requirements are not ‘contest’ focused. Having challenged the ‘*status quo*’ this chapter presents a stylistic diagram representing the changing prominence of naval force structural pressures that are argued in this thesis. It establishes the core premise for which the remaining chapters will focus their arguments.

Chapter Three, *Sea Power Dominance—The Empires of Pax Romana and Pax Britannica*, introduces the first of the three main hypothesis⁴⁵ by following the changing force structure of the Roman and British navies as they adapted to their geo-strategic dominance in Sea Power. Initially it traces the rise of Rome’s military power at sea through three periods of time: (1) the First and Second Punic Wars; (2) Mithridate’s control of the Aegean Sea and the Cilician pirate scourge; and (3) Augustus Caesar’s transformation of the Imperial Roman Navy after the battle of Actium. Through these eras the Chapter will demonstrate the organisational evolution that occurred in structuring for major fleet actions compared to structuring for regional control, the differences between the need to exercise control and the need to create the security to control, and the naval reorganisation that reflected the changing maritime interests of the State. In the Chapter’s second part, these same organisational evolutions are again demonstrated when evaluating the structure of the Royal Navy during the century that followed the defeat of Napoleon; when Britannia ‘ruled the waves’. The Chapter looks at the interdependence and connectivity of the strategic economic triangle commonly referred to as ‘trade, colonies and the navy’ and the distribution and functional employment of the Royal Navy as it adapted to the changing interests of the State; from fleet to constabulary squadrons, and then back to fleet again when Britain’s interests were threatened.

Having established the organisational evolutionary patterns that appeared during these eras of Sea Power dominance, Chapter Four *The Empire of Pax Americana* applies them to the modern era. First it addresses the transformation of the United States Navy post-Cold War in establishing a stable global maritime environment, the strategic deterrence

⁴⁵ The first supposition contends that we have entered the era of *Pax Americana*—an era of unchallenged maritime supremacy. Like the eras of *Pax Romana* and *Pax Britannica* before it, with *Pax Americana* ruling the oceans and guaranteeing the freedom of navigation, there is now an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the

it offers against anyone challenging the emerging international order, and the growing confidence it has in declaring its military supremacy and its position of undeniable authority in a unipolar world. This Chapter establishes the United States Navy's marked shift in naval strategy away from contesting command of the open oceans towards the capacity to exercise the command it already has—the same organisational patterns that were implemented by Rome and Britain. Within the American imperium, and its global order and naval hegemony, this chapter also explores the changing maritime paradigms associated with the triumph of American-styled capitalism, economic globalisation and modern mercantile commerce, and the growing crisis of the nation State. The Chapter will challenge the traditional foundation of modern naval force structure: a foundation that has been premised on inter-State conflict.

Chapter Five, *The Asymmetric Response to Technology* introduces the second hypothesis, that the character of warfare has changed, that conventional warfare has moved to the Third World against States that do not have the technical skills and resource base to support the modern warship, and that the traditional ship-of-war no longer has an equally sophisticated enemy. In particular the Chapter looks at how nuclear weapons have effectively prevented the major powers, and their allies, from fighting each other. This theme is further developed with the historical progression of major warship construction, as they became 'time pieces' of their nation's technical sophistication and resource base. It will argue that today, we are starting to see warships having rather less intrinsic value than the network of systems that they integrate with, while still requiring the numbers that are needed for the execution of governance control. The Chapter concludes by suggesting the 'end' of inter-State warfare as history knows it, and that conventional warfare has moved to the 'Third World' and to non-State actors.

The third hypothesis concerns the historical trend of State sovereignty expansion and oceans enclosure that has dawned the modern era of oceans' governance. This development is introduced in Chapter Six, *The Great Oceanic Common*, which traces the encroachments onto the universal freedoms of the High Seas from the 1494 Treaty of Tordesillas, through to the Second Hague Conference. The Chapter provides

seas—combat and contest—and towards those naval forces that are going to use the sea control given to them—regulation and utilisation.

understanding of the historical legal arguments advanced by Hugo Grotius and John Selden, and the role that the ‘prize’ courts had in determining the nature of international shipping freedoms and the creation of the great oceanic common.

In contrast Chapter Seven, *Ocean Exploitation and Enclosure—Modern Oceans Governance*, informs on the nature of ocean exploitation and regulation. It looks at the issues and ‘landmark’ unilateral actions that have shaped international maritime law and eroded the traditional ‘freedoms’ of the ocean commons, in particular the 1982 United Nations Convention on the Law of the Sea. It looks at the responsibilities that are imposed on coastal States to conserve and manage their new extensions of sovereignty and sovereign rights. The Chapter concludes by arguing that the coastal State’s national interests have changed and so should their constabulary enforcement obligations.

To attach an objective perspective to these three contemporary hypotheses, this thesis uses Australia as a case study. Australia lies under the security umbrella offered by *Pax Americana*, has a Western, developed, first world order national infrastructure and outlook, and is fundamentally maritime. The three contemporary pressures identified therefore should dominate Australia’s perception of naval force ‘relevance’ and inform both the course of Australia’s maritime strategy and Australia’s naval force structure. Chapter Eight, *Australia’s Maritime Strategic Imperatives* will look at Australia’s strategic imperatives. Chapter Nine, *Naval Force Structure Implications: An Australian Case Study*, will look at the naval force structural implications of these imperatives. Collectively these two Chapters will draw together the threads and historical emphasis of this thesis.

In determining Australia’s strategic imperatives, Chapter Eight will first outline Australia’s current force structure planning criterion and its existing maritime strategic outlook, and challenge its contemporary relevancy. It will then research the military and political ‘watershed’ of the East Timor commitment and use this to identify the expeditionary requirement. From a constabulary perspective, it will look at Australia’s strategic imperative to manage its offshore estate, and its inheritance of a number of ‘good order at sea’ concerns: the Timor Sea Joint Petroleum Development Area, the Antarctic Treaty System and, of recent public focus, the 1951 United Nations Convention Relating to the Status of Refugees. It will follow the reluctant, although

inevitable, transition of political thinking regarding the military's involvement in 'peace-time' surveillance and response constabulary operations, and the party-political positions that now exist. The Chapter will argue that with growing confidence in regional engagement and humanitarian intervention, and the expansion of State sovereignty and a new awareness of maritime governance, Australia's vital interests have fundamentally changed.

Chapter Nine extrapolates these vital interests and links them to Australia's naval force development. It will conclude by arguing that the relative emphasis in naval force structure should replicate the changing interests of the State, and that added resources should be afforded to expeditionary and constabulary capabilities.

The conclusion summarises the popular debate over relevance and expectation, closing with the theme of this dissertation—that there is now an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the seas (combat and contest) and towards those naval forces that are going to use the sea control given to them (regulation and utilisation).

CHAPTER TWO

NAVIES AS INSTRUMENTS OF NATIONAL POLICY

The interrelationship between sea wealth, a State's maritime domain and defence is not accidental. EEZs grew out of desire by States to protect their accessible natural resources. For the EEZ is a concept that basically encompasses the continental shelf and it is within this area that the easily (in relative terms) accessible marine resources are to be found.

Harold J. Kearsley, 1992 ¹

This Chapter concerns the role of navies, the span of maritime operations, and the historical evolution of maritime strategic thought. The Chapter will argue that navies, as the traditional implementors of maritime strategy, have always fulfilled a much wider function than just shipping protection and fighting battles at sea. Navies exist in order to use the sea to further their national interests. It will emphasise the modern strategic concept of 'Sea Control' and how this concept has focused contemporary Australian naval force structure development to a 'combat and contest' orientation. The Chapter then introduces a historical challenge to this orientation by asking the hypothetical questions of what happens to the traditional concepts informing contemporary capability development, when Sea Control is given, when the adversary does not align itself to comparable degrees of military sophistication, and when the national requirements are no longer 'contest' focused? Having challenged the status quo, the Chapter concludes with a stylistic diagram representing the changing prominence of naval force structural pressures that are argued in this thesis. It therefore establishes the core premise for which the remaining chapters of this thesis will focus their argument.

The Span of Maritime Operations

According to the United Nations Global Environmental Facility, the three greatest threats to the coastal State's maritime well-being are ocean pollution from land-based sources, overexploitation and unregulated fishing of the living marine resources, and the physical alteration or destruction of marine habitats caused primarily by the spreading of human population.² Add to this the expansion of shipping and the advances in hydrocarbon and mineral exploration, and the rise of marine activity based pollution, then our appreciation of coastal ecosystems stress is heightened, as is our understanding

¹ Harold Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Company, Aldershot, 136.

of the importance of the oceans to the health of the adjacent State. This intensification of both users and uses of the oceans, which initially arose with the technological revolutions of the early 20th Century, have created new perceptions as to what the national interests of coastal States are, and an awareness of their importance to the national well-being. In the words of Alfred Thayer Mahan: ‘The necessity of a navy, ... springs, therefore from the existence of peaceful shipping, and disappears with it.’³ But the experiences of the 20th Century have suggested otherwise; that navies, as the State’s instrument in maritime enforcement, exist not only to fight battles and protect shipping but to protect their State’s maritime well-being.⁴ Navies exist in order to use the sea to further their national interests; to guarantee the safe passage of trade and people, the exploitation of resources, to further their nation’s wealth and security, and for the projection of influence to ensure an external environment conducive to the creation of that national wealth and security. This is summarised by Admiral Don Pilling as:

Our naval service is no longer predominately an insurance policy for war, but an essential and complex tool for shaping the environment, reacting to crisis, preserving the peace, and building partnerships and coalitions that enhance stability and peace on a global level.⁵

Ken Booth⁶ best exemplifies the wider function of the span of naval operations with this adaptation of his triad of naval roles:

- the projection of power by exercising control over the oceans in times of peace and conflict—the **combat** or **military** role;
- the projection of national influence either through a passive presence, regional engagement or coercion—the **diplomatic** or **foreign policy** role; and
- the protection of national sovereignty and ocean resource governance—the **constabulary** or **policing** role.

² Source: *Oceans Source of Life*,
http://www.un.org/Dept/los/convenmtion_agreements/convention_20years/oceansourceoflife.pdf
 viewed 11 January 2005.

³ Alfred Thayer Mahan *The Influence of Sea Power upon History 1660-1783*, Sampson Low Marston, London, 1890, 22-3.

⁴ D. Boothly, ‘Sailing Under New Colours’, *USNI Proceedings*, July 1992.

⁵ Admiral Don Pilling, Vice Chief of Naval Operations, United States Navy as cited in *Turning to the Sea: America’s Ocean Future*, US Department of Commerce, Washington, D.C., 2 September 1999, 26.

⁶ Ken Booth, *Navies and Foreign Policy*, Croom Helm, London, 1977, 16.

It is appropriate the naval combat role is listed first, for the essence of navies will always be their military character; actual or latent violence is their currency. It is a navy's ability to threaten and use force that gives meaning to its other roles—latent violence derives the navy's diplomatic strength and law enforcement credibility. 'However remote war might sometimes seem, it is from their fighting ability that warships have their ultimate significance. By their latent potentiality in peace they can affect the management of politics amongst nations...' ⁷ But it should also be appreciated that the threat or use of armed force is only the dramatic tip of the iceberg of coercive diplomacy. Most applications are less sensational and often more effective. ⁸ Nevertheless 'when a surface ship is about there is little doubt that it is there. It may assuage or alarm, be emollient or abrasive, but it will be noticed.' ⁹

A navy is the only service that can carry, and concentrate, the national image of sovereignty to other States. Its diplomatic potential is therefore reflective in the message that wants to be conveyed—reassurance, goodwill, engagement, coercion, political support, or power demonstration. ¹⁰ There have been many occasions where warships and auxiliaries have come to the aid of foreign States in times of disaster or emergency. Maritime diplomacy thus 'spans a continuum from routine diplomatic persuasion to near uninhibited military action. ...[although] the objective of 'Maritime Diplomacy' is to exploit power rather than to expend ammunition. ...Its impact, thanks to the precedent set by centuries of use, is heavily psychological, despite a military presence.' ¹¹ It comes back to the image that needs to be conveyed; power demonstration or regional engagement.

Likewise, the third leg of the triad, the naval constabulary role, is also enshrined in the traditional employment contexts of naval doctrine: '...the idea of constabulary operations is particularly valuable because it emphasises the historically close—and continuing—relationship between maritime forces and domestic and international law

⁷ *ibid.*, 24.

⁸ James Cable, *Diplomacy at Sea*, Macmillan Press, Basingstoke, 1985, 17.

⁹ Richard Hill, *Maritime Strategy for Medium Powers*, Croom Helm, London, 1986, 161.

¹⁰ RAN examples range from benign port visits to show the flag to more coercive role; such as in 1987 when RAN warships exerted a coercive influence during the Fiji coup (Operation Morris Dance) to ensure the safety of Australian citizens. Source: *Semaphore, Newsletter of the Sea Power Centre – Australia*, 'The Roles and Tasks of Maritime Forces', Department of Defence, Issue 13, November 2004.

¹¹ Harold Kearsley, *Maritime Power and the Twenty-first Century*, 73.

enforcement.¹² Doctrinally, constabulary tasks are those obtaining their legitimacy from a legal domestic mandate or an internationally agreed order.¹³ Sir James Cable suggests that the distinction between ‘constabulary’ and ‘combat’ applies to situations when the infliction of damage becomes an end in itself.¹⁴ A better distinction is the sliding ‘degree of force employed’ pictorial derived from the ideas advanced by Ken Booth and further developed by Eric Grove that appears in *Australian Maritime Doctrine Number One*—Figure 1: *The Span of Maritime Operations*.¹⁵

Also, and of probably as much importance from an Australian perception, is the modern public opinion and political expectation of a navy and its roles. First and foremost, there is the expectation to defend sovereign ‘territory from any credible attack ... to control the air and sea approaches to our continent...’¹⁶ But within the scope of a multi-dimensional national security strategy, this expectation extends to ‘providing adequate protection against smugglers, illegal immigrants, and any potential foe—a maritime perimeter protector force ... apprehending illegal fishing vessels ... prevent disease entering through illegal landings ... search and rescue ... marine legislation enforcement, navigation aids maintenance, vessel traffic services, hydrography and oceanography.’¹⁷ The requirements of national sovereignty enforcement, maritime border protection, and ocean resource governance.

¹² *Australian Maritime Doctrine*, Defence Publishing Service, Canberra, 2000, 55.

¹³ The significant difference between military and constabulary activities is that the latter depends upon legitimacy deriving from a legal mandate, while the former, whatever the degree of force implied, threatened or exercised, is defined primarily by the national interest. *Semaphore, Newsletter of the Sea Power Centre – Australia*, ‘The Roles and Tasks of Maritime Forces’.

¹⁴ Sir James Cable, *Gunboat Diplomacy 1919-1979*, Macmillan and IISS, London, 1981, 33-40.

¹⁵ *Australian Maritime Doctrine*, 55.

Operations can drift between this triad of naval roles, for example the RAN’s activities since 1990 in the Persian Gulf region, pursuant to Australia’s commitment to enforce long-standing United Nations sanctions against Iraq initially had a constabulary role as part of the multinational Maritime Interception Force, then, with the pre-deployment of forces (Operation Bastille) the RAN’s contribution became a coercive diplomatic operation, supporting pressure on Iraq to disarm, then, with the shift to combat operations (Operation Falconer) the RAN’s role became military in nature. Following this, the RAN has supported Australia’s contribution to stabilisation and recovery operations (Operation Catalyst) – another coercive diplomatic operation. *Semaphore, Newsletter of the Sea Power Centre – Australia*, ‘The Roles and Tasks of Maritime Forces’.

¹⁶ *Defence 2000—Our Future Defence Force*, Commonwealth of Australia, Defence Publishing Service, Canberra, Chapter 6.

¹⁷ Joint Committee of Public Accounts and Audit, *Report 384 – Review of Coastwatch*, Canberra, August 2001.

Figure 1 The Span of Maritime Operations

Strategic Maritime Theory

The above contemporary ideas all have a historical legacy. Strategic theory for 'Western' maritime development was largely a phenomenon sourced in the late 19th Century. The motivations of these early theorists are the continuing subject of scholarly debate, although what is certain is that they were influenced by the land-oriented works on the study of war by Carl von Clausewitz (1780-1831)¹⁸ and Antoine Henri de Jomini (1779-1869).¹⁹ Nevertheless their collective efforts produced a systematic approach to explaining and understanding the workings of maritime strategy. The most important early actors in this process were the British historian Sir John Knox Laughton (1830-1915)²⁰ and the naval officer and analyst Vice Admiral Philip Colomb (1831-1899).²¹ Their work was considerably extended by Captain Alfred Thayer Mahan (1840-1914) of the United States Navy whose seminal book *The Influence of Sea Power upon History 1660-1783* published in 1890, appeared to 'reveal immutable rules' concerning the role of navies in international affairs that 'could be neglected only at a nation's peril.'²² Written to stimulate American interest in a larger fleet, 'this widely-read and oft-quoted book became the bible of navalists everywhere,^[23] particularly in Britain, where its author was feted and revered.'²⁴

Mahan's purport was a strategy based on selective lessons of history; in particular, the way in which Britain had developed as a global maritime power during the 17th and 18th Centuries. Mahan argued that large battle fleets, and a concentration of force, decided the control of the oceans, whereas a *guerre de course* strategy was always ineffectual; that the blockade was a very effective weapon which would sooner or later bring an enemy to its knees; that the possession of selected bases on islands or continental

¹⁸ Carl von Clausewitz, *Principles of War*, Hans W. Gafzke (translated), Germund Wilhelm Dahlquist (ed), Courier Dover Publications, 2003, unabridged reprint The Military Service Publishing Co, Pennsylvania, 1942. See also <http://www.clausewitz.com/CWZHOME/CWZBASE.htm>.

¹⁹ Henri Jomini, *The Art of War*, (translation of *Precis de l'Art de la Guerre*), Presidio Press, Novato, California 1992. See also J.D. Hittle (ed), *Jomini and His Summary of the Art of War*, Harrisburg, PA, Military Service, 1952.

²⁰ See Andrew Lambert, *Letters and Papers of Sir John Knox Laughton 1830-1915*, Navy Record Society, Volume 143, Ashgate, 2002.

²¹ Philip Colomb, *The Anglo-French Naval Wars (1689-1815)*, 1891. See the Journal for Maritime Research at <http://www.jmr.nmm.ac.uk/server/show/condJmrArticle.30/viewPage/3>.

²² M.T. Sprout, 'Mahan: Evangelist of Sea Power' in E.M. Earle (ed), *Makers of Modern Strategy*, Princeton, 1952.

²³ 'Before the end of the century it would run through 15 editions.' Andrew Lambert, 'The Shield of Empire 1815-1895', John Richard Hill (ed), *The Oxford Illustrated History of the Royal Navy*, Oxford University Press, Oxford, 1995, 195.

²⁴ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, Penguin Books Ltd, London, 1976, 182.

peripheries was more valuable than control of large land masses; that overseas colonies were vital for a nation's prosperity and that colonial trade was the most treasured commerce of all; that 'travel and traffic by water have always been easier and cheaper than by land'; that an island nation, resting secure upon its naval might, could with impunity ignore the struggles of land powers and adopt if necessary an isolationist policy; and that the rise of a country to world greatness without sea power was almost unthinkable.²⁵ Mahan's thesis was principally based on the precept that the sea was a 'great highway' over which men 'may pass in all directions' primarily to trade, as it was this capacity to trade that was the source of national wealth.²⁶ 'The dual use and control of the sea is but one link in the chain of exchange by which wealth accumulates; but it is the central link'²⁷ and naval power far more than army strength has been the decisive factor in 'the control over distant regions.'²⁸

From Mahan came the maritime implications of monopolistic mercantilism and the concurrent need for colonies; that 'sea power' held the key to national power. Nations needed huge merchant fleets and a strong Navy to protect them. Without both, maritime trade would diminish and colonial empires would crumble.²⁹ At the time 'it was as an 'evangelist of sea power' rather than as a naval historian pure and simple that he was regarded; journalists, admirals and statesmen hung upon his predictions and accepted his teachings as a virtually complete doctrine of power-politics.'³⁰ It was blatantly and unashamedly the imperialist's message.

Within a few years of publication, Mahan's book had been translated into Russian, French, Italian, Spanish, Japanese and German. Kaiser Wilhelm II confessed, 'I am now not just reading it, but devouring Captain Mahan's book. It is on board all my ships.'³¹ Such was its influence; it quickly gained European pre-eminence. In France:

²⁵ *ibid.*

²⁶ Dick Sherwood, 'The Utility of Navies in Peacetime', in G. Cox, (ed), *Issues In Maritime Strategy: Presentations of the Royal Australian Navy Maritime Studies Program*, Directorate of Publishing, Canberra, 1994, 27.

²⁷ Alfred Thayer Mahan, *The Influence of Sea Power upon History 1660-1783*, 24.

²⁸ *ibid.*

²⁹ *ibid.*

³⁰ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, 183.

³¹ As cited in David Howarth, *The Dreadnoughts*, The Seafarers Collection, Time-Life Books, Amsterdam, 1979, 24-5.

If we wish to become a great commercial democracy, which will necessitate a great development of our mercantile marine and important progress in our Colonial Empire, we must possess a fleet of such strength that no other power can dominate to our detriment the European waters on which our harbours are situated, or the oceans where our merchant ships circulate.³²

However, nowhere did Mahan meet with such immediate and overwhelming success as in England, his writings being such a timely analysis of the causes that had made Britain great. His volumes were reviewed eulogistically in newspapers and periodicals, one in the *Edinburgh Review* in October 1890 extending to 33 pages. ‘Mahan became practically the naval Mohammed of England. There was hardly a professional paper or discussion at the Royal United Service Institution which did not quote from Mahan’s writings.’³³ When he visited England in 1894 he dined with the Queen and the Prime Minister, was awarded honorary degrees by Oxford and Cambridge, and entertained as guest of honour by the Royal Navy Club; the first foreigner to receive this honour.³⁴ In retrospect, Lord Sydenham of Combe recalls that Mahan’s book ‘powerfully reinforced our propaganda at this period. For the first time we had a philosophy of sea power built upon history from the days of the Punic Wars.’³⁵ By asserting that battle fleets had determined control of the sea during the age of sail, Mahan provided the stimulus for battleship construction during the advent of the ‘mechanisation’ revolution in technology which led to the prominence of the rationalist’s ‘material’ school of maritime strategic thought,³⁶ and the global strategic struggle that was now developing. That he ignored the specific advances in modern technology (submarine, torpedo etc...), the larger strategic questions of trade protection, amphibious operations, economic power, international law and the whole arena of limited warfare and colonial pacification, were lost in the romance for the ‘firm maintenance of sea power and the haughty determination to make it felt’.³⁷

³² Translated from J.I. de Lanessan, *Le Programme Maritime de 1900-1906*, 1903, Paris.

³³ Arthur Marder, *The Anatomy of British Sea Power*, Frank Cass & Co Ltd, London, 47.

³⁴ *ibid.*

³⁵ Lord Sydenham of Combe, (Sir George S. Clarke) *My Working Life*, London, 1924, 144.

³⁶ Material School of Maritime Strategic Thought—The material school relies on the assumption that the dominant military hardware or weapon—the material strength—at a given time creates such an overwhelming superiority that it alone generally satisfies the nation’s defence needs. This line of thinking is usually concerned primarily with waging or deterring total war between the superpowers. In the industrial and scientific environment since the early 19th century, such technological determinism has tended to dominate strategic thinking. Source: Maritime Strategy Reader, Australian Command and Staff College, Weston Creek Campus, Canberra.

³⁷ Prime Minister William Gladstone (Great Britain) as cited in David Howarth, *The Dreadnoughts*, 25.

If Mahan erred on the side of material absolutism, then Sir Julian Corbett (1854-1922)³⁸ provided a more refined and intellectually argued version of naval historical analysis,³⁹ although his major 1911 thesis on the principles of maritime strategy⁴⁰ was published too late to affect the imperial rivalries leading up to the Great War. Corbett identified that the ‘function of the fleet, the object for which it was always employed, has been threefold; firstly, to support or obstruct diplomatic effort; secondly, to protect or destroy commerce; and thirdly, to further or hinder military operations ashore.’⁴¹ The command of the sea, he argued, is a means to an end: and this has been constantly lost sight of in naval policy.

We forget what happened in the old wars; we blind ourselves by looking only on the dramatic moments of naval history; we come unconsciously to assume that the defeat of the enemy’s fleet solves all problems, and that we are always free and able to apply this apparently simple solution. Thus, until quite recent years, naval thought had tended to confine itself to the perfection of the weapon and to neglect the art of using it. Or, in other words, it had come to feel its sole concern was fighting, and had forgotten the art of making war.⁴²

Like his contemporaries, Corbett was unconvinced about the potential effectiveness of new technologies (torpedo boats and crude submarines) and thus he also minimised the difficulties of protecting trade. Trade defence was to hold the terminals in strength ‘by means of a battle-squadron.’⁴³ They were constituted defended areas and the trade was regarded as safe when it entered them. The intervening trade-routes were left, as a rule,

³⁸ ‘Sir Julian Corbett, naval historian and strategist, who evolved sophisticated ideas about the strategic roles of navies which were not properly understood within the United Kingdom. Corbett’s views about the use of navies to influence the war on land focused on combined operations and the protection of trade at the expense of wishful thinking for a decisive action between opposing battle fleets.’ Source: James Goldrick, ‘The Battleship Fleet: The Test of War, 1895-1919’ John Richard Hill (ed), *The Oxford Illustrated History of the Royal Navy*.

³⁹ Historical School of Maritime Strategic Thought—The historical school of maritime strategic thought rejects the determinism of the material school by examining the past conduct of competing nations in order to understand all historical forces at work and thus the various alternative approaches to strategic problems. Along with the problems of waging or deterring total wars, historical strategists are also concerned with limited war and with the diplomatic and legal aspects and alternatives to conflict. Source: Maritime Strategy Reader, Australian Command and Staff College, Western Creek Campus, Canberra.

⁴⁰ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Longmans, Green and Co., London, 1911.

⁴¹ Sir Julian Corbett 1907, as quoted in ‘The Late Sir Julian Corbett’ *Naval Review*, Volume XI, Number 1, February 1923, 17.

⁴² *ibid.*

⁴³ Sir Julian Corbett, *Some Principles of Maritime Strategy*, 263.

undefended.⁴⁴ Notwithstanding that point, Corbett added: ‘Modern developments and changes in shipping and naval material have indeed so profoundly modified the whole conditions of commerce protection, that there is no part of strategy where historical deduction is more difficult or more liable to error.’⁴⁵

Nevertheless, Corbett did postulate that the object of naval warfare is to control sea communications—‘Command of the sea, therefore, means nothing but the control of maritime communications, whether for commercial or military purposes.’⁴⁶ He argued that ‘the fundamental requirement is the means of exercising that control.’⁴⁷ ‘Battleships alone cannot exercise control; specialisation has rendered them unfit, and too costly ever to be numerous enough. Numbers are needed for this exercise...’⁴⁸ On Numbers ‘depends our exercise of control: on the battle-fleet depends the security of control’⁴⁹. He therefore criticised the absolutism of the ‘big battleship-big battle’ determination and he spoke to the more subtle application of naval power, such as sea communications, commerce freedom, unfettered movement, amphibious operations and the whole relationship of navy/army cooperation. He recognised that ‘bigger/brighter’ may bring strategic security, even strategic ‘cover’, but numbers exercise governance control.

Most importantly for the modern era, Corbett expanded on the incomplete theories of Carl von Clausewitz to formulate guidelines for the conduct of limited wars with naval forces:

The smaller the sacrifice we demand from our opponent, the smaller presumably will be the means of resistance he will employ, and the smaller his means, the smaller will ours be required to be. Similarly the smaller our political object, the less value shall we set upon it and the more easily we shall be induced to abandon it.⁵⁰

⁴⁴ *ibid.*, 265.

⁴⁵ *ibid.*, 269.

⁴⁶ *ibid.*, 90.

⁴⁷ Sir Julian Corbett 1907, as quoted in ‘The Late Sir Julian Corbett’ *Naval Review*, Volume XI, Number 1, February 1923, 18.

⁴⁸ ‘The Late Sir Julian Corbett’ *Naval Review*, Volume XI, Number 1, February 1923, 18.

⁴⁹ *ibid.*, 19.

⁵⁰ Carl von Clausewitz, *Vom Kriege*, first translated into English by Colonel J.J. Graham in 1874. This quote from *On War* edited and translated by Michael Howard and Peter Paret, 1976, Princeton University Press, New Jersey.

And from Corbett:

The distinction between Limited and Unlimited war connoted a cardinal distinction in the methods of waging it. When the object was unlimited, and would consequently call forth your enemy's whole war effort it was evident that no firm decision of the struggle could be reached till his power was entirely crushed. ...In the case of limited object, however, the complete destruction of the enemy's armed force was beyond what was necessary. Clearly you could seize the object, and by availing yourself of the elements of strength inherent in the defensive could set up such a situation that it would cost the enemy more to turn you out than the object was worth to him.⁵¹

Corbett believed that only maritime empires could wage true limited [expeditionary] warfare:

For our ideas of true limited objects, therefore, we must leave the continental theatres and turn to mixed or maritime wars. We have to look to such cases as Canada and Havana [1762] in the Seven Years' War [1756-1763], and Cuba in the Spanish-American War [1895-1898] cases in which complete isolation of the object by naval action was possible, or to such examples as the Crimea [1853-1856] and Korea [1894-1895], where sufficient isolation was attainable by naval action owing to the length and difficulty of the enemy's land communications and to the strategical situation of the territory at stake.⁵²

The key, therefore, lay in two factors: 'deterrence' and 'geographic isolation':

'...that limited war is only permanently possible to island Powers or between Powers which are separated by sea, and then only when the Power desiring limited war is able to command the sea to such a degree as to be able to not only isolate the distant object, but also to render impossible the invasion of his home territory.'⁵³

As identified in Lord Francis Bacon's⁵⁴ famous aphorism: '...this much is certain, he that commands the sea is at great liberty and may take as much or as little of the war as he will, whereas those that be strongest by land are many times nevertheless in great straits.'

⁵¹ Sir Julian Corbett, *Some Principles of Maritime Strategy*, 42.

⁵² *ibid.*, 54.

⁵³ *ibid.*

⁵⁴ Francis Bacon, Baron Verulam, 1561-1626, English philosopher, writer, and statesman.

With Britain's overwhelming strategic forces (the Royal Navy's home fleets) the prospect of an unrestrained counterstroke would always deter foreign military adventurism in British affairs. The reality of strategic 'deterrence' achieved for Britain her command of the global common—the era of *Pax Britannica*. *Pax Britannica* extended British control across the oceans of the world to threaten European trade and European colonial territories throughout the Asian periphery. Britain also had the discretionary power to achieve strategic geographic isolation of a disputed area. 'An obvious element of strength [in limited and expeditionary warfare] is that where the geographical conditions are favourable we are able by the use of our navy to restrict the amount of force our army will have to deal with.'⁵⁵ Once an area, such as the colonies of the Empire, or even the modern day East Timor, was isolated, the area's outside routes for supply and reinforcement would be severed, and the area could be quickly conquered and pacified. Strategic isolation can also be achieved by means other than just the navy, as can be seen through the United States' War on Terrorism in Afghanistan and Iraq, as against modern day failures, such as Vietnam or the Soviet Union's invasion of Afghanistan where strategic isolation could not be achieved and the adversary maintained their outside routes for supply and reinforcement.

Also, this tract is not just restricted to colonial wars. Corbett makes the distinction of 'the potentiality for direct continental interference of a small army acting in conjunction with a dominant fleet.'⁵⁶ Such operations, Corbett argues, might take the form of insignificant coastal diversions, or as in Wellington's operations in the Peninsula 1806-1815, they become 'indistinguishable in form from the regular continental warfare.'⁵⁷ 'With 30,000 men in transports at the Downs' Emperor Napoleon once wrote 'the English can paralyse 300,000 of my army, and that will reduce us to the rank of a second-class Power.'⁵⁸ In other words, the reward for being strong at sea was the capacity it conferred to influence events ashore for that was where events were actually decided⁵⁹—the nature of expeditionary warfare.

⁵⁵ Sir Julian Corbett, *Some Principles of Maritime Strategy*, 68.

⁵⁶ *ibid.*, 57.

⁵⁷ *ibid.*, 58.

⁵⁸ Correspondance de Napoleon, xix. 421, 4 September 1871, as cited by Sir Julian Corbett, *Some Principles of Maritime Strategy*, 66.

⁵⁹ Geoffrey Till, 'Sir Julian Corbett: Ten Maritime Commandments', in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 29.

In the First World War, the nearest approach to a Corbettian strategy was the Dardanelles campaign.⁶⁰ This was, arguably ‘the one imaginative strategic idea of the war on the Allied side,’⁶¹ but its strategic possibilities ‘were thrown away by the truly appalling way in which the operation was conducted’.⁶² Although the Dardanelles campaign failed, it nevertheless reinforced the Corbettian conviction that arose from his analysis of the capture of Havana in 1762, Wolfe’s Canadian operations in the Seven Years War, Wellington’s Peninsula campaign and the Crimea War; that amphibious operations could indeed be the means by which sea power could decide the outcome of wars, through being able to strike at their enemies’ weakest points.

But more significantly was Corbett’s original tract that to secure the command of the sea was a means and not an end in itself. Admiral Sir Herbert Richmond (1871-1946) echoed the same philosophy—the ‘ultimate aim of sea power ...was control of the sea’⁶³, ‘Command of the sea is only useful for the end it serves’⁶⁴ and that ‘control of the sea is not an end in itself. It ...is a means to an end.’⁶⁵ In itself Command or Control of the sea is of little value, for it is only when that ‘Command’ or ‘Control’ is exploited that the strategic benefits can be realised.⁶⁶ Moreover, attaining command of the sea in Corbett’s time was seen to require a ‘blue-water’ battle fleet which was likely to be costly in itself and not necessarily strategically rewarding even if the enemy was destroyed. The need to assert themselves at sea often constrained the British in their capacity to exert power from the sea.⁶⁷ Corbett warned that the relentless pursuit of the ultimate ‘big battleship-big battle’, although generally admirable and effective, could be taken to excess. It could lead to a distraction from the real aim of the war. Where once

⁶⁰ ‘... on this day in 1915, a group of volunteer Australian and New Zealand soldiers, many of them teenagers, some as young as 16, had to wade ashore before dawn onto a small beach on the Gallipoli Peninsula in Turkey, in support of a ground campaign plan intended to reshape the course of the war in Europe. The campaign failed. But, over the eight months following that landing, those young ANZACs and all who joined them underwent a ‘trial by ordeal’. In total 36,000 Australian and New Zealand soldiers were killed or wounded at Gallipoli.’ Chief of the Defence Force, Admiral Chris Barrie, AO, RAN, 25 April 1999.

⁶¹ Arthur J. Marder, *From the Dardanelles to Oran*, Oxford University Press, London, 1974, 1.

⁶² Geoffrey Till, ‘Sir Julian Corbett: Ten Maritime Commandments’, 30.

⁶³ Herbert Richmond, *Naval Review*, February 1943, 43.

⁶⁴ Herbert Richmond, ‘Considerations as to the War’, 2 August 1915 as cited in Arthur Marder, *Portrait of an Admiral: the life and papers of Sir Herbert Richmond*, Jonathan Cape, London, 187.

⁶⁵ Herbert Richmond, *Naval Review*, February 1943, 30.

⁶⁶ See also Harold Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Company Ltd, Aldershot, England, 1992, 89-92.

⁶⁷ Geoffrey Till, ‘Sir Julian Corbett and the Twenty-First Century: Ten Maritime Commandments’, in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 27.

again, the reward for being strong at sea was the capacity it conferred to influence events ashore.

Sea Command and Sea Control

The concepts of 'Command of the Sea' and 'Control of the Sea' were at that time regularly interposed. Today their definitions are generally more refined. 'Command of the Sea' is defined as the possession of such a degree of superiority that one's own operations are unchallenged by the adversary, while the enemy is incapable of utilising the sea to any degree.⁶⁸ As a concept within contemporary military literature 'Command of the Sea' has been relegated into the 'practically unrealistic' basket of ideas.⁶⁹ While still theoretically achievable through the complete destruction or neutralisation of the adversary's forces, and historically valid, it became increasingly unrealistic when naval forces were being faced by the range of 20th Century threats brought about by the technological innovations of the mine, torpedo, submarine and aircraft. 'Furthermore, attempting to command the sea carried the risk of dissipating resources by a failure to recognise that the sea, unlike the land, was a dynamic medium and that the value of maritime operations was in relation to the use of the sea for movement and not for possession of the sea itself.'⁷⁰ However, these contentions are in themselves arguable and reflect a historical paradigm⁷¹ based within an era of near-continuous military contest between successive competing nation-States. Just because war has been waged overwhelmingly by nation-States, and thus for national political ends, during the last three centuries does not guarantee that this will continue to be the case forever. Should the nature of social organisation change, or should the nature of battlefields change, then so will the factors that govern war and drive our application of maritime strategic concepts.

Nevertheless the contemporary, and more acceptable, term today is 'Sea Control'. Sea Control is defined as that condition which exists when one has freedom of action to use an area of sea for one's own purposes for a period of time and, if required, deny its use

⁶⁸ *Royal Australian Navy Doctrine Number One* (RAN Doctrine 1), Commonwealth of Australia, 2000.

⁶⁹ *ibid.*

⁷⁰ *ibid.*

⁷¹ What van Creveld refers to as 'sealed, self-reinforcing, and impervious to criticism.' Source: Martin van Creveld, 'The Structure of Strategic Studies' in D. Ball and D. Horner (eds), *Strategic Studies in a Changing World: Global, Regional and Australian Perspectives*, Australian National University, Canberra, 1992, Chapter 5.

to an opponent.⁷² Control of the sea can be limited in place and in time and the required extent is determined by the task to be done. Sea Control today is very much a multi-dimensional concept as it encompasses: control of the air; control of the surface of the sea; control of the undersea water column; control of the littoral (if operating in that environment); and control of the electro-magnetic spectrum. Each of these multi-dimensional aspects is important in each warfare discipline, and to an increasing degree it also includes consideration of space-based assets. Sea Control is thus essential for the projection of maritime power.⁷³ And the military worth of an individual ship-of-war is measured by its ability to effect Sea Control—or in other words, its military worth is measured on its warfighting capability in combat and contest.

With this ‘irrefutable’ logic, historical credentials, military necessity, and political attractiveness in understanding, the quest for Sea Control, or the requirement for a navy to have the ability to assert it, has become the corner-stone of contemporary Australian naval force structure development.

Deployed in the protection of sea lines of communications [ships-of-war] have multi-dimensional capabilities and are essentially weapons of sea control ... surface combatants [are] essential to the central concept of sea control... The modern surface combatant therefore retains a vital, indeed fundamental, role to play in the future maritime force structure. Their mobility and endurance allows the flexibility to maintain a continuous presence in moving scenes of action. Their sensors and weapons work throughout the maritime battlespace and span operations against aircraft, ships and submarines, and against forces and assets ashore. ... The surface combatant thus remains a potent and flexible capability to execute the sea control requirement... Project Sea 4000, the Air Warfare Destroyer (AWD), is the project which will ensure that Australia will acquire and maintain a sea control capability into the future... The mission requirement is to provide a sea control capability for the [Australian Defence Forces]. In this way the role and mission of the AWD could perhaps better be understood in terms of a sea control combatant.⁷⁴

⁷² *Royal Australian Navy Doctrine* No. 1.

⁷³ ‘Sea Control and Surface Combatants’, *Semaphore – Newsletter of the Sea Power Centre, Australia*, Canberra, Issue 1, 2003.

⁷⁴ *ibid.*, but my emphasis underlined.

Contemporary Force Structure Capability Development

This same 'irrefutable' logic is transferred into the Royal Australian Navy's capability development processes and long term plan—Plan Blue.⁷⁵ Plan Blue 2004, for instance, takes as its start point the future Fleet, which is predicated on the capabilities proposed in the *Defence Capability Plan*.⁷⁶ It articulates Chief of Navy's strategic intent on how that Fleet is expected to operate and the issues that need to be resolved over the next 15 years to bring the future Fleet to fruition. It also sets out the strategic vision for the Navy beyond 2020 and the roles it can be expected to play in the future joint battlespace.

Plan Blue is informed by the *Navy's Innovation Strategy*.⁷⁷ This strategy has three essential phases: the identification of required future missions and effects and the development of maritime warfighting concepts, within a joint context, to achieve these; experimentation and analysis of these maritime warfighting concepts; and implementation of the validated outcomes of the concept development and experimentation process, including the development of future capability requirements and informing Navy's input to higher defence strategic guidance.⁷⁸ The maritime warfighting concepts referred to are the medium term *Maritime Operational Concept* (MOC)⁷⁹ and the longer term *Future Maritime Operational Concept* (FMOC).⁸⁰ They incorporate concepts on combat operations at sea, military support activities and shaping activities, and provide the conceptual basis for the conduct of operations within a uniquely maritime environment by a 'seamless' joint military force. The FMOC, in particular, 'is based on a maritime force being able to power project (including strike) and exert sea control within the maritime approaches'⁸¹ against a similarly sophisticated opposing maritime force (of usually, although not necessarily, a former Soviet Navy military structure and type).

The *Maritime Experimental Framework* provides the process 'within which experiments, wargames, technical demonstrations, operations research and analysis and sea trials are developed, conducted and analysed, in order to validate (or invalidate)

⁷⁵ <http://intranet.defence.gov.au/navyweg/> viewed 10 January 2005.

⁷⁶ Cheryl Durrant, 'Turning strategy into capability', *Defence*, May 2005, 22-23.

⁷⁷ *Navy Plan Green 2004-2014*, 12 July 2004, paras 4.16 - 4.22.

⁷⁸ *ibid.*

⁷⁹ Royal Australian Navy, *Maritime Operational Concept*, Department of Defence, Canberra.

⁸⁰ Royal Australian Navy, *Future Maritime Operational Concept*, Department of Defence, Canberra.

⁸¹ *Navy Plan Green 2004-2014*.

these maritime warfighting concepts and inform future capability development.’⁸² The major annual event is the two-week *Headmark* Experiment held at the Australian Command and Staff College at Western Creek, Canberra. However, once again the opposing force is a conventional, dare I say it even ‘traditional’, military capability. It is certainly a similarly sophisticated enemy using similar technology and war philosophy. Analysis, future capability development, and force structure planning, are therefore principally threat-based calculations configured primarily for high-intensity warfighting roles against a similarly sophisticated enemy. The focus remains firmly affixed to ‘combat and contest’. This is represented in Australian doctrinal publications by comparisons to the mighty ships-of-war of previous eras and the primacy of traditional warfare requirements.

The dreadnought battleship, nuclear powered submarine and the aircraft carrier were all hailed as the manifestation of the capital ship at various times during the 20th century. Today, it is the thoroughbred warship or surface combatant that provides the majority of nations with the ability to exercise power at sea ... The surface combatant’s primary mission is to establish and maintain sea control in a hostile, multi-threat environment. The surface combatant must be able to destroy or neutralise enemy submarines, aircraft, and ships, that is, to conduct effective antisubmarine, anti-air and anti-surface warfare (ASW, AAW and ASUW).⁸³

Predicably from a conceptual perspective, the manifestation of the above processes is a very ambitious, self-perpetuating, naval modernisation program that is largely ‘Sea Control’ driven, ‘combat and contest’ focused, and emphasises the ship-of-war designed ‘to fight and win in the maritime environment...’⁸⁴—the envy of any modern naval practitioner or Sea Power evangelist. It is also focused on ‘bigger/brighter’ (the assertion of strategic security) vice the ‘numbers’ that are needed to exercise constabulary or regulatory control.

⁸² *ibid.*

⁸³ *The Navy Contribution to Australian Maritime Operations*, Sea Power Centre Australia, Canberra, 2005, 85 and 91.

⁸⁴ Royal Australian Navy’s ‘Our Mission’, *Navy Plan Green 2004-2014*, para 2.2.

The Changing Emphasis for Naval Force Structure

It is not the intention of this thesis to directly challenge the Australian naval modernisation programs; only the emphasis and focus that has been used in arguing their need. There is also nothing in this dissertation that refutes the logic or the military necessity for the achievement of Sea Control in the conduct of maritime operations. Sea Control is essential for the projection of maritime power and a nation's ability to use the sea to further its own interests. But this thesis does explore the questions of what happens to these emphases and focus when Sea Control is already given, when the adversary does not align itself to comparable degrees of military sophistication, or when the national requirements are 'governance' rather than 'contest' focused?

Admiral Sir Herbert Richmond asked similar questions in a different time. He was nurtured during the advent of the 'mechanisation' revolution in technology and the rationalist's 'material' school of maritime strategic thought and argued that although the absolutism of the materialistic lobby may have resulted in a materially strong Royal Navy, it was nevertheless a force that had serious defects in application.⁸⁵ 'The brain of Jupiter had indeed produced an Athene fully armed ...It was no one's business to be sure that the poor lady could ever use her spear.'⁸⁶ 'Britain saw a tremendous technical creature rear itself up without it being generally realised that the monster's brain was not commensurate with its body.'⁸⁷ As Andrew Gordon describes the same period '...while the Royal Navy was undergoing its fifty year conversion from oak and canvas to steel and turbines, its once-clear, empiricist understanding of 'product' was pilfered from the lay-apart store by the vested interest of 'process'...'.⁸⁸ Richmond's warning was relatively understated—it may be 'imprudent to bank on prescience. Wisdom [lies in the] imaginative expectation disciplined by [the] recollection of historical

⁸⁵ For example, convoy operations to counter the German submarine threat, not realising the application of wireless communications, gun sights that needed a stable platform, blast doors and turret procedures, fleet tactics, subordinate commanders having the ability to act independently ... the list goes on, as the many analysts of the Battle of Jutland would later verify. In particular I would recommend Andrew Gordon's *Rules of the Game, Jutland and British Naval Command*, John Murray, London, 1996 to understand the culture that gave rise to this situation.

⁸⁶ *Naval Review*, Number 18, 1930, 168.

⁸⁷ D. Schurman, *Education of a Navy*, Cassell, London, 1965, 125.

⁸⁸ Andrew Gordon, *Rules of the Game, Jutland and British Naval Command*, op.cit, 576.

patterns...'⁸⁹ It is in the recollection of historical patterns and trends that we can define our expectations to evaluate the present, to then guide our future.

This is not to suggest that history always repeats itself, but that 'history is a guide to navigation in perilous times. History is who we are and why we are the way we are.'⁹⁰ History is the echo chamber in which past and present voices can mingle.⁹¹ It is within this modern echo chamber that we can now see the re-emerging domination of the Sea Power evangelist's and materialist's lobby in preparing for high-intensity inter-State war-fighting—the exotic jargonisms of cyberspace's network centrality and the influence on naval force structure of the informationalist's 'sealed, self-reinforcing, and impervious to criticism paradigms.'⁹² We can also see through the re-emergence of other historical patterns, those changes in the social organisation that are challenging the traditional perspectives that are currently driving 21st Century naval force structure ideals. Just as Harold Macmillan's 'Winds Of Change' swept through Africa in the sixties, so too are similar winds sweeping across the world's oceans today: the challenge is to first recognise them, and then to harness them.

The promised panacea of the cyber-informationist's hi-tech prognostications⁹³ and the materialist's supreme weapons need to be questioned against the material costs of 'interoperability'⁹⁴, the significance of a single military superpower, the dawning maritime interests of the nation State, and the rise of the asymmetrical threat—or more applicably, the 'imaginative expectations disciplined by the recollection of historical patterns'. Bigger, brighter and more gigabytes may not necessarily be better...or even relevant. Today, patterns are being recycled through the unipolarisation of geopolitical power, the rationalisation of where weapons technology has taken us, the realisation

⁸⁹ H.W. Richmond as cited by Daniel A. Baugh, 'Admiral Sir Herbert Richmond and the Objects of Sea Power', James Goldrick & John Hattendorf, (eds), *Mahan is not Enough—The Proceedings of a Conference on the works of Sir Julian Corbett and Admiral Sir Herbert Richmond* Naval War College Press, Newport, Rhode Island, 1993, Appendix B.

⁹⁰ David C. McCullough at http://www.wisdomquotes.com/cat_history.html viewed 18 June 2003.

⁹¹ Andrew Gordon, *Rules of the Game, Jutland and British Naval Command*.

⁹² Martin van Creveld, 'The structure of Strategic Studies', in D. Ball and David Horner (eds), *Strategic Studies in a Changing World: Global, Regional and Australian Perspectives*, Chapter 5.

⁹³ '...the new "high ground" is not aerospace, but cyberspace.' Executive Summary, United States Air Force's 2025, Air University Press, Educational Services Directorate, Maxwell Air Force Base, Presented 17 June 1996. See <http://www.au.af.mil/au/2025/monographs/E-S/e-s.htm> viewed 20 June 2002.

that changing circumstances have changed the character of warfare, and the comprehension of what ocean governance has meant to the nation State through the expansion of State sovereignty and sovereign rights.

This thesis argues that the above historical patterns and trends of maritime geopolitical evolution, technological development and oceans governance can be represented as in Figure 2: *The Changing Emphasis for Naval Force Structure*. Within this diagram the upper illustration represents the current force structure balanced between the triad of roles that are represented in this thesis. As a model, it is representative of the Royal Australian Navy, where the principal resources are accorded to the ships-of-war—the general-purpose high-tech frigates. The changing prominence argued in this thesis is stylistically represented in the lower illustration, where the resource pressures are rearranged to add more emphasis to the ships-of-expedition over the shore—the specialist power projection ships—and the ships-of-law—the constabulary patrol boats and coast guard cutters. Both of these classes of warship operate under the military umbrella of ‘Sea Control’, but they concentrate on effecting the ‘end’ through the application of their ‘means’. They exploit the strategic benefits that can be realised during the modern geopolitical era of *Pax Americana*. And they are not ‘ends’ in themselves.

These illustrations should not be read to suggest that constabulary and expeditionary tasks become the Navy’s absolute pre-eminent influence in force structure planning, but that the current emphasis needs to be re-balanced so that the triad of roles can be seen as being complimentary in satisfying the vital maritime interests of the State.

⁹⁴ ‘The ability of systems, units or forces to provide the services to and accept services from other systems, units or forces and to use the services so exchanged to enable them to operate effectively together.’ Source: Australian Defence Force Publication 101, Commonwealth of Australia, Canberra.

Figure 2 The Changing Emphasis for Naval Force Structure

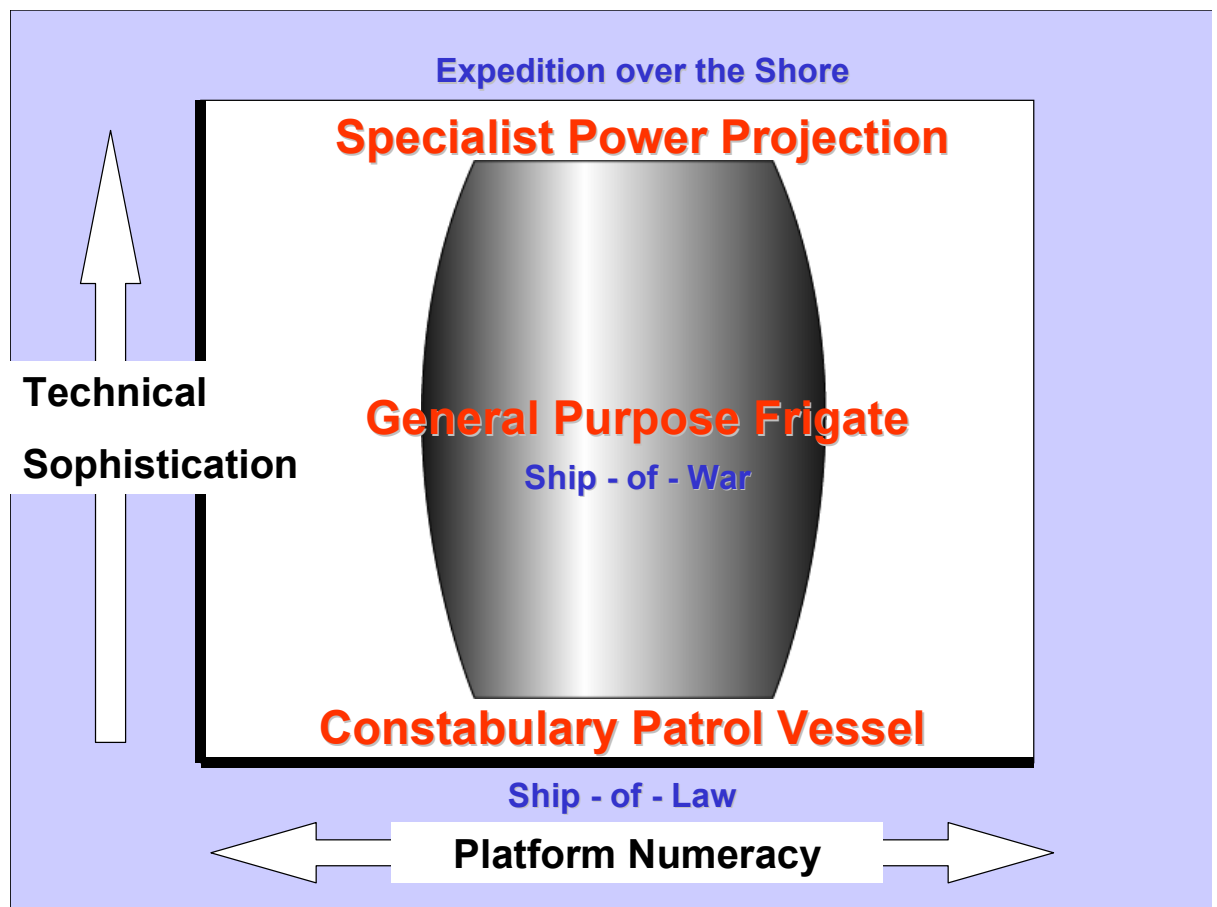
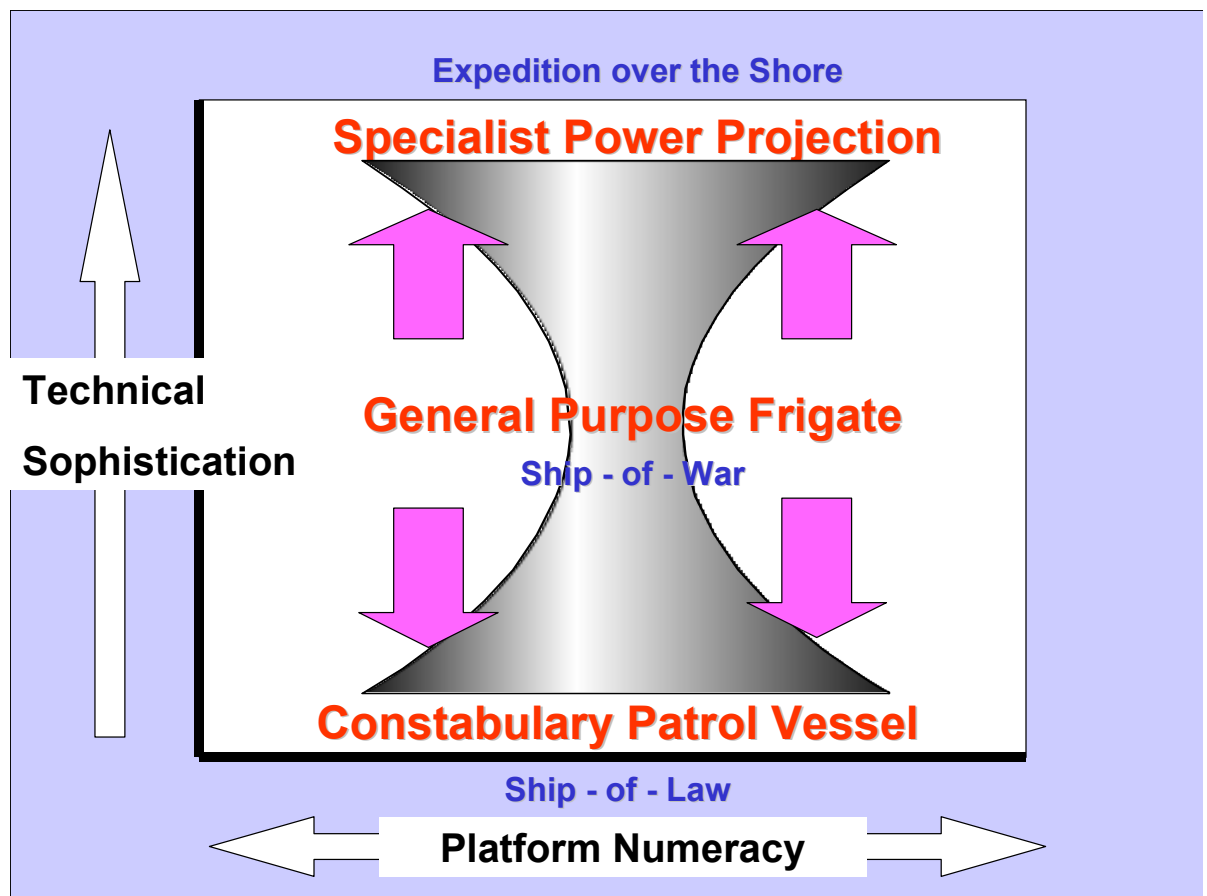


Figure 2:

The Changing Emphasis for Naval Force Structure



CHAPTER THREE

SEAPOWDER DOMINANCE – THE EMPIRES OF *PAX ROMANA* and *PAX BRITANNICA*

*The historic task of [the Roman Imperial Navy] was not to fight battles
but to render them impossible.*

Chester G. Starr, Jr., 1941 ¹

This Chapter introduces the first of three hypotheses (the naval response to the unipolarisation of geopolitical power—seapower dominance) by following the changing force structure of the Roman and British navies as they adapted their organisational focus to their new geopolitical dominance. Initially it will trace the rise of Rome’s military power at sea through three periods of time: (1) the First and Second Punic Wars; (2) Mithridate’s control of the Aegean Sea and the Cilician pirate scourge; and (3) Augustus Caesar’s transformation of the Imperial Roman Navy after the battle of Actium. By evaluating these eras, this Chapter will demonstrate the changes that occurred to the Roman naval force structure with: the organisational evolution from major fleet actions compared to structuring for regional control, the fundamental differences between the need to exercise control and the need to create the security to control, and the naval reorganisation that reflected the changing maritime interests of the State.

In the Chapter’s second part, these same organisational traits and historical patterns will again be demonstrated by evaluating the changing structure of the Royal Navy during the century that followed the defeat of Napoleon—when Britannia ‘ruled the waves’. It will look at the interdependence and connectivity of the strategic economic triangle commonly referred to as ‘trade, colonies and the navy’, and the distribution and functional employment of the Royal Navy as it evolved in response to the changing interests of the State—from fleet to constabulary squadrons, and then back to fleet again when Great Britain’s interests came under foreign threat.

The Empire of *Pax Romana*

Geo-strategically, the superior location of the Italian peninsula in the Mediterranean Sea is readily apparent. Its central position, midway between the east and the west, between

¹ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*, Greenwood Press, Connecticut, 1941, 7.

the Iberian and Peloponnesian Peninsulas, and in close touch with Africa by way of Sicily, gives it a great commercial and military advantage over the other countries surrounding the Mediterranean basin. When the Mediterranean Sea developed both as a conduit of military power and as a commercial medium, Italy was, by her natural location, directly in the centre of maritime life, whether that power and trade goes east and west, or north and south. It was therefore inevitable that the Italian cities must eventually come to contest the trade that was, circa 280 BC, being monopolised by the Phoenicians in the west and the Greeks in the east.

The rise of Roman maritime power, from the first of the three Punic Wars through to the battle of Actium and the rise of the frontier constabulary squadrons of the Imperial Roman Navy, describe an epic of technological, tactical and organisational naval development. It was the period in which both the Roman legacy and the modern strategic concept of Sea Power² were born. For the purposes of understanding the maritime geopolitical and force structural lessons to be drawn from this epic, it is necessary to look at three significant time-periods:

- the First and Second Punic Wars—264-242 BC and 219-201 BC;
- Mithridate's control of the Aegean Sea and the scourge of Cilician pirates—89-67 BC; and
- Augustus Caesar's transformation of the Imperial Roman Navy after the battle of Actium in 31 BC.

The First and Second Punic Wars

Prior to 265 BC, the Carthaginians were the Mediterranean's prominent power merchants. The city of Carthage was ruled by an aristocracy of mercantile capitalists and the city's politics was guided in every way by the demands of its commerce. Territorially, Carthage held only 600 square miles of arable land.³ Her great strength lay in her monopoly of commerce, which was achieved by occupying the outlying seaports

² The term *Sea Power* is claimed by Alfred Thayer Mahan through his works two principal meanings emerge: (1) command of the sea through naval superiority; and (2) that combination of maritime commerce, overseas possessions, and privileged access to foreign markets that produces national 'wealth and greatness'. Both meanings apply here.

³ See maps *The New Encyclopaedia Britannica*, Volume 24, 953 & 956.

of the western Mediterranean with strong mercenary garrisons.⁴ These outlying seaports became the regional centres for international business, and all were tied together and protected by a powerful navy⁵ that maintained the sea lines of communications with the imperial city. Carthage was the most prosperous industrial and commercial city in the world at that time.⁶ Along the north coasts of Africa her monopoly rested on the influence extending from Oea (Tripoli) to Tingis (Tangier) through which she controlled the hinterland of the Moors.⁷ In Spain her influence extended inland to the rich mines of the interior.⁸ She also had five colonies in Sardinia, and she took tithes from the western half of Sicily. Carthage was thus a trading centre for a population of some five million people, and her merchant nobles grew prosperous because her fleets were strong enough to drive competitive shipping out of the western Mediterranean.⁹ The frequent wars between Carthage and the Greek colonies of Sicily and southern Italy were the consequence of the commercial rivalry that existed between them.

As Rome's influence expanded through victory against the Samnites¹⁰ in central Italy, and as a consequence of repelling Pyrrhus of Epirus'¹¹ invasion attempt at Beneventum in 275 BC, she gained such military dominance on the Italian peninsula that the Greek colonies there were forced to receive her garrisons, and come under her protection as allies.¹² Rome, progressively even inadvertently, became destined to champion the Hellenic civilisation's trading heritage, and when the last of these Greek colonies, Tarentum, fell to Roman control in 272 BC Rome became the single greatest trading opponent to Carthage in the Mediterranean. War with Carthage appears to have been

⁴ See James Larry Taulbee, 'Mercenaries and Citizens: A Comparison of the Armies of Carthage and Rome', *Small Wars and Insurgencies*, Volume 9, Number 3, Winter 1998, 1-16.

⁵ *The New Encyclopaedia Britannica*, Volume 29, 590.

⁶ R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, Fourth Edition, Harper Collins Publishers, New York, 1993, 62-3.

⁷ *The New Encyclopaedia Britannica*, Volume 24, 950.

⁸ *ibid*, Volume 28, 19.

⁹ This entire section on the Punic Wars is predominately based on Vice Admiral William Ledyard Rodgers USN (Rtd) account extracted from William Rodgers, *Greek and Roman Naval Warfare: A Study of Strategy, Tactics, and Ship Design from Salamis (480 BC) to Actium (31 BC)*, Naval Institute Press, Annapolis, Maryland, 1937 (Reprinted 1977).

¹⁰ The word Samnites was not the name used by the Samnites themselves, which was the Oscan form of the word that appears in Latin as Sambini. The word's ending seems to be connected with the name by which they were known to the Greeks of Cumae. See <http://42.1911encyclopedia.org/S/SA/SAMNITES.html> viewed 26 March 2004.

¹¹ See <http://ancienthistory.about.com/cs/people/a/pyrrhus.html> viewed 22 March 2004.

¹² See Sanderson Beck, 'Roman Expansion to 133 BC' at <http://www.san.beck.org/EC24-RomanExpansion.html> viewed 12 March 2004.

inevitable as Rome relentlessly encroached upon Carthage's former domination of the "world's" markets.¹³

The occasion that actually brought on the war was an incident in itself not important. A band of Italian mercenary soldiers, having been discharged, had seized the Sicilian city of Messana in 264 BC. Syracuse,¹⁴ the dominant Greek colony in Sicily, sought revenge and the mercenaries sought protection.¹⁵ When the Roman troops reached Messana, they found a Carthaginian garrison already in possession. They drove out this garrison, and with this action began a series of momentous wars that were not definitively decided until more than 100 years had passed (264-146 BC). The Punic Wars decided first the fate of Sicily, and later the destiny of the Mediterranean world.

The First Punic War¹⁶ was waged on the island of Sicily and the sea around it.¹⁷ On land the Romans were at first successful. Their victories won the alliance of the city of Syracuse, 263 BC, and together they drove the Carthaginians into the very westernmost part of Sicily. But, at that same time the Carthaginian navy was pillaging the coasts of Italy and inflicting immense damage upon the commerce of Rome and many of her allies. It became apparent to the Senate in 261 BC that Rome must have a fleet, both to protect its own coasts and as a preliminary to developing military strength in Sicily.

Polybius¹⁸ (c.200-118 BC) tells us that the Romans knew nothing of the construction of ships-of-war and so copied a Carthaginian galley¹⁹ that had run aground on the Italian

¹³ See also David Mason 'The Origins of the Roman Imperial Navy', *Roman Britain and the Roman Navy*, Tempus Publishing Ltd, Gloucestershire, 2003, 15-16.

¹⁴ *The New Encyclopaedia Britannica*, Volume 1, 143; Volume 4, 110; & Volume 11, 468.

¹⁵ See *Crisis at Messana* at www.barca.fsnet.co.uk/punic1-beginning.html viewed 18 March 2004.

¹⁶ *The New Encyclopaedia Britannica*, Volume 9, 800; Volume 10, 153; & Volume 20, 287 & map on page 288.

¹⁷ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, Weidenfeld and Nicolson, London, 1986, 16-17.

¹⁸ Polybius was an intellectual taken by Rome from Achaia. While a prisoner he gained Scipio Aemilianus' favour and went with him on military campaigns. Polybius recorded the history of the Punic Wars, actually witnessing the destruction of Cathage. See www.barca.fsnet.co.uk/polybius.html viewed 26 March 2004.

¹⁹ The oared fighting ship of the Mediterranean dating from about 3,000BC and lasting until the 18th Century AD. Originally propelled by oars arranged on a single level, galleys were developed with oars arranged in banks, or different levels, known as biremes (two banks), triremes (three banks), quadremes and even quinqueremes. The weapon of the galley was the ram, a pointed spur fixed to the bow of the galley on or just below the waterline. In the 16th and 17th Centuries guns were mounted on a platform in the bows of the galleys, but they could not be trained and could only fire directly ahead.

coast. Using this as a model, they built 100 quinqueremes and 20 triremes.²⁰ While the ships were building, the crews were collected and trained on land for rowing.²¹ In reality, at that time, Rome was not entirely without a navy:²² after the subjection of the Greek colonies in southern Italy several of these cities furnished ships instead of soldiers as their military contingents. Nevertheless, during the initial engagements the more manoeuvrable Punic fleet proved to be able to choose their range for engagement, or could back away with little penalty after a successful ram stroke or a side swipe on the Roman oars. In response the Romans invented a radical contrivance for holding ships alongside whenever they attempted to ram. This device was called the "corvus".²³ It was a sort of bridge, 36 feet long by four feet wide, suspended in the air by rope and pulley upon a 24 foot pole at the ship's prow. At the end of the bridge was a heavy iron spike in the shape of a raven's beak. The whole mechanism could be swung from side to side. As the ships of the Punic fleet approached, whether from the front or from the side, the Romans swung the corvus over and let it drop, smashing into the enemy's deck. Once both ships were grappled together, the Roman soldiers could storm across.

In 260 BC, off the headland of Mylae,²⁴ the Roman consul Gaius Duilius (300-225 BC) won an important victory over the over-confident Carthaginians. Polybius tells the story of the Carthaginians attacking '...with joy and alacrity, feeling supreme contempt for the Roman ignorance of seamanship.' But the Carthaginians were unable to counter the corvus tactics and lost 50 ships during the action.²⁵ When the expedition under the consul Marcus Atilius Regulus²⁶ set out to invade northern Africa in 256 BC, it was met near the southern shore of Sicily, off Mt. Ecnomus,²⁷ by the Carthaginian fleet. Again the Carthaginians suffered a horrific defeat. Polybius gives some startling figures as to the numbers engaged in the battle:

²⁰ Warships depicted on coins of the period (known as the 'Prow Series') may represent these vessels which are characterised by a deep projection or oarbox along their sides.

²¹ Polybius, I, chapter 22, as cited in William Westermann, 'The Story of the Ancient Nations', <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004.

²² 'Naval Warfare' R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, Fourth Edition, Harper Collins Publishers, New York, 1993, 46.

²³ See Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 15; and <http://www.crystalinks.com/romenavy.html> and www.barca.fsnet.co.uk/rome-navy.html both viewed 2 March 2004.

²⁴ R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 67.

²⁵ *The New Encyclopaedia Britannica*, Volume 29, 590.

²⁶ See http://38.1911encyclopedia.org/R/REGULUS_MARCUS_ATILIUS.html viewed 26 March 2004.

²⁷ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 16; and R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 67.

The total number of men making up the [Roman] naval force amounted to nearly 140,000, reckoning each ship as carrying 300 rowers and 120 soldiers. The Carthaginians, on the other hand, made their preparations almost exclusively with a view to a naval engagement. Their numbers, if we reckon by the number of their ships, were over 150,000 men.²⁸

After the defeat of the Regulus' army in Africa (255 BC), 'through a combination of over-confidence and bad luck'²⁹ the war dragged on with no decisive result. The victories which Roman ingenuity wrested from the Carthaginians at sea were offset by their losses through sudden storms, or by reckless attempts to sail in bad weather. Toward the end of the war Hamilcar Barca³⁰ (c.290-229/228), then a young Punic noble, was given charge of the Carthaginian troops in western Sicily, and proved himself during the siege of the last two Punic held cities, Drepanum and Lilybaeum.³¹ But in 242 BC the Carthaginian fleet was again defeated in the battle of the Aegates Islands. By this time the Carthaginian treasury was empty, and the government gave Hamilcar the authority to negotiate a graceful end of hostilities with Rome. He agreed to withdraw all Carthaginian troops from Sicily, and to pay reparations of 2,200 talents as indemnity for her expenses in the war. Thus Sicily, with the exception of the Greek kingdom of Syracuse, became a part of the domain of the Roman State.

The strategic feature of the war was the entire dependence of both sides on sea power for the control of Sicily. Each had possession of half the island at the beginning. It was impossible for either to expel the other unless the fleet of one could cut off the sea communications of the other's army. In the latter part of the war when Rome had possession of the whole island except the two cities in the west, she could not subdue them until she had a fleet able to cut off supplies by sea—the enduring strategic concept of geographic isolation that Sir Julian Corbett would eventually argue.

With victory, Rome's trade increased not only with Sicily and Sardinia, but also up into the northern parts of the Adriatic Sea where she discovered the scourge of State

²⁸ Polybius, I, chapter 26, as quoted by William Westermann, *The Story of the Ancient Nations*, <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004.

²⁹ David Mason, 'The Origins of the Roman Navy', *Roman Britain and the Roman Navy*, Tempus Publishing Ltd, Gloucestershire, 2003, 16.

³⁰ See <http://www.barca.fsnet.co.uk/hamilcar.html> viewed 16 March 2004; and *The New Encyclopaedia Britannica*, Volume 5, 658.

³¹ R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 67-68.

sponsored piracy. The kingdom of Illyria (the Balkans) was in reality supported almost entirely by its piratical raids against both the Peloponnesian and Italian peninsulas. Rome took up the war against the pirate State (229-228 BC) with 200 ships and a consular army of 20,000 men and through two wars eventually subdued it.³² As a result, Rome became 'a global' maritime protector guaranteeing the freedom of navigation of the Greek traders along the Adriatic Sea, thereby drawing her inevitably into the turmoil of Greek inter-city politics.

While Rome busied with these wars, Carthage progressively re-established her empire in Spain under the generalship of Hamilcar, his three sons, Hannibal,³³ Hasdrubal, and Mago, and his son-in-law Hasdrual. All of southeastern Spain, excepting the Iberian city of Saguntum, fell under Carthaginian sway. With this city Rome formed an alliance with the purpose of making it the northern limit of the Carthaginian advance. Over the 229/8 BC winter, Hamilcar died in battle and was succeeded by his son-in-law Hasdrual, who pushed the Punic advance onward towards the Iberus River. In 221 BC Hasdrual was assassinated and Hannibal (247-183 BC) was hailed as the new leader.³⁴

In 219 BC, Hannibal sacked the city of Saguntum,³⁵ and marched towards Italy. Five months later the Punic army reached the Po Valley after a particularly difficult passage through the Alps,³⁶ for the army had crossed at the start of the snow. Now with only 26,000 men, less than half of the force that had originally departed from Spain, the Punic forces faced the armies of Rome. For the next 15 years Rome exerted every effort to drive Hannibal out of Italy.³⁷ The Celts of northern Italy eagerly joined the Carthaginian ranks, but Hannibal was deceived in his hope that the remaining Italian tribes would desert Rome and regard him as their liberator from Roman oppression. Despite this unity, the loss of life suffered by the armies of Rome and her allies in the first three years of the war was appalling. In December 218 BC, on the banks of Trebia River, Roman forces were ambushed and lost 20,000 men.³⁸ In the following year the

³² See Dan Diffendale, 'The First and Second Illyrian Wars, and incidental operations', at http://www.archeologia.com/roman_navy/illyrian.html viewed at 10 December 2002.

³³ See Adel Beshara, *Hannibal Barca: Military Genius*, at <http://www.ssnpc.com/hannibal> and <http://I-cias.com/e.o/hannibal.html> both viewed 26 March 2004.

³⁴ *ibid.*

³⁵ R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 68-69.

³⁶ *The New Encyclopaedia Britannica*, Volume 23, 435.

³⁷ R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 69-72.

³⁸ *ibid.*

Roman consul Gaius Flaminius led his army into a death trap³⁹ in a small, crescent-like plain on the shores of Lake Trasimene in central Italy. The Roman army was destroyed, with 15,000 captured and 15,000 killed.⁴⁰ In 216 BC the Romans left 70,000 dead and wounded upon the field near Cannae.⁴¹ This was Rome's darkest hour. Capua and other Greek cities of southern Italy revolted and offered aid to Hannibal. Syracuse threw off its old alliance with Rome and sought to regain the leadership of Sicily.⁴² Philip V of Macedon also allied himself with the Carthaginians, and promised to send troops to aid them in Italy: a promise that was only countered by the Roman fleet actions around Euboea and Aetolia.

Yet slowly, year by year, the Romans regained the initiative. In 212 BC Syracuse was captured. In 211 BC Capua was retaken. From the year 210 BC the Romans, under Cornelius Scipio⁴³ (236-184 BC), began to make progress against the Carthaginian armies in Spain. In 208 BC Hasdrubal crossed the western Pyrenees and wintered in southern Gaul with 30,000 Iberian reinforcements. They were trapped there and defeated⁴⁴ by the armies of Marcus Salinator and Caius Nero near the Metaurus River. Scipio's plan to end the war was to attack Carthage itself and, accordingly, he sailed across to Africa in 205-4 BC with 'an expeditionary force, including cavalry, siege engines and supplies; [all] conveyed by a fleet of nearly 400 transports accompanied by 40 quinqueremes and 10 quadriremes.'⁴⁵ Carthage recalled Hannibal from Italy to conduct its defence. In 202 BC Hannibal suffered his first major defeat in the battle of Zama,⁴⁶ and in 201 BC Carthage agreed to accept the Roman conditions of peace. She was to pay 10,000 talents in yearly instalments of 200 talents for fifty years, to give up

³⁹ See <http://www.barca.fsnet.co.uk/punic2-trasimene.htm> viewed 7 February 2005; and *The New Encyclopaedia Britannica*, Volume 11, 904.

⁴⁰ *ibid.*

⁴¹ *The New Encyclopaedia Britannica*, Volume 2, 803; 'Battle of Cannae', R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 72-73; and Geoffrey Parker (ed), *Cambridge Illustrated History of Warfare*, Cambridge University Press, Cambridge, 1995, 48-49.

⁴² See <http://www.unrv.com/provinces/sicilia.php> viewed 23 July 2003.

⁴³ Publius Cornelius Scipio Africanus Maior (also known as Scipio Africanus the Elder) hailed from one of the great patrician families of Rome – the Cornelii. See www.ga.k12.pa.us/academics/MS/8th/romanhis/scipio.html viewed 26 March 2004 and H.G. Wells 'Rome and Carthage' at <http://www.bartleby.com/86/32.html> viewed 12 March 2004.

⁴⁴ 'Battle of Metaurus', R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 76.

⁴⁵ Livy 29.25.3 as quoted in David Mason, 'The Origins of the Roman Navy', *Roman Britain and the Roman Navy*, Tempus Publishing Ltd, Gloucestershire, 2003, 17.

⁴⁶ *The New Encyclopaedia Britannica*, Volume 10, 554; and 'Battle of Zama 202BC', R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 77-78.

all her war elephants, and all but ten of her ships.⁴⁷ Spain had already been lost and was now ceded to Rome, and Carthage agreed to wage no war without Rome's consent.

This treaty eliminated Carthage from the list of the great Mediterranean powers. Without any overwhelming naval victory and without absolute or complete command of the seas at all times, it was Roman sea power that was again the indispensable factor in the Roman strategy that wore down the Carthaginian strength and eventually brought it victory. The overwhelming superiority of the Roman fleet gave the Romans control of the Tyrrhenian Sea and along the present Riviera as far as the territories of their ally, Massilia. In Sicily, Rome held the fortified ports of Panormus, Lilybaeum, and Messana. From Sicily she commanded the coasts of southern Italy, and through the city of Brundisium, passage across the Adriatic. South of a line from northern Spain to Sicily, control of the sea lay with Carthage, although both sides occasionally cross-raided into the other's area. In the end, the outcome of the war turned on the superior ability of Rome to preserve lines of supply over seas for her people and her fighting armies against the diplomatic and military efforts of Hannibal to break those lines and substitute his own.⁴⁸ It was Roman Sea Power in the form of the battle fleets of the ship-of-war⁴⁹ that obliged Hannibal to invade Italy through Gaul and across the Alps. It was Roman Sea Power that permitted Rome to maintain the struggle in Spain until victory was achieved, that countered Philip of Macedon from reinforcing and supporting the Punic forces in Italy, that reduced the aid Carthage was able to send to Hannibal, and that finally allowed Scipio to mount the expedition to cross the Mediterranean and be supplied from Sicily for two years in Africa, until such time as his legionaries could overcome the Carthaginian fortifications at home. And it was the control of sea lines of communication and mercantile commerce that were both the means of victory and the prize of war.

Mithridate and the Scourge of Cilician Pirates

We now move on 100 years, after the wars against Philip V of Macedon, Antiochus III of the Seleucid Empire⁵⁰ in modern day Syria, and the levelling of Carthage in 146 BC.

⁴⁷ *ibid.*

⁴⁸ Vice Admiral William Rodgers USN (Rtd), *Greek and Roman Naval Warfare: A Study of Strategy, Tactics, and Ship Design from Salamis (480 BC) to Actium (31 BC)*, 317.

⁴⁹ 'Naval Organisation and Tactics', R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 82-83.

⁵⁰ R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 96-97.

During this time naval affairs attracted comparatively little attention. The Romans were in virtual control of all the Mediterranean Sea and as they moved their armies about they needed shipping for transport and supply,⁵¹ but encountered little opposition from hostile fleets. Under these conditions of supremacy Rome paid no heed to replace her powerful ships-of-war that had enabled her to win the conflict against Hannibal and which covered the expeditionary forces of Scipio into Africa. Rome did, however, depend more and more on the local squadrons maintained by her maritime clients, such as Rhodes, for the regulation of mercantile commerce and its defence against local piracy—the ships-of-law. But on this occasion, the Senate's demand for a naval peace dividend nearly went too far. The false peace of the sea, which had rested on the general naval disarmament dictated by Rome in the early 2nd Century BC, was first broken by the invasion from Mithridates and then by the menace of the Cilician pirates.⁵²

Mithridates VI⁵³ (c.131-63 BC) had come to the throne of Pontus, in modern day northern Turkey, as a boy about eleven years old. Prior to 90 BC he had extended his kingdom until it included all the lands bordering on the Black Sea. To the north, it stretched beyond the Tauric Chersonese almost to the Ister River. When he tried to extend his territory into Asia Minor over Lesser Armenia and Cappadocia, he came into conflict with States dependent upon Rome. Asia Minor, even the Greek cities, hailed the Pontic prince as its liberator from Roman oppression, and the Roman province of Asia Minor quickly fell under his control. In 88 BC, the hatred engendered in the East against Rome showed itself when all Italians living in Asia Minor—men, women, and children, slaves and free alike—were slaughtered. The number slain is given as 80,000.⁵⁴

Of operational significance is that Mithridates had also prepared a sizeable fleet with which he was able to first seize control of the Aegean Sea and then raise insurrections throughout Greece, including Athens. In response Rome, under the consul, and later dictator, Lucius Cornelius Sulla⁵⁵ (138-78 BC), laid siege to Piraeus⁵⁶ in 87-86 BC but

⁵¹ '...men and supplies were moved routinely by sea and whenever possible, military advance was achieved by the army moving along the coast accompanied by a fleet carrying its supplies.' Polybius 8.34.3; Livy 26.39.19; 27.1-3; 32, 14.3; 44,7,10; Plutarch *Pompey* 11.2; Tacitus *Annals* 13.53; Dio Cassius 52.25.7; Appian *Hannibal* 6.34.

⁵² Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*, 1.

⁵³ See www.bartleby.com/65/mi/Mithrada.html viewed 26 March 2004 and *The New Encyclopaedia Britannica*, Volume 8, 196.

⁵⁴ *ibid.*

⁵⁵ *The New Encyclopaedia Britannica*, Volume 11, 374.

⁵⁶ the port of Athens.

with ‘Sea Control’ Mithridates was able to resupply the besieged city at will. Later, when the siege works had so far progressed that Sulla was on the point of victory, the Pontic garrison withdrew by sea without loss. After Sulla had cleared the Peloponnesian Peninsula of Pontic armies, he was then unable to cross into Asia until he had raised sufficient vessels from Rome’s client States, the maritime cities of Syria, Phoenicia, Pamphylia, and Ionia,⁵⁷ with which to cover the army’s passage across the Hellespont. Two naval victories under Lucullus enabled Sulla to threaten Mithradates at home and negotiate a temporary peace.⁵⁸

However, preoccupied and without a substantial Roman fleet guaranteeing the freedom of navigation for over 80 years, opportunist pillaging and piracy had become a well-established commercial institution. In the northern Adriatic, where the small client States had even smaller commerce protecting squadrons, the Dalmatian pirates were already a time-honoured profession. Yet it was Mithridates’ encouragement of the Cilician (southern Turkey) pirates, during a time when the difference between privateering and piracy were not well defined, that dawned a new age of maritime adventurism. With Mithridates’ naval supremacy in the Aeagan, the Cilician pirates found their share in the war on Roman mercantile commerce most profitable and increased their numbers until they infested most of the Mediterranean basin, thereby threatening the valuable grain supply from Egypt. As summarised by William Westermann:

Starting out from the mountains along the sea-coast of Cilicia, they had extended their field of operations until their fleets now dared to loot the great temples of Delos, to rob and burn in Italy and Sicily ... Their daring went so far that they seized Roman officials within a few miles of Rome and held them for ransom⁵⁹ ... and even plunder Ostia.⁶⁰

But their presumption had by this time over-reached itself, inasmuch as they had endangered the food supply of Rome and had impaired its prestige in a way that every Roman might behold—‘The population clamoured; the senate could not resist...’⁶¹

⁵⁷ See Theodore Reinach, *Mithridate Eupator*, Paris, 1890.

⁵⁸ *The New Encyclopaedia Britannica*, Volume 8, 196.

⁵⁹ William Westermann, ‘The Story of the Ancient Nations’, <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004.

⁶⁰ Arthur Boak & William Sinnigen, ‘Rise of Pompey the Great: 78-60 BC’, *A History of Rome to AD 565*, Macmillan Publishing Company, New York, 1965, 215.

⁶¹ Chester G. Starr, Jr., *The Roman Imperial Navy 31 BC – AD 324*, Greenwood Press, Conn, 1941, 3.

In 67 BC while the Second Mithridatic War had been languishing in Asia for over 10 years, Gnaeus Pompey⁶² (106-47 BC) was granted a special imperium giving him almost unlimited authority over the whole Mediterranean and for 50 miles inland, to suppress this growing curse of piracy.⁶³ He took office for three years and was given a huge sum of money to raise a force of between 270-500⁶⁴ ships and up to 125,000 men. Pompey divided the Mediterranean into 13 districts, each with its own quasi-independent constabulary squadron, while he, with his main central force, swept the Sardinian, Sicilian, and African coasts in order to re-establish the grain convoys between Alexandria and Rome. That being accomplished, he then moved on the piratical homeland in Cilicia with 60 ships-of-war, where he met little organised resistance. His victory was hastened by the mildness shown to those who submitted. They were granted their lives and freedom and in many cases were used as colonists to revive depopulated Mediterranean towns.⁶⁵ Within three months, 13 constabulary squadrons and a covering strategic force, Pompey achieved for the security of Mediterranean commerce what the previous 100 years could not.⁶⁶ Pompey's tactics are another striking example of the philosophies that Sir Julian Corbett recognised nearly 2,000 years later—on Numbers 'depends our exercise of control: on the battle-fleet depends the security of control...'⁶⁷

Following these actions Pompey urged that the Roman State should henceforth support a standing navy. Evidence suggests that such a standing force patrolled the Adriatic and Tyrrhenian Seas, at a cost of 4,300,000 sesterces in 62 BC,⁶⁸ and that the governor of Asia exacted funds from the maritime cities for the maintenance of an Aegean squadron. However, by 59 BC these forces appear to have been disbanded and laid up.⁶⁹

⁶² Gnaeus Pompeius Magnus (Pompey the Great), – See <http://heraklia.fws1.com/contemporaries/pompy/> viewed 26 March 2004.

⁶³ *The New Encyclopaedia Britannica*, Volume 18, 612 & Volume 20, 292.

⁶⁴ The exact numbers vary with different references. A great part of his fleet undoubtedly was furnished by the Greek cities, which were probably more eager to put their whole resources at his disposal than they had been to lend them to Rome in the Mithridatic wars. See Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*, 3.

⁶⁵ Arthur Boak & William Sinnigen, 'Rise of Pompey the Great: 78-60 BC', 215.

⁶⁶ The scale of his operations and victory is indicated by an inscribed tablet set up in 62 BC to commemorate his triumph which recorded, apparently, the capture of over 600 ships with bronze rams. See Appian *Mithridates* 116-7.

⁶⁷ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Longmans, Green and Co., London, 1911.

⁶⁸ See the many references cited in Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*, 9.

⁶⁹ *ibid.*

The Imperial Roman Navy

Without belittling the significance of the civil wars, political cleansing and social emaciations of Rome that were drawn out of the antagonism between the *optimates* and *populares* political factions, it is now necessary to concentrate on the events that transformed the Roman Imperial Navy after the great naval battle of Actium in 31 BC.⁷⁰ The battle arose from a bloody struggle between the eastern, under Antonius⁷¹ and Cleopatra VII⁷² of the Ptolemaic dynasty in Egypt, and the western, under Octavian and Marcus Agrippa, halves of the State and clearly demonstrated the true significance of sea power. Armies were transported, reinforcements by sea were interdicted, amphibious landings were undertaken to outflank the opposition, blockades of coastal cities were undertaken, and the tactic of cutting off Rome's grain supply was successfully employed. There were also major sea-battles such as Cumae, Mylai and Naulochus.⁷³ At one time there had been as many as a thousand Roman ships-of-war engaged in the Mediterranean.⁷⁴ The Battle of Actium decided the ultimate outcome of over 60 years of civil war and established an Imperial form of government that remained for the next three centuries: the influence of which is felt to this day.⁷⁵

After Actium, Octavian was master of the Roman world.⁷⁶ By a series of special grants, the Senate gave him powers that made him, effectively, the monarch of the State. He took the title Augustus—'the reverend one', a title normally referred only to gods, and claimed proconsular power over the frontier provinces, in which almost all the legions were stationed—Spain, Gaul, and Syria. With these provinces and their armies under his control he could be without fear of any serious insurrection against him. After Actium, Augustus was also left with a fleet of some 700 ships of various sizes, ranging from

⁷⁰ See Preston Chesser, 'The Battle of Actium' at <http://www.ehistory.com/world/articles/ArticleView.cfm?AID=16> viewed 12 March 2004, R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 126-127; Also Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 17.

⁷¹ *The New Encyclopaedia Britannica*, Volume 1, 468.

⁷² *The New Encyclopaedia Britannica*, Volume 3, 377.

⁷³ David Manson, 'The Origins of the Roman Imperial Navy', <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004, 18.

⁷⁴ *ibid.*

⁷⁵ *The New Encyclopaedia Britannica*, Volume 10, 153 & Volume 20, 306.

⁷⁶ 'The Pax Romana AD1-200', R. Ernest Dupuy & Trevor N. Dupuy (eds), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, 135-143.

heavy transports to light galleys—liburnae,⁷⁷ which were his private property and manned with slaves and freedmen of his own personal service. To the best of Antonius' ships he reinforced by transfers from his own fleet and formed it into a new squadron to be based at Forum Iulii (Fréjus), in southern Gaul. With this act the history of the Roman Imperial Navy formally begins.⁷⁸

Forum Iulii was at this time a new municipality, a colony of veterans from Caesar's Eighth Legion that he had settled as a check on nearby city of Massilia.⁷⁹ Augustus had first used Forum Iulii as a naval base during the civil wars: through extensive construction of moles and quays he had converted a lagoon of the Argenteus River into a good harbour for both naval and commercial purposes.⁸⁰ The fleet at Forum Iulii thereafter guarded the coastal regions of Gaul and Spain, and could land forces far up the River Rhone. However, as Gaul became more obviously pacified and the Alpine and Cantabrian Wars (25-14 BC and 26-19 BC) were brought to a close, the secluded remoteness of Forum Iulii from the empire as a whole became apparent.

Further bases were needed to protect Italy itself and, more significantly, the grain supply to Rome and the Adriatic from Egypt, Sicily and Syria. The city of Misenum on the Bay of Naples was chosen and considerable harbour works and buildings were completed during the period 27-15 BC. Eventually, this port grew into the most important naval base throughout the Imperial times, and its fleet—*Classis Misenensis*—had a standing force of over 10,000 sailors and probably up to 50 triremes.⁸¹ From Misenum naval squadrons would regularly deploy to Sardinia, Corsica and along the western Italian coast. At Puteoli, at the mouth of the Tiber, a permanent naval detachment arranged the activities of senators and equites 'who went forth to their provincial posts'⁸² on Misene ships, and supervised the transshipment of the grain supply into river craft for Rome. 'The chief standing duty of the Misene fleet as a police force was the maintenance of peace in the Tyrrhenian Sea. The uncivilised inhabitants of

⁷⁷ The liburnae, or liburnian, was a borrowed design that originated along the Dalmatian coast. Half the beam of a trireme, it had almost the same number of oars and was considerably faster. 'Liburnians became the ship killers in the battle line. If you were an important government official and needed to get somewhere fast, the liburnian was your ship.'

<http://www.row2k.com/columns/index.cfm?action=read&ID=44> viewed 11 March 2004.

⁷⁸ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*.

⁷⁹ See <http://www.univ.trieste.it/~epilab/ForIulii96/Not2Fi.html> viewed 14 August 2003.

⁸⁰ See <http://www.roman-empire.net/army/leg-fleet.html> viewed 14 August 2003.

⁸¹ Epigraphical evidence has preserved the names of some 80 Misene ships of all classes in AD 68/9. To what extent the strength of the fleet fluctuated is not known.

⁸² Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*, 15.

Sardinia and Corsica presented the chief danger; on these islands, accordingly, stations were early established.⁸³

The other preatorian naval base was established between 25-23 BC at Ravenna⁸⁴ on the Adriatic just south of the mouth of the River Po. Its fleet—*Classis Ravennas*—consisted of an estimated standing force of 5,000 sailors and maybe up to 25 triremes.⁸⁵ The harbour was designed only for naval use: a lagoon on the Adriatic, two miles distant from the city and fortified by moles, a *pharos* (lighthouse), and a *castra* (fortress). At the head of the Adriatic, Ravenna was strategically located to counter the piratical activities extending from Dalmatia and Illyria, should they arise. A detachment of the Ravennate Fleet was stationed at Solona, the capital Dalmatia, and another may have been based at Aquileia.⁸⁶ Further afield, the Ravennate fleet acted chiefly in the role of strategic support to the Misene fleet. Inscriptions from Ravennate sailors are found at Piraeus and even as far away as Spain. So while both fleets had their base and detachments at strategic ports on the Tyrrhenian and Adriatic Seas, the naval history of the Empire suggests that they were both active throughout the Mediterranean.⁸⁷

Together with these strategic home fleets at Misenum and Ravenna,⁸⁸ the Roman Imperial Navy also consisted of a number of independent colonial naval squadrons (provincial fleets) in Egypt, Syria, Mauretania, the Black Sea, the English Channel, and the Rhine and Danube Rivers.⁸⁹ The river flotillas on the northern frontier are known to be Augustan in origin, as are the Egyptian and Syrian squadrons; the remainder were gradually fashioned when the shifting stresses within the empire produced their need. Their system of organisation was that of a mixed naval and military unit and while they resembled their parent home fleets, they were essentially provincial in scope and control.⁹⁰ Each was assigned to its particular province, in which it had one or two bases, and as a rule it took its name from this province—for example *Classis Syriaca* and *Classis Britannica*. Each squadron normally operated only within the bounds or sphere of the province in conjunction with the other forces under the provincial governor,

⁸³ *ibid.*

⁸⁴ *The New Encyclopaedia Britannica*, Volume 9, 958.

⁸⁵ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*.

⁸⁶ David Mason, 'The Origins of the Roman Imperial Navy', *Roman Britain and the Roman Navy*, <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004, 19-20.

⁸⁷ *ibid.*, 18.

⁸⁸ *ibid.*, 19-20.

⁸⁹ See Figure 3: *Pax Romana – The Roman Empire 1AD*.

⁹⁰ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*.

although there are a number of examples where squadrons operated out of area to meet wider imperial commitments.⁹¹

In Egypt, for example, Augustus founded the Alexandrine fleet from the remnants of the once great Ptolemaic Navy.⁹² In the Julian-Claudian period, the fleet was styled simply *Classis* in the fashion of the Italian fleets; however under Vespasian it was rewarded with the title *Classis Augusta Alexandrina*. Whatever fears Augustus may have had, Egypt proved to be one of the most peaceful provinces in the Empire at least until the 3rd Century, and the Alexandrine fleet had few occasions for displaying its military worth. Nevertheless its primary function was that of keeping Egypt loyal and preventing any challenger from striking at the Egyptian end of the grain convoys from Alexandria to Puteoli and Ostia.⁹³ This duty was achieved by its mere existence—strategic deterrence. While home-ported in Alexandria, the squadron also had a detachment along the African coast at Caesarea when Mauretania became a province and the squadron may have been responsible for supporting the armies sent there under Claudius.⁹⁴ The Alexandrine fleet also: ‘...discouraged any petty marauding in Cyrenaica and the delta; it constituted a police force which the governors of unruly Alexandria might use in small or greater street affrays; but chiefly, it may be judged, the fleet enforced the strict regulations of that port.’⁹⁵

⁹¹ *ibid.*

⁹² *The New Encyclopaedia Britannica*, Volume 29, 589.

⁹³ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*.

⁹⁴ *ibid.*

⁹⁵ See Alexandrian regulations: *Gnomon* 64-66; jos., B.I. 4. 612-613 Erich Leider, *Der Handel von Alexandria*, Hamburg, 1934. Caesar, B.C. 3. 111. 3, notes a detachment of 22 ships ‘*quae praesidii causa Alexandriae esse consuerant*’ as cited in Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*, 120.

Figure 3: *Pax Romana* – The Roman Empire

Along the northern frontiers squadrons were created to meet the needs along the coasts and rivers as the empire expanded. The conquest of Britain involved massive naval preparations. Ships were assembled at Gesoraicum (Boulogne) and this harbour remained the main base for the *Classis Britannica*.⁹⁶ The fleet naturally played a vital part in the conquest of Britain by logistically supporting and re-deploying Roman legions along the British coast. One of the finest recorded achievements in the conquest of Britain is the circumnavigation of the British Isles under Agricola, proving that Britain was actually an island. In AD 83 the fleet was also used to soften opposition in Scotland by making coastal raids against the larger Scottish settlements and support bases; it also discovered the Orkney islands.⁹⁷

In the campaign against the Germans, the Rhine was both a conduit of power and a medium for logistical support. Squadrons of the fleet were operating along the lower stretches of the river as early as 12 BC under Drusus the Elder (38-9 BC),⁹⁸ but with as yet little understanding of the tides his ships on one occasion were left high and dry in the Zuyder Zee and his forces were only saved by his Frisian allies. Drusus also constructed a canal to shorten the distance from the Rhine to the North Sea. His son, Germanicus, used this canal in AD 15, during one of his many campaigns into the hinterland.⁹⁹ The headquarters of the German fleet, the fleet of the Rhine, or *Classis Germanica*, was at Alteburg near the double legionary fortress and later *colonia* at Cologne. There were probably other stations lower down the river, especially near the mouth where navigation became hazardous. The other fleets of the northern frontier were *Classis Pannonica* and *Classis Moesica*. The exploits of the latter are graphically depicted in the spiral band of reliefs on Trajan's Column in Rome that, although specifically illustrating the conquest of Dacia in AD 101-6, also provide a general impression of the navy's role within a major campaign¹⁰⁰—see the inserts in Figure 3: *Pax Romana* – The Roman Empire 1AD.

However, of relevance to this thesis is the re-establishment of the organisational foundation arguably created by Pompey in 67 BC. Without a monolithic enemy at sea

⁹⁶ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*.

⁹⁷ *ibid.*

⁹⁸ *ibid.* See also David Mason, 'The Origins of the Roman Imperial Navy', *Roman Britain and the Roman Navy*, <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004, 22-26.

⁹⁹ Chester G. Starr, Jr., *The Roman Imperial Navy 31 B.C. – A.D. 324*.

¹⁰⁰ See David Mason, 'The Origins of the Roman Imperial Navy', *Roman Britain and the Roman Navy*.

the employment and force structure of the Roman Imperial Navy rested on the covering strategic forces of *Classis Misenensis* and *Classis Ravennas*—the home fleets of the ships-of-war ensuring the strategic security of Rome—and a number of independent frontier fleets that can more easily be equated to the regional regulatory responsibilities of the ships-of-law. And yet again we see the Corbettian philosophy concerning the fundamental differences between the need to exercise governance control and the need to create the security to control. The functional employment of the Roman Imperial Navy was therefore structured to reflect the changing maritime interests of the State—changes that would influence naval force structure towards regulatory and army-support capabilities. Within its role as *Pax Romana*, Roman sea power was openly being used as the global servant of mankind by keeping order on every shore and protecting equally the traders of every nation, throughout the Mediterranean and the breath of the Roman Empire—it was in their interest to do so.

Today, 2,000 years later, the heritage of Rome is an essential ingredient of Western culture: it has shaped and been embodied in the thought, the institutions and the languages of the Western world and, through the influences of Western commercialism and globalisation, into Asia. The Roman civilisation spanned a millennium—she assembled the greatest empire the world had seen. But the size of the Empire is not the sum of Rome’s claim to greatness. The more enduring claim lies in Rome’s ability to create the environment in which military and maritime contest declined, and the stability of maritime security in which commercial freedom thrived. It was an imperium in which the intellectual and cultural achievements of the civilisations that they had conquered could be nourished and embellished, and then spread across the world to the extent of Roman influence. Roman architecture, art, literature and religion bore the unmistakable stamp of Roman power and assurance. The tangible legacy of Rome survives in the remains of noble structures: the Pantheon and the Colosseum in Rome itself; the mighty aqueducts scattered over three continents; and the roads that tied the Empire together.¹⁰¹ The intangible and more important legacy was the process of transforming a fragmented community of civilisations into a single ‘global’ identity, the enduring framework for ‘global’ public institutions, the value of individual liberty and a respect for law¹⁰² that still exists today, and a new age of mercantile discovery that

¹⁰¹ *The New Encyclopaedia Britannica*, Volume 10, 154.

¹⁰² *The New Encyclopaedia Britannica* Volume 7, 201; Volume 15, 350 & 341; Volume 16, 690; Volume 19, 78; Volume 21, 753; & Volume 28, 895.

linked southern Europe to the Asian subcontinent and China. The breadth of the Roman Empire, the Mediterranean Sea, would be commanded by a single ‘global’ power for the first time in history. Its huge basin—a vast marine highway for administrators, merchandise, and ideas—was the heart and power base of the Roman world. And as a consequence of their unchallenged maritime supremacy, there also came a change in the utility of Roman naval power, from ‘combat and conquest’ to ‘regulation and utilisation’—the era of *Pax Romana*—the peace of Rome.

While it can be said that it was the geography of the Roman Empire which enabled the Romans to move the bulk of their military supplies by sea, it is equally if not more accurate to say that it was the facility to move military supplies by ship that dictated the shape of their empire.

...the sea gave Rome an enormous advantage in being able to move men and supplies from one end of its Empire to the other far easier and faster than overland. The military advantages of speedy transport are obvious. The financial aspects, however, were equally important for in this period most of the troop carriers and supply ships were merchant vessels under contract.^[103] The cost of sea transport was thus a major factor.^[104] The logistics involved in transporting and supplying a campaign army were considerable. For example, the transportation of Pompey’s force of seven legions and its supplies from Sicily to Africa in 81 BC needed a fleet of 800 transporters.^[105] Two years earlier ...1,200 ships had carried Sulla’s army across the Adriatic^[106] ... A few decades later, a fleet of more than 600 transports^[107] was assembled to carry Caesar’s second expedition across the channel to Britain.¹⁰⁸

From a naval perspective the rise and fall of Roman maritime power provided the founding revelation of the modern strategic concept of Sea Power. Alfred Thayer Mahan realised its significance through his reading of Theodor Mommsen’s *The History*

¹⁰³ For example Livy 32.16.2-5.

¹⁰⁴ K. Hopkins, ‘The transport of staples in the Roman Empire’ in Garnsey & Whittaker (eds), *Trade and Staples in Antiquity (Greece and Roman)*, Budapest, 1982, 82 & 84.

¹⁰⁵ Plutarch *Pompey*, 11.2.

¹⁰⁶ Plutarch *Sulla*, 27.1.

¹⁰⁷ David Manson, ‘Caesar’s naval campaigns in the West, 56-54 BC’, *Roman Britain and the Roman Navy*, <http://www.sacredspiral.com/Database/rome/rome18.html> viewed 12 March 2004, Chapter 5.

¹⁰⁸ David Manson, ‘The Origins of the Roman Imperial Navy’, *Roman Britain and the Roman Navy*, 17; See also Richard Natkiel & Antony Preston, *The Weidenfeld Atlas of Maritime History*, 18.

of Rome.¹⁰⁹ The power of the Roman Navy in controlling the Sicilian Channel forced Hannibal to reroute his forces via the Mediterranean perimeter to invade Italy. Mahan wrote ‘It suddenly struck me ... how different things might have been could Hannibal have invaded Italy by sea ... or could he, after arrival, have been in free communication with Carthage by water.’¹¹⁰ In analysing this campaign, Mahan realised that the influence of Sea Power extended beyond the immediate tactical battle to a larger sphere of influence.¹¹¹ Here was the clue to the rise and fall of empires—control of the sea or the lack of it. As summarised by Vice Admiral William Rodgers USN in his study on naval strategy, tactics and ship design from Salamis (480 BC) to Actium (31 BC):

In the whole course of Roman expansion, from the First Punic War to Actium, her fleet was indispensable to Rome’s conquests... After many centuries of naval warfare, the battle of Actium established the economic unity of the Mediterranean basin and thereafter, for over three centuries, the peace of Romana prevailed over those waters...¹¹²

This was an era when the utility of Roman Sea Power was transformed from ‘combat and conquest’ and the fleet actions of the ships-of-war, to ‘regulation and utilisation.’ Where ‘the navy’s chief duties were anti-pirate patrols, ferrying dispatches and government officials, and operating in close support of the land forces’¹¹³ with the cementing of their own mercantile dominance and a naval force reorganisation that met the changing interests of the State—the requirements for the ships-of-law and expedition over the shore.

¹⁰⁹ Paret, P., *Makers of Modern Strategy: from Machiavelli to the Nuclear Age*, Clarendon Press, Oxford, 1986, 450.

¹¹⁰ Alfred Thayer Mahan, *From Sail to Steam: recollections of naval life*, Harper & Brothers, London & New York, 1907, 277.

¹¹¹ Geoffrey Till, *Maritime Strategy and the Nuclear Age*, 2nd ed., Macmillan Press, Basingstoke, 1984, 30.

¹¹² William Rodgers, *Greek and Roman Naval Warfare*, Naval Institute press, Maryland, 1937.

¹¹³ <http://www.row2k.com/columns/index.cfm?action=read&ID=44> viewed 11 March 2004.

The Empire of *Pax Britannica*

England is mistress of the seas, not by virtue of any arrogant or aggressive pretensions, but by virtue of her history, of her geographical situation, of her economic antecedents and conditions, of her Imperial position and expansion. These conditions have given the dominion of the seas to her, not by any prescriptive right, but by normal and almost natural process of evolution; and, so long as they subsist and she is true to herself, they will retain it for her.

The Times, 3 February 1902 ¹¹⁴

In the 80 or so years following the final defeat of Napoleon,¹¹⁵ when France had been eliminated as a naval power and Spain reduced to impotence, Britain enjoyed a virtually free hand in world trade and Britannia “ruled the waves.”¹¹⁶ Clive Lloyd refers to this period as when ‘British sea power exercised a wider influence than has ever been seen in the history of maritime empires.’¹¹⁷ So unchallenged did this influence appear that it can be compared to the centuries-long domination of the ‘civilised’ world by imperial Rome. A point not lost on the British Foreign Secretary Lord Palmerston during the Don Pacifico case (1850) in Greece:

...as the Roman, in days of old, held himself free from indignity, when he could say *Civis Romanus sum*, so also a British subject, in whatever land he may be, shall feel confident that the watchful eye and strong arm of England will protect him against injustice and wrong.¹¹⁸

But now ‘it was the turn of the island people of the north-west Europe to impose their rule on the world; the ‘peace of Britain’—*Pax Britannica*. The very phrase gives a twofold impression, of a long period of tranquillity efficiently and firmly supervised by the Royal Navy, and of an overwhelmingly powerful nation upon which all others were to a varying extent dependent.’¹¹⁹ This dissertation suggests that neither impression is fully correct. Nevertheless, with her industrialised infrastructure, with her predominance in commerce, transport and finance, with her extensive colonial empire, and with her

¹¹⁴ As cited in Paul Kennedy, *The Rise and Fall of British Naval Mastery*, Penguin Books Ltd, London, 1976, 149.

¹¹⁵ ‘The Napoleonic Wars’, Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 86-95.

¹¹⁶ ‘...perhaps the major advantages won by the exercise of British naval power were colonial and commercial.’ Geoffrey Parker, *Cambridge Illustrated History of Warfare*, 211; ‘Between 1815 and 1895 Great Britain was the only world power: her position reflected industrial primacy, economic power, and strategic strength.’ Andrew Lambert, ‘The Shield of the Empire 1815-1895’, John Richard Hill (ed), *The Oxford Illustrated History of the Royal Navy*.

¹¹⁷ Christopher Lloyd, *The Nation and the Navy. A History of Naval Life and Policy*, Cresset Press, London, 1961, 223.

¹¹⁸ Cited in *ibid.*, 225.

¹¹⁹ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, 149.

virtually unchallengeable naval strength, there is sufficient justification to at least seek to understand the widespread acceptance of Great Britain's 19th Century status, and the era of *Pax Britannica*.

Trade, Colonies and the Navy

The roots of *Pax Britannica* are found in the interdependence and connectivity of the strategic economic triangle commonly referred to as trade, colonies and the navy.¹²⁰ As each side of the economic triangle under-went transformation and growth, so too did it drag the other sides along with it. But behind this triangle was the economic infrastructure arising from the industrial revolution and the 'mechanisation' revolution in technology. Of equal significance was that the economic infrastructure of her main European rivals had been weakened by the wars leading up to 1815. The French, Dutch and Spanish colonial empires had all been severely reduced and their naval power destroyed. Nevertheless the result of this century of intermittent warfare was the greatest triumph ever achieved by any State: the virtual monopoly among European powers of overseas colonies, and the virtual monopoly of worldwide naval power.¹²¹

Industrialisation and the 'mechanisation' revolution in technology not only furthered the British ascendancy in industry, commerce, finance, and shipping, it also underpinned its own naval supremacy with a previously unheard-of economic potential. By the middle of the 19th Century, Great Britain produced about two thirds of the world's coal, about half its iron, five sevenths of its steel, two fifths of its hardware and about half its commercial cotton cloth.¹²² She had by 1890 more registered tonnage of shipping than the rest of the world put together.¹²³ Her mercantilist policies, those fostering wealth through monopoly and State power that had been the ideological drivers behind the 17th and 18th Centuries, were transformed by what was then a revolutionary new system of commercial interchange—free trade. With her lead in industrial output, her large merchant marine and her financial and insurance domination, Great Britain was above all uniquely well placed to benefit from the greater mercantile freedom—free trade could only secure her dominance over Europe, and ultimately the world. London became, as Paul Kennedy describes:

¹²⁰ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 102.

¹²¹ E.J. Hobsbawm, *Industry and Empire*, Harmondsworth, Middlesex, 1969, 48-54.

¹²² Paul Kennedy, *The Rise and Fall of British Naval Mastery*, 151.

...the centre of international finance in all its respects: loans, private and governmental, were floated there, currencies exchanged there, insurance arranged there, commodities bought and sold there, shipping chartered there; and every one of these services increased the centralising tendency by the establishment of branch offices and agencies abroad, from Valparaiso to Shanghai, from San Francisco to Singapore. ...Britain's lead in one field (eg. insurance) sustained and reinforced her lead in another (eg. shipping), and usually in a reciprocal fashion.¹²⁴

Behind all this was the trading need of the ever-increasing capacities of Britain's industrial potential. In particular, her textile industry was producing far more than the British domestic market and old empire could ever consume. The demand for commercial profits dominated the British expansionist attitude and led to what has been described as 'the imperialism of free trade'¹²⁵ as Britain's global reach extended beyond even her substantial empire. Over 60 per cent of British exports (1800-1900) and over 80 per cent of British capital (1815-1880) went to regions outside the formal empire.¹²⁶ It was the British version of economic mercantilism in the 19th Century that laid the foundations for the economic globalisation of today—and she reaped the benefits of leading the way.

Economic mercantilism also fed British imperialism by creating the self-perpetuating demand for a worldwide chain of strategically placed colonies. As such, the British Empire consisted of most of the choicest strategic ports along the sea-lanes of the world and it was through these bases that influence was exerted. Admiral of the Fleet Sir John 'Jackie' Fisher (1841-1920) identified Britain's colonial possessions as the 'keys' that locked up the globe—Heligoland, Malta and the Ionian Islands dominated the North Sea and the Mediterranean; Gambia, Sierra Leone, Ascension and Cape Town the Atlantic routes into the Indian Ocean; Mauritius, the Seychelles, Ceylon and Malacca the Indian Ocean; and St Lucia, Tobago and Guyana in the West Indies.¹²⁷ Even in the so-called 'anti-imperialist' decades post-1815, annexations continued. In 1819 Singapore, controlling the main entrance into the South China Sea from the west, was obtained; in 1833, the Falkland Islands gave British control of the Cape Horn passage; in 1839 Aden, guarding the southern entrance into the Red Sea; and in 1841 Hong Kong,

¹²³ *ibid.*

¹²⁴ *ibid.*, 152.

¹²⁵ J. Gallagher and R. Robinson, 'The Imperialism of Free Trade', *Economic History Review*, 2nd series, vi, no. 1 (August 1953), 1-15.

¹²⁶ *ibid.*, 5.

dominating central China. Further bases Lagos, Fiji, Cyprus, Alexandria, Mombasa, Zanzibar and Wei-hai-wei were acquired in later years to further the Empire's dominance over the oceans of the world¹²⁸—see Figure 4: *Pax Britannica – The British Empire 1897*.

The third side of *Pax Britannica* was the navy itself.¹²⁹ Its size in 1815, following the prolonged wars against Napoleon, was enormous: 214 ships-of-the-line and 792 cruisers¹³⁰ of all types.¹³¹ While the dividend of peace demanded a progressive reduction in numbers, the Admiralty would maintain approximately a 100 ships-of-the-line and 160 cruisers throughout the next century. That many of these ships were militarily ineffective is another issue. Nevertheless, on 26 June 1897, on the occasion of the Diamond Jubilee of Queen Victoria, 165 British warships lay imposingly at anchor at Spithead:

...of all the proud symbols of that vast, abounding and dynamic empire, none could equal the Royal Navy. More than 330 ships strong, with 92,000 officers and men, it was by far the largest and most powerful navy in the world. Government policy mandated that it be maintained equal in size to the navies of any two world powers that might seek to challenge it—a circumstance that had not arisen for nearly a century, since Admiral Horatio Nelson had destroyed the combined fleets of France and Spain at Trafalgar in 1805. The Royal Navy was the true bond of the Empire, observed the *London Times*; without it the Empire would be '...merely a loose aggregate of States'.¹³²

¹²⁷ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, 154.

¹²⁸ *ibid.*

¹²⁹ See Andrew Lambert, 'The Shield of the Empire 1815-1895', John Richard Hill (ed), *The Oxford Illustrated History of the Royal Navy*.

¹³⁰ In the days of sailing navies a ship, usually a fourth rate or large frigate, detached from a fleet to cruise independently in search of the enemy with the duty of falling back on the fleet to report on sighting an enemy fleet. Frigates and smaller warships engaged in the protection of trade or in the *guerre de course* were also usually known as cruisers. The one essential characteristic of any ship detached for duty as a cruiser was a good sailing speed, superior to that of the enemy she was seeking. With the introduction of steam propulsion and iron armour in the mid 19th century the cruiser gradually became a generic type of warship in her own right, being built in three or four categories ranging from armoured cruiser which were large ships of up to 16,000 tons displacement, through belted cruisers (protected by a waterline belt of armour), second class cruiser with only light armour and, light cruisers with virtually no armour but with particularly high speed.

¹³¹ C.J. Bartlett, *Great Britain and Sea Power 1815-1853*, Oxford, 1963, 22.

¹³² David Howarth, *The Dreadnoughts*, Time-Life books, Amsterdam, 1979, 8.

Figure 4 *Pax Britannica* – The British Empire 1897

But in reality the Royal Navy was even more than the true bond of the Empire: the Royal Navy had become the global servant of mankind by destroying the slave trade, by suppressing piracy, by keeping order on every shore and by protecting equally the traders of every nation.¹³³ *Pax Britannica* can be summed up as representing a world naval force that utilised a whole host of bases and protected an ever-growing trade; an expanding formal empire which offered harbour facilities for the navy and focal centres of power, together with far larger informal empire, both of which provided essential raw materials and markets for the British economy; and an industrial revolution which poured out its products into the rest of the world, drew large overseas territories into its commercial and financial orbit, encouraged an enormous merchant marine, and provided the material strength to support its great fleets.¹³⁴ Ultimately and collectively, the interconnecting strategic cycle referred to above remained dependent upon the strength of the Royal Navy and the freedom that it guaranteed. As Alfred Thayer Mahan philosophised ‘...command of the sea, in proportion as it was complete, brought all the coasts of the world under the influence of the nation [that holds it].’ And as noted by the *London Times*, the ‘...extension of commerce by political pressure is a leading element in the spirit of the times.’

This interconnecting strategic cycle is probably best summed up as in the *Times*’ leader:

Commerce nowadays means for the most part transmarine commerce. Nearly every commercial power, excepting England, seems bent on securing for itself ...a monopoly in the distant markets which are still open to its enterprise. For this reason the legitimate, and in itself salutary impulse of commercial expansion often entails either territorial acquisitions or the exercise in the region affected of a dominate, if not exclusive, political influence on the part of the power which is seeking to establish its monopoly. Where the field is still open, this entails, in its turn, the rivalry, and even antagonism of other powers equally interested and claiming equal rights; and the result is that each power so affected must either withdraw from the contest or be prepared, in the last resort, to assert its rights and defend its interests—not necessarily by going to war, but by showing itself to be so powerful that its just demands need to be treated with respect... only free trade would permit us to escape from the appalling, and yet inevitable burden which Mahan’s logic seems to fasten upon nations.¹³⁵

¹³³ Arthur J. Marder, *The Anatomy of British Sea Power*, Frank Cass & Co Ltd, London, 15.

¹³⁴ Paul M. Kennedy, *The Rise and Fall of British Naval Mastery*, 157.

¹³⁵ *The Times*, 2 October 1902 as cited in Arthur J. Marder, *The Anatomy of British Sea Power*, 15.

While the connectivity of the 'trade, colonies and the navy' made *Pax Britannica* possible, opportunism made it feasible. In the first half of the 19th Century in particular, the European nations were all too busy with internal affairs, where their basically conservative governments were struggling to prevent the social and political upheavals which followed the spreading of the ideas from the French Revolution. British foreign policies to harmonise her relations with Europe and the United States through handing back of the greater part of the East and West Indies to the Netherlands and France respectively, the abandonment of protectionist tariffs in the British Empire, the suppression of piracy and the policing of the seas, and Europe's growing reliance on the economic mercantilism which the Royal Navy so often protected, meant that few were willing to challenge Great Britain's apparent domination.¹³⁶

One of the reasons for international peace after 1815 was the endemic civil war that produced the great outbreaks of insurrection in 1830 and 1848, as well as a host of intermediate revolts. National cohesion was not yet strong enough to override sectional interests and the conflicts of political principle: human energies were devoted more to seeking an overhaul of internal political and social systems than to pursuing the nationalist causes of war against foreign States. Governments, conscious of revolutionary threats at home, received no encouragement to engage in battle with other States. Peace was popular not only with governments aware of their own fragility, and not only because exhausted people welcomed a respite from war, but also because enemies at home seemed more immediate and more menacing than enemies abroad, and civil war absorbed belligerent spirits, later to be diverted into the cause of militant nationalism.¹³⁷

Naturally, Britain too suffered from similar domestic tensions, especially between 1815-1832, but its more flexible constitution, which allowed for the growth of middle class political power, and its growing prosperity, which by 1848 had removed some of the more obvious causes of social unrest, combined to prevent the insurrections that were occurring in Europe.¹³⁸

The events of the 19th Century also suggest that *Pax Britannica* at sea, did not automatically assume hegemonic military power ashore. Sea power had its limitations; particularly those imposed by geography. As examples, Austrian armies completely ignored British protests in 1823 and entered Piedmont; two years later the French

¹³⁶ Arthur J. Marder, *The Anatomy of British Sea Power*, 15.

¹³⁷ David Thomson, *Europe since Napoleon*, Harmondsworth, Middlesex, 1966, 111.

¹³⁸ Arthur J. Marder, *The Anatomy of British Sea Power*, 15.

moved into Spain; military power in eastern Europe settled the fate of Polish liberties in 1830 and the French also managed to seize Algiers in 1830¹³⁹—admittedly they were threatened against attempting a similar action in Tunis. Yet conversely, States that opposed Britain put their colonies and trade at risk. Thus in 1795 the British seized the Dutch Cape Colony, restoring it in the 1802 Treaty of Amiens and then retook it again in 1806, this time not to relinquish it until the 20th Century.¹⁴⁰ Also, during the second Russo-Turkish War of 1877-8, a British fleet under Admiral Phipps Hornby frustrated Russian ambitions to occupy Adrianople by anchoring off the entrance to the Golden Horn in the Sea of Marmora. Their presence alone achieved the ‘ungrudging unacknowledged vigilance [necessary to watch] over the peaceful interests of the world.’¹⁴¹ ‘A fleet of British ships-of-war’ said Vice Admiral Sir Horatio Nelson in 1801, ‘are the best negotiators in Europe’¹⁴²—Admiral Hornby’s coup is a striking example of it.

The Evolution of the Colonial Squadrons

Without a monolithic enemy at sea the employment and force structure of the Royal Navy underwent a drastic transformation. Instead of consisting of fleets of ships-of-the-line concentrated in home waters, the Baltic and the Mediterranean as battle fleets, the ships of the Royal Navy were distributed around the globe to ‘foreign stations’ as constabulary ‘Colonial’ squadrons. In 1792 only 54 warships were on permanent deployment, by 1848 129 warships were.

...twenty-five [ships] were needed on the East Indies and China Station, one for each of the newly-opened treaty ports and the rest to suppress the endemic piracy; twenty-seven toiled against the slavers off the west coast of Africa; aided by ten at the Cape and a further ten in the West Indies; fourteen were protecting commercial interests along the south-east coast of South America; and twelve patrolled the vast stretches of the Pacific. In contrast, only thirty-five were active in home waters...¹⁴³

Although the British were to remain anxious about various, largely overplayed, Franco-Russian naval challenges until the turn of the century, the functional employment of the

¹³⁹ Paul Kennedy, *The Rise and Fall of British Naval Mastery*.

¹⁴⁰ Geoffrey Parker (ed), *Cambridge Illustrated History of Warfare*.

¹⁴¹ Sir Geoffrey Callender & F.H. Hinsley, *The Naval Side of British History 1485-1945*, Christophers, London, 1952, 229.

¹⁴² As cited in Arthur J. Marder, *The Anatomy of British Sea Power*.

¹⁴³ Paul M. Kennedy, *The Rise and Fall of British Naval Mastery*, 171.

Royal Navy continued to reflect the changing maritime interests of the State—changes that would ultimately influence naval force structure towards regulatory capabilities. The old imperial responsibilities remained and were added to by the Africa slave trade patrols, debt-collecting expeditions in Latin America, the campaigns against piracy in the Red Sea and East Indies, enforcing British claims in Malaya and Burma, the protection of missionaries and traders all over the globe, and the steady charting of foreign coasts. In 1861, 66 warships and almost 8,000 men were deployed on the China and East Indies Station alone.¹⁴⁴

British sea power was openly being used as the servant of mankind by keeping order on every shore and protecting equally the traders of every nation. This was no idle task, or boast. The Royal Navy had made and felt duty bound to maintain the international security environment:¹⁴⁵ to ‘be a safeguard ...a security for such as pass on the seas upon their lawful occasions...’¹⁴⁶ She was the defender and enforcer of global navigation and maritime trade. With great fervour the *London Quarterly Review* proclaimed in January 1896:

Our social progress, our international influence, our power “to help the right and heal the wild world’s wrongs,” our mission as the leaders and organisers of the backward and chaotic races that have come beneath our rule, and what is dearest to the hearts of Christian Englishmen, the opportunity to give to all the world the Gospel that has made us free; all these, and every other good we can desire ourselves or wish to share with men, depend upon our maritime supremacy.¹⁴⁷

Not surprisingly the First Lord of the Admiralty complained:

... from Vancouver’s isle to the river Plate, from the West Indies to China the Admiralty is called upon by the Secretaries of State to send ships... The undeniable fact is that we are doing or endeavouring to do much more than our force is sufficient for.^[148] It is fortunate that the world is not larger, for there is no other limit to the service of the fleets.¹⁴⁹

¹⁴⁴ *ibid.*, 180.

¹⁴⁵ Spensor Wilkinson, *The Great Alternative*, London, 1894, 299-300, Sir G.S. Clarke, ‘The Limitations of Naval Force’, *Nineteenth Century*, August 1897, and Admiral Sir Roger Keyes, *Adventures Ashore and Afloat*, London, 1939, 5, 70 among others...

¹⁴⁶ The Naval Prayer.

¹⁴⁷ *London Quarterly Review*, January 1896, as cited in Arthur Marder, *The Anatomy of British Sea Power*.

¹⁴⁸ In 2001 Vice Admiral D.J. Shackleton, then Chief of Navy, Royal Australian Navy, echoed a similar sentiment: ‘Navies are being expected to participate in an increasing range and tempo of operations. At the same time, navies have to keep their focus on their primary combat role... What is the risk of losing

Vice Admiral Humphrey H. Smith, reflecting upon his experiences as a young officer serving in the Mediterranean fleet of the Royal Navy during the 1890s, writes:

I don't think we thought very much about war with a big W. We looked on the Navy more as a World Police Force than as a warlike institution. We considered that our job was to safeguard law and order throughout the world—safeguard civilisation, put out fires on shore, and act as guide, philosopher and friend to the merchant ships of all nations.¹⁵⁰

In summary, with the guaranteed security environment that was made possible under *Pax Britannica*, there was relatively less need for Royal Navy ships that were intended primarily to fight for the control of the sea—the major battle fleets of the ships-of-war—and relatively more need for those ships that were intended to govern it—the ‘cruisers’ of the ships-of-law.

Likewise, the functional employment of both the Royal Navy and the British Army would change to reflect the colonial interests of the State—changes that would ultimately influence both forces’ structure towards expeditionary capabilities. Apart from its standing commitments to the defence of India, Canada and the major colonies, the British Army became involved in a whole host of what Bismarck once derisively called ‘gentleman’s wars’¹⁵¹—against the Ashanti, the Zulu, the Burmese, the Boers, the Egyptians, the Afghans and the Dervishes.¹⁵² Both the Royal Navy and the British Army became specialists in colonial warfare—or expeditionary ‘limited’ warfare. It was in these wars that the next era of naval officers were ‘blooded’—Admiral of the Fleet Sir John ‘Jackie’ Fisher in the Second China War of 1859, Admiral 1st Lord Charles Beresford (1846-1919) in the bombardment of Alexandria in 1882, Admiral of the Fleet Sir John Jellicoe (1859-1935) at Alexandria and in the relief of the Peking legations in 1900, Admiral of the Fleet Sir David Beatty (1871-1936) in the Nile campaign of 1896-7 and again in the Boxer uprising, Admiral of the Fleet Sir Fredrick Sturdee (1859-1925) during the Samoan war of 1899. At the same time the Empire continued to

a focus on combat, yet what is the chance of being perceived as irrelevant if we do not pick up these expanding peacetime roles?’ Presentation to IMDEX 8 May 2001, titled *Regional issues which shape the strategy and development of the region's maritime forces and those of their allies*.

¹⁴⁹ As cited by C.J. Bartlett ‘The Mid-Victorian Reappraisal of Naval Policy’, in K.Bourne and D.C. Watts, (eds) *Studies in International History*, London, 1967, 208.

¹⁵⁰ Vice Admiral Humphrey H. Smith, *A Yellow Admiral Remembers*, London, 1932, 54.

¹⁵¹ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, 180.

¹⁵² B. Bond (ed), *Victorian Military Campaigns*, Hutchinson Publishers, London, 1967.

expand—in the final three decades of the 19th Century, Britain annexed Cyprus, Egypt, the Sudan, Somaliland, Kenya, Uganda, Rhodesia, Nyasaland, Zanzibar, Bechuanaland, the Transvaal, Orange Free State, most of present day Ghana and Nigeria, Papua, North Borneo, Upper Burma, several Malayan States, the southern Solomons, the Gilbert and Ellice Islands, and so on.¹⁵³ Between 1871 and 1900 Britain added four and a quarter million square miles and 66 million people to her Empire.¹⁵⁴ There was relatively less need for ships that were intended primarily to fight for the control of the sea—the major battle fleets of the ships-of-war—and relatively more need for those ships that were intended to utilise the control already assumed—the ships-of-expedition across the shore.

The British Empire spanned 100 years—during that time Britain assembled the greatest global commercial, mercantile, and institutional network the world had seen. But the size of the Empire is not the sum of the British Empire's claim to greatness. The more enduring claim lies in Britain's ability to create the environment in which European inter-State military and maritime contest declined, and the stability of maritime security and global commercial freedom thrived. Where the intellectual and cultural achievements of the 'Westminster' civilisation could be nourished and embellished, and then spread across the world to the extent of British influence. British colonial authority, maritime presumption, and the imposition of institutionalised regulation all bore the unmistakable stamp of British power and assurance. In 2002 Paul Monk observed that the

emergence of a global order in commerce, science and law, not the plunder and rapine that have too often accompanied it, has been the extraordinary achievement of the past few centuries. Maritime supremacy has been the foundation of that achievement. English has been the language of its institutional articulation. Critical reason has gradually refined and civilised it, reducing plunder and inducing order.¹⁵⁵

The tangible legacy of Great Britain survives in the remains of noble institutions of industry, commerce, finance, insurance and shipping that tied the Empire together. The intangible and more important legacy was the process of transforming a fragmented community of nation States into a single 'global' British identity, the enduring

¹⁵³ D. Thompson, *Europe since Napoleon*, 498.

¹⁵⁴ *ibid.*

¹⁵⁵ Paul Monk, 'Maritime power and the augmented Indies', *The Australian Financial Review*, Friday 2 August 2002, 8.

framework for ‘global’ Westminster democracy, the value of individual liberty and a process of law that remains the foundations of the international legal institutions of today, and a new age of mercantile freedom that linked Europe to Asia and the Americas. For the world, *Pax Britannica* was the

instrument of universal order: its scattered bases had enabled the Royal Navy to keep the world at [relative] peace for the best part of a century, and its strong arm had established the rule of law in many once-turbulent places. It was an agency of material progress: everywhere its technicians laid down the foundations of industry, and paved the way for change. It was a mighty stimulant: it injected new ideas into comatose societies, it shook up stagnant cultures, it prodded peoples withdrawn from the world into indignant protest, it pulled half of Asia out of the Middle Ages, half Africa momentarily out of barbarism.¹⁵⁶

As so colourfully described by Sir Geoffrey Callender:

[P]rior to the nineteenth century the only “freedom of the seas” was the freedom of the evil-doer ... *Pax Britannica* has changed the outlook of all who plough the sea; and many a weary soul, broken by servitude, has clutched the hem of the Union Jack in childlike faith that under that emblem no man need remain a slave or suffer under the hand of piracy... with no inducement other than “security for such as pass upon the seas upon their lawful occasions.”¹⁵⁷

Globally, the breadth of the British Empire would be commanded by a single ‘global’ power for only the second time in history. The oceans of the world became a vast marine highway for administrators, merchandise, and ideas—and the Royal Navy was the heart and power base of the British world. As a consequence of their unchallenged maritime supremacy there also came a change in the utility of British naval power, from ‘combat and conquest’ to ‘regulation and utilisation’—the era of *Pax Britannica*.

... the Royal Navy carried out the roles which reflected the long period of peace after 1815, the growth of British trade overseas and the accumulation of fresh colonies; it became the protector of maritime commerce, the defender of British interests in regions where organised government appeared to be lacking, a ‘policeman’ to a certain extent, but also a surveyor and a guide.¹⁵⁸

¹⁵⁶ James Morris, *Pax Britannica—The Climax of an Empire*, Faber and Faber Limited, London, 1968, 521.

¹⁵⁷ Sir Geoffrey Callender & F.H. Hinsley, *The Naval Side of British History 1485-1945*, Christophers, London, 1952, 234 & 232.

¹⁵⁸ Paul Kennedy, *The Rise and Fall of British Naval Mastery*, 163.

Within the security and ‘sea power’ offered by *Pax Britannica* the world could concentrate on constabulary and exploitative taskings—suppressing the last vestiges of piracy, slavery and smuggling throughout the undeveloped regions of the world, and using its naval and imperial ground forces to occupy and colonise those areas that furthered their cause.

The Empire Falters

In 1897, the year of Queen Victoria’s Diamond Jubilee, *Pax Britannica* was at its zenith. It was now the largest Empire in the history of the world, comprising nearly a quarter of the landmass of the earth, and a quarter of its population. Two years later the Boer War broke out, and the confidence of the Empire faltered. Four years later Victoria died, and an age ended.¹⁵⁹ The Royal Navy’s Director of Naval Intelligence observed the extent of British naval decline on stations abroad:

In consequence of the rise of the American, Argentine, and Chilean navies, the superiority which the British squadrons formerly enjoyed on the North American-West Indies station has passed away, and they were now ‘completely outclassed’ by the American fleet on the former station and were inferior to all three in the latter. On the South-East coast of America the British squadron was now inferior to Argentina as well as to Brazil. The supremacy formerly enjoyed on the China station had passed to Japan, and the British squadron, considerable superior to the Franco-Russian combination in 1889, was ‘hardly a match’ for them ten years later.¹⁶⁰

¹⁵⁹ *ibid.* 522.

¹⁶⁰ As cited in Arthur J. Marder, *Anatomy of British Sea Power*, 351.

Figure 5 Distribution of British Warships 1897 and 1912

In Europe, the French Navy had embarked on a massive battleship construction program. Also, the newly appointed Secretary of State for the German Navy, Rear Admiral Alfred von Tirpitz (1849-1930), was telling a receptive Kaiser Wilhelm II (1859-1941) that ‘the military situation against England demands battleships in as great a number as possible’ as he outlined the first of his measures to make the German fleet a force to be reckoned with.¹⁶¹ By 1905 Russia, Germany and France had all made incursions into Chinese territory while the United States had moved into the Philippines and Japan into Korea. The imperial and limited wars of the last four decades were being absorbed by the larger strategic struggle that was now developing—not only in Europe, but on a global scale. In 1912 *The Standard* identified Britain’s plight, and the force structure implications of it:

Because of that formidable and threatening Armada across the North Sea, we have almost abandoned the waters of the Outer Oceans. We are in the position of Imperial Rome when the Barbarians were thundering at the frontiers. The ominous word has gone forth. We have called home the legions...¹⁶²

The pendulum had swung back and the arms race was on—there was now relatively less need for ships that were intended to use, govern or exploit the control of the sea and relatively more need for the ships that were primarily required to fight for it—the major battle fleets of the ships-of-war.

Conclusion

In their heyday both *Pax Romana* and *Pax Britannica* provided the security for ‘global’ mercantile trade and allowed a change of emphasis towards national constabulary (the suppression of piracy, smuggling and the slave trade for Great Britain, and the suppression of piracy and the guarantor of the grain supplies for Rome) and exploitative taskings (colonial and expeditionary warfare and army-support activities). For Rome, the Mediterranean Sea, and for Britain, the oceans of the world became vast marine highways for not only the Roman and British Armies as conduits of power, but also for administrators, merchandise, and ideas—the cultural, commercial and intellectual expansion of their respective civilisations. The Royal Navy was the heart and

¹⁶¹ As cited in J. Steinberg, *Yesterday’s Deterrent: Tirpitz and the Birth of the German Battle Fleet*, London, 1965, 208-21.

underwriter of the British world as much as the Imperial Roman Navy underwrote the extent of the Roman Empire. Without monolithic State enemies, the strategic forces of *Classis Misenensis* and *Classis Ravennas*, and the Home Fleets of the Royal Navy were the powerful guarantors of navigational freedom and provided for the strategic security of the homeland, while the regional regulatory responsibilities of the frontier fleets and colonial squadrons ensured good order at sea within the dominions. Within *Pax Romana* and *Pax Britainica*, Sea Power was openly being used as the servant of the ‘civilised world’ by protecting the mercantile commerce of every nation—it was in their social and economic interests to do so. There was relatively less need for maritime forces that intended primarily to fight for the control of the sea and relatively more for maritime forces that were going to use and regulate that control they both already had. After success at the battles of Actium (31 BC) and Trafalgar (1805) when strategic domination had been achieved there rose a need to shift the balance of force structure away from ‘combat’ towards ‘regulation’ and ‘utilisation’.

The security of the Roman Empire was eventually threatened via its land approaches. But in the case of Great Britain, when the Royal Navy’s position of power was challenged at the turn of the 19th Century, the very opposite occurred. The maritime legions were called home, and the balance of force structure shifted back towards the need for ‘combat’—the want for battle fleets representing the ships-of-war.

¹⁶² *The Standard*, 29 May 1912.

CHAPTER FOUR

THE EMPIRE OF *PAX AMERICANA*

...the American navy has become the most tangible embodiment of the Anglophone Western ascendancy carried over from the 20th Century.

Paul Monk 2002 ¹

From the naval force-structural patterns that were responsive to the eras of *Pax Romana* and *Pax Britannica*, this Chapter will advance the same hypothesis and the same responsive patterns to the modern era. It will address: the transformation of the United States Navy in the post-Cold War era as it seeks to preserve a stable international maritime order; the deterrent effect that the United States Navy offers against anyone challenging this international order; and the growing confidence the United States has in declaring its military supremacy in a unipolar world. The Chapter will first argue that the United States is indeed the global imperial empire of the modern era. It will then describe the United States Navy's marked shift in naval strategy, away from contesting command of the open oceans towards the capacity to exercise that command it assumes; the same naval force structural patterns and strategic focus that were apparent under Rome and Britain. Set within this context of an America-led global order and naval hegemony, the Chapter will also explore the changing maritime paradigms associated with economic globalisation and modern international sea-trade. It will then conclude by arguing that the growing crisis of the nation State and the changing pattern of global social organisation now challenge the traditional perspectives underlying the foundations of modern naval force structure: a foundation that has its legacy premised during an era of inter-State conflict.

Cold War Offensive Deterrence

The tenet of the West's defensive strategy during the Cold War was to deter the Soviet Union's threat to Europe.² Force structure planning assumptions were relatively stable because the 'active deterrent role played by the military was well defined and clearly understood'³ and force levels were based on threat-based calculations that were

¹ Paul Monk, 'Maritime power and the augmented Indies', *The Australian Financial Review*, Friday 2 August 2002.

² Mike Lawrence Smith and Mathew R.H. Uttley, 'Tradition and Innovation in Maritime Thinking', in Andrew Dorman, Mike Lawrence Smith and Mathew R.H. Uttley (eds), *The Changing Face of Maritime Power*, Palgrave Macmillan, Basingstoke, 1999, 1.

³ Admiral P.D. Miller, 'Both Swords and Plowshares: Military Roles in the 1990s', *RUSI Journal*, April 1993, 13.

configured primarily for high-intensity war-fighting roles. For the West, collective defence was based primarily on the NATO alliance; for the East, the Warsaw Pact. Global bipolarity meant that other multilateral organisations, such as the United Nations and the European Union, played only a marginal role in East-West security affairs.

In the maritime sphere, the major Western powers' assumptions about bipolarity were reflected in their naval force dispositions, which were organised primarily for achieving offensive sea assertion and battle-space dominance—sea control.⁴ The apogee of Cold War naval planning was the United States Navy's *Maritime Strategy* of 1986, which will probably be remembered as the high water mark of "blue water" naval thinking in the post-World War II era.⁵ The emphasis of the *Maritime Strategy* was

on offensive sea control and horizontal escalation using the USN's command of the sea... The primary task was war at sea through sea control. Indeed, throughout the Cold War period, the focus of Western maritime strategy was the containment of Soviet power at sea by Western sea control.⁶

Naval forces were thus designed for high intensity conflict and structured to assert themselves, to contain, defend in depth, and maintain the initiative against a specific blue-water adversary⁷—combat and contest; the role of the ship-of-war. However, in 1989 the Cold War ended and with it went the planning clarity and monolithic focus it provided.

United States Military Ascendancy

With the break-up of the Soviet Union 1989-91, the United States was suddenly acknowledged as the world's only hegemonic military superpower, thus creating a unipolar world. Historically, it can be argued that there has never been a military giant to compare with the United States. In comparison to the British and Roman empires,

⁴ Norman Friedman *The US Maritime Strategy*, Jane's, London, 1988; Geoffrey Till and Bryan Ranft, *The Sea in Soviet Strategy*, Macmillan, London, 1983.

⁵ J.S. Breemer, 'The End of Naval Strategy: Revolutionary Change and the Future of American Naval Power', *Strategic Review*, Spring 1994, 44.

⁶ Sam Bateman, 'Strategic Change and Naval Roles', in Sam Bateman and Dick Sherwood (eds), *Strategic Change and Naval Roles and Issues for a Medium Naval Power*, Australian National University, Canberra, 1993, 38.

⁷ Mike Smith and Matthew Uttley, 'Tradition and Innovation in Maritime Thinking', 2.

Pax Britannica was run ‘on the cheap’⁸ and although *Pax Romana*⁹ was huge, there existed the similarly extensive and powerful empires of China and Persia. As stated by Paul Kennedy: ‘Nothing has ever existed like this disparity of power; nothing.’¹⁰ The United States is ahead of any rival ‘in all the under-lying components of power.’¹¹ It is ‘dominant by every measure: military, economic, technological, diplomatic, cultural, even linguistic, with a myriad of countries trying to fend off the inexorable march of Internet-fuelled MTV English.’¹² In the context of the last millennium of history, if ‘today’s American primacy does not constitute unipolarity, then nothing ever will.’¹³

Although only representing five per cent of the world’s population, the United States produces approximately 30 per cent of the total world’s economic product. In military capacity, it single-handedly focuses the world’s attention. The United States ‘maritime supremacy alone would be unchallenged by the combined naval forces of the rest of the world.’¹⁴ In February 2002 the United States was responsible for 40 per cent of the world’s total military spending. Its defence budget in 2003 was at \$US 379.9 billion;¹⁵ it sought an additional 12 per cent for 2004¹⁶, a climb to \$US 451 billion by 2007, and will have a budget approaching the half-trillion dollar mark by 2010.¹⁷ The 12 per cent increase alone, equates to the annual military budgets of Britain, France and Italy; which equates to four times the combined military budgets of the ‘*axis of evil*’ States—

⁸ Paul Kennedy, as cited in the *Sydney Morning Herald*, 9 February 2002. See also Paul Kennedy, ‘The Eagle Has Landed’, *Financial Times*, 2 February 2002.

⁹ An interesting comparison between the Roman and American Empires is made by Peter Bender, ‘America: The New Roman Empire’, *Orbis*, Volume 47, Number 1, Winter 2003, 145-159.

¹⁰ Paul Kennedy, *Sydney Morning Herald*, 9 February 2002. See also Charles Krauthammer, ‘The Unipolar Era’, in Andrew Bacevich (ed), *The Imperial Tense: Prospects and Problems of American Empire*, Ivan R. Dee, Chicago, 2003, 49-50.

¹¹ Max Boot, *The Savage Wars of Peace*, Basic Books, New York, 2002, 349.

¹² Charles Krauthammer, ‘The Unipolar Era’.

¹³ Stephen Brooks and William Wohlforth, ‘American Primacy in Perspective’, *Foreign Affairs*, July/August 2002, 13.

¹⁴ T. Donnelly, ‘The Underpinnings of the Bush Doctrine’, *National Security Outlook*, http://www.aei.org/publications/pubID.15845/pub_detail.asp, 31 January 2003.

¹⁵ *Reuters*, 03 February 2003 - US President Bush has submitted a USD\$ 379.9 billion military budget that was sent to Congress on Monday. The 2004 fiscal year budget features an increase of \$15.3 billion from fiscal 2003 and seeks to increase spending on a number of projects including: more money for Special Operations forces, unmanned spy planes, missile defence testing, the construction of seven new warships, higher troop pay, and the Joint Strike Fighter program. The 2004 budget breaks down as follows: \$114.6 billion for the Navy and Marine Corps, \$113.7 billion for the Air Force, \$93.7 billion for the Army, and \$57.9 billion for the rest of the Defense Department. An additional \$19 billion will also be allocated for other defence programs including maintaining the nation’s nuclear arsenal.

¹⁶ Paul Kennedy, *Sydney Morning Herald*, 9 February 2002.

¹⁷ *Washington Post* and *People’s Daily* 31 January 2003. See <http://www.washingtonpost.com/wp-dyn/articles/A3417-2003Jan30.html> and ‘Bush to Request US\$41.3 billion for Homeland Security’, http://english.peopledaily.com.cn/200301/31/eng20030131_111020.shtml.

Iran, Saddam Hussein's Iraq and North Korea.¹⁸ American military spending exceeds that of the next *twenty* countries combined.¹⁹ But power is one thing, the application of that power is another.

The Confidence of Unilateralism

On 16 January 1991, when announcing the start of hostilities against Iraq, President George H.W. Bush described the opportunity it presented for building a 'New World Order'; 'where the rule of law governs the conduct of nations' and 'in which a credible United Nations can use its peacekeeping role to fulfil the promise and vision of the UN founders.'²⁰ His comments were the purists' vision of global collective security. But the difficulty with this position is that 'collective security' requires all the major players to agree upon a particular status quo to defend, and for situations to have such moral clarity that they will be able to agree who is the wrongdoer, and be willing to act. If the 1991 liberation of Kuwait was the first success of the New World Order's 'first test',²¹ then probably the violent suppression of Kurdish nationalism in Iraq and Turkey were its first victims.

Regardless of the idealism of Bush's 'New World Order', the United States' first embrace of its new multilateralism as the sole superpower did not last long. Following the attacks of 11 September 2001 came President George W. Bush's 'with-us-or-against-us ultimatum to any State aiding, abetting or harbouring terrorists.'²² He then invoked the right to act pre-emptively to prevent further aggression under the spirit, if not the word, of Article 51 of the United Nations' Charter.²³ In doing so, George W. Bush broadened the interpretation of pre-emption to include preventive war in which pre-emptive force may be used without proof of an impending attack to eliminate a

¹⁸ Figures extracted from the London *Financial Times* as quoted by the Sydney *Morning Herald*, 9 February 2002.

¹⁹ Charles Krauthammer, 'The Unipolar Era', 49.

²⁰ President George Bush as quoted in James Walsh, 'Global Beat', *Time*, 1 April 1991, 21-5.

²¹ President George Bush to Congress 3 March 1991.

²² Charles Krauthammer, 'The Unipolar Era', 53.

²³ Article 51 of the United Nations' Charter states:

'Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.' Source www.un.org/aboutun/charter/.

threat before it is realised.²⁴ Specifically, as stated in the United States *National Security Strategy* of 2002:

The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary act pre-emptively.²⁵

The invasion of Iraq on the flawed pretence of weapons of mass destruction (WMD)²⁶ was pre-emption’s first manifestation and attracted widespread international concern: ‘If pre-emption was accepted as legal, the fragile structure of international peace [is] undermined. Any State could attack any other under the pretext that it detected a threat, however distant.’²⁷ Pre-emption can be further interpreted as the United States reserving its right to target States that, although potentially posing a threat, may not actually be in breach of international law. Ultimately, considering the experience of the flawed Iraqi ‘weapons of mass destruction’ intelligence assessments²⁸, revocation of a nation-State’s sovereignty rights could conceivably be determined ‘by hunch or inference, leaving the world without clear-cut norms for justifying force.’²⁹ The concept of ‘Pre-emption’ is a regime change that Henry Kissinger has argued threatens 350 years of post-Westphalian international practice.³⁰

Nevertheless, alone, given the emotion and national outrage of the September 11 attacks, the policy of pre-emption may be understandable. However the Bush

²⁴ ‘A novel determination not to be trammelled by the limitations of the UN Charter has, for better or worse, re-established force as an acceptable instrument of politics, a willingness, as President Bush has put it, to be ‘ready to strike at a moment’s notice, in any corner of the world.’ Source: Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*, http://www.sms1835.no/xTEST/faste_arrangement/Ulvikseminar/... viewed 28 February 2005.

²⁵ The White House, ‘The National Security Strategy of the United States of America’, September 2002, www.whitehouse.gov/nsc/print/nssall.html viewed 3 September 2003.

²⁶ “Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction.” United States Vice-President Dick Cheney speech, 26 August 2002.

“Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised.” United States President George W. Bush’s Address to the Nation, 17 March 2003.

“We have high confidence that they have weapons of mass destruction. That is what this war was about and it is about.” White House spokesman Ari Fleischer press briefing, 10 April 2003.

²⁷ J. Steele, ‘The Bush doctrine makes nonsense of the UN Charter’, *The Guardian*, 7 June 2002, <http://www.guardian.co.uk/bush/story/0,7369,728870,00.html>, viewed 1 September 2003.

²⁸ As a discussion collective, see *Canberra Sunday Times*, ‘The Politics of those Elusive Weapons’, 8 February 2004, 25.

²⁹ G.J. Lkenberry, ‘America’s Imperial Ambition’, *Foreign Affairs*, Vol 81, No 5, September 2002, 1-8.

Administration has also been withdrawing from multilateral agreements and reasserting its position elsewhere as the leader, and not just a participant, of the global community. For example, their unilateral policy implementations include not embracing the Kyoto environmental agreement, withdrawing from the anti-ballistic missile treaty with Russia, rejecting membership to the International Criminal Court, and refusing to sign a protocol to the biological-weapons convention. In the economic arena, domestic political considerations have also seen the imposition of tariffs on imported steel (since removed) and an increase in agricultural subsidies.³¹ ‘The boldness of these policies—or, as much of the world contends, their arrogance—is breathtaking. ... Taken together, they amount to an unprecedented assertion of American freedom of action and a definitive statement of a new American unilateralism.’³² Ken Booth maintains, more sceptically, that ‘the New World Order’, and likewise ‘the *National Security Strategy*’, are essentially cloaks, a means of legitimising the use of force against those countries disapproved of by the United States government. And the United Nations will be supported ‘only to the extent the organisation can be used as an arm of US policy.’ They are ‘less a Grand Strategy for the future of the world than [they are] patriotic and electioneering rhetoric.’³³ With the benefit of hindsight, history will eventually judge.

American Imperium

However, the importance for this thesis is not so much the actual policies, but the confidence expressed in their implementation. They are declarations of United States’ military supremacy and its position of undeniable authority in a unipolar world.³⁴ The reasoning behind pre-emption, which ignores national sovereignty, international law, and multinational negotiation, is at its base an assertion of this imperium.³⁵ It is not that the United States should withdraw from the world, but that it should operate the world

³⁰ As cited in Charles Krauthammer, ‘The Unipolar Era’, 53.

³¹ M. Walsh, ‘Unilateral Damage’, *The Bulletin*, 2 October 2002, <http://bulletin.ninemsn.com.au/bulletin/eddesk.nsf/All/F168E4ABE2E769ECA256C41000A1195> viewed 3 September 2003.

³² Charles Krauthammer, ‘The Unipolar Era’.

³³ Ken Booth, ‘The ‘New World Order’ and the Future of Naval Power’, *Journal of the Australian Naval Institute*, November 1991, 19.

³⁴ As balance, see also Joseph Nye’s ‘The new Rome meets new barbarians’, *The Economist*, Volume 362, Number 8265, 3 March 2002.

³⁵ H. Gutman, ‘America’s New Policy of Preemption and the World Economy’, 9 October 2002, http://www.uvm.edu/~sgutman/The_Strategy_of_Pre-emption.html viewed 3 September 2003. See also David North, ‘America’s drive for World Domination’, in Andrew Bacevich (ed), *The Imperial Tense: Prospects and Problems of American Empire*, 66-67.

on its own terms.³⁶ The simple basis is that when absolute power is no longer limited by an adversarial power, United States global power politics and its imperium power can reach its greatest heights.³⁷ Michael Ignatieff contends that we now:

[L]ive in a world that has no precedents since the age of the later Roman emperors. What is so remarkable is not simply the military domination of the world by a single power ... It is not just the fact that this single power, the United States, has achieved its dominance at incredibly low cost to its economy—some 3.5 per cent of gross domestic product. It is not simply the awesome reach of its military capability ... Nor is it resolve ... What is remarkable is the combination of all these: technological dominance at a lower cost proportional to wealth than at any other time in history, absence of peer competitors, and inflexible resolve to defend its way of life ... The difference, however, is that the Romans were untroubled by having an empire or by the idea of an imperial destiny, while the Americans, who have had an empire, it could be argued, since Theodore Roosevelt, persist in believing that they do not.³⁸

Likewise, the British had no such reservations during their era of *Pax Britannica*. In a public address 3 November 1897 Joseph Chamberlain, the British Colonial Secretary, said: ‘We believe in the greatness of the Empire. We are not afraid of its expansion. We think that a nation, like an individual, is better for having great responsibilities and great obligation.’³⁹

Yet, the republic of the United States was born in opposition to empire; enumerating their grievances against British rule, the United States prides its establishment as the very antithesis of empire.

After all, empire signified pomp and privilege, corruption and excess—the inverse of the virtues informing the political order to which Americans now swore allegiance. Empire came in a package that included power, politics, war, and militarism... Americans continue

³⁶ G.J. Ikenberry, ‘American Imperial Ambition’.

³⁷ Peter Bender, ‘America: The New Roman Empire?’, *Orbis: A Journal of World Affairs*, Volume 47, Number 1, Winter 2003, 155, and in Andrew Bacevich, ‘New Rome, New Jerusalem’, in Andrew Bacevich (ed), *The Imperial Tense: Prospects and Problems of American Empire*, Ivan R. Dee, Chicago, 2003, 93-101.

³⁸ Michael Ignatieff, ‘The Challenges of American Imperial Power’ *Naval War College Review*, Spring 2003, Volume LVI, Number 2, 53.

³⁹ As quoted in Arthur J. Marder, *The Anatomy of British Sea Power*, Frank Cass & Co Ltd, London, 1940, 11.

to fancy themselves in some vague way standing shoulder-to-shoulder with those around the world yearning to liberate themselves from the yoke of imperial oppression.⁴⁰

Lawrence Summers, of President Bill Clinton's era, proudly claimed that the United States is history's only nonimperialist superpower.⁴¹ Governor George W. Bush, as a candidate in the 2000 presidential campaign, affirmed: 'America has never been an empire'⁴², and again in 2002 he remarked that America is not an empire, it has no imperial designs: 'Over the generations, Americans have defended this nation without seeking to dominate any nation. American troops do not come as conquerors...'⁴³ Yet three years later, President Bush canvassed: 'Our country has accepted obligations that are difficult to fulfil and would be dishonourable to abandon. ... The best hope for peace in our world is the expansion of freedom in all the world. ... The survival of liberty in our land depends on the success of liberty in other lands.'⁴⁴

By enjoying its position of influence with its unprecedented economic, cultural, technological, and above all military domination, the United States has started to shoulder what it perceives to be its global responsibilities.⁴⁵ The United States now appears willing to wield its military and political authority in a manner that could best be likened to the actions of an imperial power.⁴⁶ Its exclusive prerogative of waging preventative war, its declaration that it would not be bound by the strictures of the international community but would act when and how it saw fit, if necessary doing so unilaterally, and its decree that democratic capitalism offers the only route by which a nation could prosper and succeed, has ensured that American values and American

⁴⁰ Andrew Bacevich, *The Imperial Tense: Prospects and Problems of American Empire*, ix. 'It used to be that only critics of American foreign policy referred to the "American Empire." During the cold war, of course, both the Soviet Union and the People's Republic of China harped incessantly on the old Leninist theme of Yankee imperialism...' Niall Ferguson, *Colossus: The Price of America's Empire*, The Penguin Press, New York, 2004, 3.

⁴¹ Sebastian Mallaby, 'The Reluctant Imperialist: Terrorism, Failed States, and the Case for American Empire', *Foreign Affairs*, March/April 2002, Volume 81, Number 2, 2.

⁴² George W. Bush, *A Distinctly American Nationalism*, presentation given at Simi Valley, California, 19 November, 1999.

⁴³ President George W. Bush *President Commemorates Veterans Day at Arlington National Cemetery*, 11 November 2002, The White House, www.whitehouse.gov/news/releases/2002/11/20021111-3.htm.

⁴⁴ President George W. Bush, as reported in 'Bush pledges to free world', *The Canberra Times*, 22 January 2005, 1.

⁴⁵ See Niall Ferguson, *Colossus: The Price of America's Empire*, Chapter 2, 'The Imperialism of Anti-Imperialism', 61-104.

⁴⁶ See Andrew J. Bacevich, *American Empire: The Realities and Consequences of U.S. Diplomacy*, Harvard University Press, Cambridge, Massachusetts, 2002, Chapter 1 'The Myth of the Reluctant Superpower', 7-31.

power will reign supreme—‘...the evidence that the Great Republic had now become the seat of a global imperium [now appears] incontrovertible.’⁴⁷

The Empire of *Pax Americana*

Empires need not have colonies, and need not to be established by conquest and aggression; the United States is an empire in the sense that it structures the global order.⁴⁸ It does so primarily with American military power,⁴⁹ diplomatic resources, and economic assets, and it does so primarily in the service of its own idea of national interest and the belief that her interests are for the betterment of the global order. The whole multilateral/unilateral debate rests on the determination of what consists of global betterment. While it may still be argued that the United States has yet to realise its imperial obligations, one can contend that the United States became an empire when, on 14 August 1941, President Franklin D. Roosevelt outlined the common principles for the global order that should arise from the ashes of World War II (‘hopes for a better future for the world’⁵⁰) in the Atlantic Charter; the United States

seek[s] no aggrandisement, territorial or other ... no territorial changes that do not accord with the freely expressed wishes of the peoples concerned ... respect the right of all peoples to choose the form of government under which they will live ... of access, on equal terms, to the trade and to the raw materials of the world ... of securing, for all, improved labour standards, economic advancement and social security ... to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries ... [to] enable all men to traverse the high seas and oceans without hindrance ... that all of the nations of the world, for realistic as well as spiritual reasons must come to the abandonment of the use of force.⁵¹

Regrettably, what has happened since this declaration has been a little more reality and a little less noble. In practice, the United States has had a very selective approach to its

⁴⁷ Andrew Bacevich, *The Imperial Tense: Prospects and Problems of American Empire*, xi.

⁴⁸ ‘The United States as a World Empire’, Richard Natkiel & Antony Preston, (eds), *The Weidenfeld Atlas of Maritime History*, Weidenfeld and Nicolson, London, 1986, 139.

⁴⁹ ‘The history of the United States shows that in spite of the varying trend of the foreign policy of succeeding administrations, this Government has interposed or intervened in the affairs of other States with remarkable regularity, and it may be anticipated that the same general procedure will be followed in the future.’ United States Marine Corps, *Small Wars Manual*, 1940 cited in Max Boot, *The Savage Wars of Peace*, preface.

⁵⁰ The Atlantic Charter, Samuel Rosenman, ed., *Public Papers and Addresses of Franklin D. Roosevelt*, vol.10 (1938-1950), 314, at <http://usinfo.state.gov/usa/infousa/facts/democrac/53.htm>. See also Chapter 6, *The Great Oceanic Common*, in this thesis.

⁵¹ ‘The United States as a World Empire’, *The Weidenfeld Atlas of Maritime History*, 139.

‘principled stance against aggression’, (examples include Israel, Rwanda and Chechnya on one hand, and Panama and Haiti on the other.) Additionally, what occurred in the Gulf 1990-91 seems to have had little to do with democracy or human rights—the feudal al-Sabah family is hardly democratic, nor socially tolerant. It was not the Taliban’s infamous domestic violations of human rights that led to the invasion of Afghanistan. And what is happening in Iraq today still troubles many within the Western community, and even within the United States’ own establishment. Jeffrey Record⁵² has recently concluded that Iraq ‘was a war-of-choice distraction’ accusing the Bush Administration of taking a detour into an unnecessary conflict with Iraq and pursuing an unrealistic quest against terrorism that may lead the United States into wars with nations posing no serious threat.⁵³ It is also notable, that on the eve of Premier Wen Jiabao’s visit to Washington in December 2003, a Chinese newspaper poll should find a quarter of the Chinese population believing ‘the United States is the biggest threat to world peace.’⁵⁴ As Hirst points out: ‘While Bush talks of defending civilisation, his administration seems almost uniformly to dismiss most of the civilities and practises that other nations would identify with a common civilisation’⁵⁵—as John F. Lehman Jr⁵⁶ is accredited with saying ‘absolute power is really neat.’

It can also be argued that the political Left uses the term “empire” as an epithet—imperial America, it declares, ‘can do anything, can shape the world chessboard anyway it wants...’⁵⁷ While the United States is the sole guarantor of order, it is not in a position to create stability on whatever terms it likes and its capacity to control and determine outcomes is often quite limited. Nowhere are the limitations of American power more evident than in the Middle East.

Notwithstanding this limitation, the War on Terrorism has certainly focused attention on those failed or renegade States that have provided profit and sanctuary to nihilist outlaws, from Sudan and Afghanistan to Sierra Leone and Somalia, and now Syria and Iran. But after more than two millennia of empire, orderly societies are still reluctant to

⁵² Jeffrey Record, *Bounding the Global War of Terrorism*, United States Army War College, December 2003 at <http://www.carlisle.army.mil/ssi/pubs/people.cfm?authorID=15>.

⁵³ As reported by Thomas Ricks, *The Sydney Morning Herald*, 13 January 2004, 7.

⁵⁴ *The Canberra Times*, 9 December 2003, 8.

⁵⁵ M. Hirsh, ‘Bush and the World’, *Foreign Affairs*, Vol 81, No 5, September 2002, 1-8.

⁵⁶ Secretary of the Navy during the Reagan era.

⁵⁷ Michael Ignatieff, ‘The Challenges of American Imperial Power’, 57.

impose their own institutions on disorderly ones, as the experiences in Iraq are demonstrating. Yet this anti-imperialist restraint is becoming harder to sustain. If outsiders want to make a difference, they must begin by building the institutions for the Third World that make development possible. They must engage, in other words, in the maligned business of nation building⁵⁸—the practises of imperialism. The primary purpose of Operation *Iraqi Freedom* was the elimination not only of weapons of mass destruction, which in hindsight appears overplayed, but also of the core of Arab rejectionism. Ignatieff rightly declares that the aim was ‘to break the logjam that has frustrated Middle East peace for fifty-odd years and then to reorder the map of an entire area to serve the strategic interests of the United States. If that is not an imperial project, what is?’⁵⁹

Historically, most United States interventions are short lived. United States troops may have stayed in West Germany, Japan and South Korea for 50 years, but they did not stay as long in the Philippines, the Dominican Republic, Haiti or Vietnam, to say nothing of Lebanon and Somalia.⁶⁰ Washington has suffered a sharp ‘reality check’ in Iraq, and the costs (human, financial, political and diplomatic), of the sort of policy the Bush Administration’s neo-conservatives were promoting have become much clearer to both present and potential future decision makers.⁶¹ Overwhelming military superiority does not necessarily translate into individual security, and mastery of the known world does not necessarily confer peace of mind. Both the Empires of *Pax Romana* and *Pax Britannica* taught us as much.

Nevertheless, the United States is an imperial power. The United States is an imperial power because it is impossible to understand the modern global order, or the sense in which it is an order at all, without understanding the permanently structuring role of American global power projection. The real greatness of the United States lies in its guarantee of the global institutions, the 100 plus multilateral institutions operating under the umbrella of the United Nations (the World Bank Group, the International Maritime Organisation, the International Monetary Fund, the International Civil Aviation

⁵⁸ Sebastian Mallaby, ‘The Reluctant Imperialist: Terrorism, Failed States, and the Case for American Empire’, *Foreign Affairs*, March/April 2002, Volume 81, Number 2, 2.

⁵⁹ Michael Ignatieff, ‘The Challenges of American Imperial Power’, 55.

⁶⁰ Niall Ferguson, ‘A World Without Power’, *Foreign Policy*, No 143, July/August 2004, 32-39.

⁶¹ Coral Bell, ‘The Prince of Terror’, *The Diplomat*, April / May 2004, 42.

Organisation, the International Labour Organisation etc...) As important as they are, 'their entire momentum, force, and direction are driven by American power.'⁶² President George H.W. Bush's vision of 'global collective security' played to the liberal international lawyers and human rights activists who hoped, unrealistically, to see American power integrated into a transnational legal and economic order organised around the United Nations, the International Criminal Court, the World Trade Organisation, and human rights treaties. But in reality, 'without American power the multilateral international order is a train without an engine.'⁶³

The greatness of the United States also lies in its ability to create the environment: in which global inter-State military and maritime contest has declined, and the stability of maritime security and commercial freedom has thrived; where the triumph of capitalism has led to the interdependence of a truly international market economy that has also led to the sharing of an increasingly common international destiny, including an inter-society transparency; and where the American commercial and cultural legacy is spread across the globe to the extent of American influence—the era of Mac-World, baseball caps, denim jeans and fast-food advertising. Whilst the

Romans Romanised the world, to the extent that it did not remain Greek; today the Americans have Americanised a good portion of the world and are trying to do so in the rest as well. They are a world power not only because they can reach every place on the globe militarily, but also because they have already done so with the products of their mass culture.⁶⁴

Policing the Peace of America

In the post-Cold War environment, with the disappearance of the Soviet naval threat, we now live in an era where, due to the massive military superiority of the United States, command of the sea has become largely uncontested. Edward Rhodes observes:

Virtually overnight, the [United States] Navy redefined how it proposed to contribute to the national [well being], shifting its justification for American naval power from a "Maritime Strategy" that emphasised the value of destroying the enemy's fleet and controlling the high seas [naval forces that are needed to fight for the control of the seas] to a littoral

⁶² Michael Ignatieff, 'The Challenges of American Imperial Power', 54.

⁶³ *ibid.*, 60.

⁶⁴ Peter Bender, 'America: The New Roman Empire', 156.

strategy that stressed employing Navy forces to project military power ashore [naval forces that are going to use the sea control given to them]. This shift was not simply rhetorical: it involved a substantial refocussing of naval capabilities and efforts, from forces designed and trained to seek out aggressively and give battle to an advanced and highly capable opponent, to forces designed and trained to exercise gunboat diplomacy across a spectrum of violence from peace to major war.⁶⁵

Operation *Desert Storm* (1991) brought this lesson home.

Unlike our Army, Air Force, and Marine Corp comrades in arms, we left the first of the post-Cold war conflicts without the sense that our doctrine had been vindicated. Quite the contrary. We left knowing not only that the world had changed dramatically, but that our doctrine had failed to keep pace. Little in *Desert Storm* supported the Maritime Strategy's assumptions and implications. No opposing naval forces challenged us. No waves of enemy aircraft ever attacked the carriers. No submarines threatened the flow of men and materials across the oceans. The fleet was never forced to fight the open-ocean battles the Navy had been preparing for during the preceding twenty years. Instead, the deadly skirmishing of littoral warfare dominated ... For the Navy, more than any other service, *Desert Storm* was the midwife of change.⁶⁶

Unashamedly, the process that drove the call for naval transformation was also motivated by the budgetary implications of a peace dividend that had become domestically (and therefore politically) popular at that time. As a consequence, between October 1991 and April 1992 the United States Navy and Marine Corp undertook what they titled the *Naval Forces Capabilities Planning Effort* (NFCPE).⁶⁷ The NFCPE was explicitly aimed at developing a strategic concept; assessing the naval capabilities required and developing the appropriate roles and missions for the United States' naval forces. It concluded that the collapse of the Soviet Union meant that deterrence of regional crisis and conflict would move to the forefront of the political-military agenda and that the rise of informal coalitions to meet specific contingencies would require greater peacetime presence and partnership building, rather than formal alliances. The NFCPE analysis emphasised the role of the Navy in creating stability, supporting

⁶⁵ Edward Rhodes "'...From the Sea'" and Back Again: Naval Power in the Second American Century' *Naval War College Review*, Spring 1999, Volume L11, Number 2, 15.

⁶⁶ William A. Owens, *High Seas: The Naval Passage to an Uncharted World*, Naval Institute Press, Annapolis, 1995, 4.

⁶⁷ See Edward A. Smith Jr, "'...From the Sea': The Process of Defining a New Role for Naval Forces in the Post-Cold War World', in Trubowitz, Goldman and Rhodes (eds), *The Politics of Strategic Adjustment: Ideas, Institutions, and Interests*, New York, Columbia University Press, 1998.

international ‘law enforcement’, and preventing and controlling crises. In the words of Edward Rhodes, the United States Navy was the essential tool with which ‘to exploit the freedom provided by American control over the international commons to project power and influence ashore.’⁶⁸

The United States Navy’s new strategic vision was spelled out in *...From the Sea* of September 1992. *...From the Sea* envisioned naval power being used to help create a stable global environment, deterring dissatisfied regional powers from challenging the emerging international order—and although not in as many words, policing the peace of America. Significantly, *...From the Sea* was about the employment of naval forces that were going to use the sea control that had just been given to them: ‘Our forces can help to shape the future in ways favourable to our interests by underpinning our alliances, precluding threats, and helping to preserve the strategic position we won with the end of the Cold War.’⁶⁹ *...From the Sea* also stated that United States military forces would be used to ‘build foundations for viable coalitions, enhance diplomatic contacts, reassure friends, and demonstrate U.S. power and resolve... engaging day-to-day as peacekeepers in the defense of American interests.’⁷⁰

It meant that while the other American military Services, in making their cases for the minimum force under the political demand for a peace dividend, would base their claims on what would be required to fight and win the next war, the United States Navy would base its claim on what was required to shape the peacetime environment—to utilise and exploit its command of the sea:

Our ability to command the seas in areas where we anticipate future operations allows us to resize our Naval Forces and to concentrate more on capabilities required in the complex operating environment of the “littoral” or coastlines of the earth... This strategic direction, derived from the National Security Strategy, represents a fundamental shift away from open-ocean warfighting at sea—towards joint operations conducted from the sea.⁷¹

⁶⁸ Edward Rhodes, ‘“...From the Sea” and Back Again: Naval Power in the Second American Century’ *Naval War College Review*, Spring 1999, Volume L11, Number 2, 26.

⁶⁹ Sean O’Keefe, Frank B. Kelso II, and C.E. Mundy Jr., ‘*...From the Sea: Preparing the Naval Service for the 21st Century*’ Department of the Navy, September 1992, Reprinted in U.S. Naval Institute *Proceedings*, November 1992, 93.

⁷⁰ *ibid*, 94.

⁷¹ *ibid*, 93. My emphasis added.

In 1994 the follow-on white paper *Forward...From the Sea* continued with a similar theme, re-enforcing that the essential contribution of naval power to the United States national security was the support it could provide to global stability. *Forward...From the Sea* underscored American diplomacy, ‘Naval forces are an indispensable and exceptional instrument of American foreign policy’⁷², and more tactfully acknowledged the contribution of the other Services, ‘...the enhanced combat power produced by the integration of all supporting arms...’⁷³. The United States Navy’s vision thus

successfully developed, explicated, and institutionalised a strategy that accommodated to the national leadership’s liberal-internationalist vision of security and transoceanic-counter military image of war, linking naval power to national grand strategy and offering a convincing justification for Navy budgets and programs.⁷⁴

But this new strategy is conditional on fleets being re-balanced and reshaped to reflect this new reality. Technically this reshaping implies an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the seas (combat and contest) and towards those naval forces that are going to use the sea control given to them (utilisation and power projection)—the ship-of-expedition across the shore. While, in practise, we have seen unprecedented prestige and power being given to the Marine Corps (the Marines can now claim to represent the point of the Navy’s spear), we have also seen the Navy seeking an ‘all-high mix’⁷⁵ naval combatant force under the cloak that the littoral environment is highly threatening and that carrier battle groups and amphibious ready groups are needed at all times in all theatres.

More recently, United States’ concept papers *Joint Vision 2020*, the *Navy Operational Concept*⁷⁶, the 1996 *Operational Maneuver from the Sea*, and the 1998 Department of the Navy’s Posture Statement *Forward...from the Sea: Anytime, Anywhere* have

⁷² John H. Dalton, J.M. Boorda, and Carl E. Mundy Jr., *Forward...from the Sea*, Department of the Navy, 1994, 1.

⁷³ *ibid.*, 3.

⁷⁴ Edward Rhodes, ‘“...From the Sea” and Back Again: Naval Power in the Second American Century’ 31.

⁷⁵ A term used to represent a high-technology, high-sophistication, very modern mix of ships-of-war.

⁷⁶ Admiral Jay L. Johnson, USN, *Forward...from the Sea: The Navy Operational Concept*, Washington DC, March 1997.

attempted to offer clearer articulation of the littoral strategy.⁷⁷ Of consequence to America's constabulary oversight as the imperial controller of *Pax Americana*, the Posture Statement was premised on the assumption that the role of the United States military would be to support the spread of liberal institutions, such as democracy and the free market, around the globe:

We live in a complex and ever-changing world. The growth during this decade of democracies and free market economies is most encouraging. Yet nationalism, economic inequities, and ethnic tensions remain a fact of life and challenge us with disorder—and sometimes chaos. As both positive and negative changes take shape, the United States has become what it calls itself, the “indispensable nation”—the only nation with the technological capability and acknowledged benevolent objectives to ensure regional stability.⁷⁸

While this may have forewarned the future of American foreign policy, of more significance is that there has been a marked shift away from contesting command of the oceans towards the capacity to exercise it, particularly in the littoral. Accordingly, Sea Power, because more of it can be devoted to the exploitation of the command of the sea that is already given, uncontested, is likely to be more effective in influencing events ashore. As the then USN Chief of Naval Operations⁷⁹ so clearly understates: ‘...the primary purpose of forward-deployed naval forces is to project American power from the sea to influence events ashore in the littoral regions of the world across the operational spectrum of peace, crisis and war. This is what we do.’⁸⁰ This is the role of the ship-of-expedition across the shore.

⁷⁷ These include the *Key Operational Concepts* of Dominant Maneuver, Precision Engagement, Focused Logistics, Full Dimensional Protection, Information Operations, and Joint Command and Control.

⁷⁸ John H. Dalton, Jay L. Johnson, and C.C. Krulak, *Department of the Navy 1998 Posture Statement—Forward...from the Sea: Anytime, Anywhere*, Department of the Navy, 1998.

⁷⁹ Admiral Jay L. Johnson, USN, Chief of Naval Operations 2 August 1996 - 21 July 2000.

⁸⁰ Admiral Jay L. Johnson, USN, *Forward...from the Sea: The Navy Operational Concept*.

Re-structuring the Fleet

From a force structure perspective we can also see the same transformation in fleet disposition as occurred with the formation of the Provisional Fleets during the era of *Pax Romana* and the dispersal of the Home Fleets into Colonial Squadrons during the era of *Pax Britannica*. The traditional USN formations such as the Aircraft Carrier Battlegroups (CVBGs) and the Amphibious Ready Groups (ARGs), with their embarked Marine Expeditionary Units, are being transformed into Carrier Strike Groups⁸¹ (CSGs), Expeditionary Strike Groups⁸² (ESGs) and Surface Action Groups⁸³ (SAGs). The purpose of these changes is to support the United States Navy's new 'Global Concept of Operations' by reducing the concentrated battle fleets and significantly increasing the number of independent deployable, strike-capable formations. Using the traditional formations, the fleet had 12 such formations—the 12 CVBGs. With the shift to CSGs and ESGs that number will be doubled to 24 comprising 12 CSGs and 12 ESGs plus a number of independent SAGs to deal with lesser contingencies.⁸⁴ These are the contemporary equivalent of the independent 'cruiser' squadrons of the 19th Century.⁸⁵

Not since *Pax Britannica* has any one nation ever been able to just assume its ability to control the oceans of the world; to 'be a safeguard ... a security for such as pass on the seas upon their lawful occasions'⁸⁶ and the defender of global navigation and maritime

⁸¹ Essentially CVBGs with a reduced number of surface combatants—escorting ships-of-war.

⁸² Essentially ARGs that have been augmented by additional surface combatants, attack submarines and land-based P3 Maritime Patrol Aircraft.

⁸³ Essentially formations of surface combatants—numerously flexible squadrons consisting of frigates and destroyers, the ships-of-war.

⁸⁴ Summarised from Ronald O'Rourke's 'Transform and roll out: the USN's approach to change', *Jane's Navy International*, Volume 109, Number 3, April 2004, 24.

⁸⁵ 'It is often argued that this recent move to the littoral is something novel. In fact the current fixation with this environment has a long pedigree. One can detect a kind of 'oscillation' as, due to both strategic and technological factors, navies moved out to sea in the eighteenth century and then back to the littoral in the nineteenth. It is instructive to read statements of the mid nineteenth century that look remarkably modern in their littoral emphasis. ... Littoral power projection, side by side with battle for sea control, reappeared once again in World War Two both in terms of amphibious landings and carrier air power. The dynamics of the Cold War continued to place some premium on these latter capabilities. Nevertheless the confrontation of Soviet and Western navies on the high seas created a new 'blue water' emphasis to which the Mahanian instincts of the US and Royal Navies responded... Only the end of the Cold War nipped this process in the bud and began the current return to the current littoral priority.' Source: Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*, http://www.sms1835.no/xTEST/faste_arrangement/Ulvikseminar ... viewed 28 February 2005.

⁸⁶ The Naval Prayer.

trade.⁸⁷ The United States' Freedom of Navigation program is a case in point. It continues to ensure that excessive coastal State claims over the world's oceans and airspace are repeatedly challenged by diplomatic protests and operational assertions.⁸⁸ This program also maintains United States' 'national and economic security and leadership in promoting global stability and preserving global navigational freedoms.'⁸⁹ At least at sea, we have undoubtedly entered the era of *Pax Americana*—the peace of America.

Also as a consequence of America's unchallenged maritime supremacy, they alone can now dictate the terms of global sea control and power projection, and also of the Corbettian concepts of 'strategic deterrence' and 'geographic isolation'.⁹⁰ It can also be added that no other maritime nation can even enter into the Corbettian concept of 'limited war' without first securing the United States' acquiescence—the 1982 Falklands War had it, China's adventurism over Taiwan does not. Just as *Pax Britannica* provided the security for the European powers to concentrate on suppressing the last vestiges of piracy and slavery so too has *Pax Americana* allowed for a change of emphasis in maritime operations towards global constabulary and exploitative taskings. Without a monolithic State enemy, and with a very powerful guarantor of navigational freedom, there is now relatively less need for maritime forces that intend primarily to fight for the control of the sea and relatively more need for those that intend to regulate and use it. Within the Empire of *Pax Americana* there is an emergent need to shift the balance of force structure away from what might be termed 'combat' at sea towards 'regulation' and 'utilisation' of the sea.

⁸⁷ 'When it exercised a lesser degree of international hegemony, Britain battled the "enemies of all mankind," such as pirates and slave traders, and took upon itself the responsibility of keeping the world's oceans and seas open to navigation. Today America faces equivalent tasks—battling terrorists, narco-traffickers, and weapon proliferators, and ensuring open access to not only the oceans but also the skies and space.' Max Boot, *The Savage Wars of Peace*, 349.

⁸⁸ United States' operational assertions under their Freedom of Navigation program have been conducted against Albania, Algeria, Bangladesh, Burma, Cambodia, Croatia, Cuba, El Salvador, Iran, Kenya, Liberia, Libya, Malaysia, Maldives, Malta, Nicaragua, Pakistan, Philippines, Saudi Arabia, Seychelles, Sierra Leone, Somalia, Sudan, Syria, United Arab Emirates, Vietnam & Yemen, and others... See http://www.defenselink.mil/execsec/adr1999/apdx_i.html viewed 10 December 2003.

⁸⁹ <http://www.publicaffairs.noaa.gov/oceanreport/freedomnav.html> viewed 10 December 2003.

⁹⁰ Terms associated with Sir Julian Corbett. See Chapter Two - *Navies as Instruments of National Policy* of this thesis, page 24.

Globalisation—The Triumph of American Capitalism

In understanding the extent of the *Pax Americana* Empire it also necessary to further explore the triumph of American capitalism,⁹¹ which in itself is guaranteed by the military power of *Pax Americana*. This triumph, through technological advances, trade route security and business liberalism,⁹² has led to the interdependence of a truly international market economy and the global sharing of an increasingly common international destiny, including an inter-society transparency—globalisation.⁹³ What is momentous about globalisation is that the ‘international market has become the mechanism of economic discipline and regulation, based as it is on the knowledge and software revolutions, the declining real costs of transport and communication, the existence of a global vernacular culture that creates converging patterns of consumer demands and the ability of all major companies to operate internationally.’⁹⁴

But the globalisation phenomenon is more than just the growing homogeneity of the international market economy; it also includes the strategic processes that have intensified relations in political, cultural and social dimensions across boundaries.⁹⁵ It includes the information dimension that has practically taken the “time” out of the equations of world affairs.⁹⁶ What is really new is that globalisation is the process whereby social relations acquire relative ‘distanceless’ and borderless qualities so that ‘human lives are increasingly played out in the world as a single pace.’⁹⁷ This is particularly relevant when considering global diplomacy, trade and economic links, and international financial transactions and movements. As one example, the rapid transfer of short-term investment or speculative funds that occurred throughout Asia in 1997, that precipitated the financial crisis, is indicative of the global reach of international

⁹¹ Andrew J. Bacevich, *American Empire: The Realities and Consequences of U.S. Diplomacy*, Chapter 2 ‘Globalisation and Its Conceits’, 32-54.

⁹² Steve Smith & John Baylis (eds), *The Globalisation of World Politics: An Introduction to International Relations*, Oxford University Press, New York, 2001, 7.

⁹³ Depending upon the context, globalisation can be perceived as internationalisation, liberalisation, universalisation, westernisation, Americanisation, economic rationalisation or deterritorialisation. See Jan Aart Scholte, ‘The Globalisation of World Politics’, in Steve Smith & John Baylis (eds), *The Globalisation of World Politics: An Introduction to International Relations*, 14.

⁹⁴ Michael Clarke, ‘Constraints on UK World Power Projection and Foreign Policy in the New World Order: the Maritime Dimension’, in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, Macmillan Press Ltd, Basingstoke, 1999, 67.

⁹⁵ B.M. Jain, ‘Globalisation and regionalisation in international relations and foreign policy: A critique of existing paradigms’, *Journal of Diplomacy and Foreign Relations*, Volume 3, Number 1, 2001, 88.

⁹⁶ Franz-Josef Birkel, ‘Globalisation: Reducing or Exacerbating the Zero-Sum Game of International Relations’, *Yolla – Journal of the Australian Defence Colleges Association*, September 2003, 33.

investment agencies and the speed with which the information age has endowed all economies.

Maritime Trade - The Consolidated Ocean Web of Communications

In maritime terms, the globalisation process refers to the increasing formation of multinational shipping companies and the global trade in transport services. The importance of increasing international contact, if not interdependence, that is occurring through this process underpins global and regional interaction under *Pax Americana*. Mercantile dependency is not a totally new phenomenon as it was the quest for international trade that originally drove global exploration during the European age of discovery, yet trade volume alone has never before restricted States from going to war with each other.⁹⁸ Nevertheless, it was Sir Julian Corbett who articulated the significance of the maritime link that realised the interaction of mercantile commerce: ‘Command of the sea ... means nothing but the control of maritime communications, whether for commercial or military purposes... By occupying her maritime communications and closing the points of distribution in which they terminate we destroy the national life afloat, and thereby check the vitality of that life ashore so far as one is dependent on the other.’⁹⁹

The modern version of the strategic maritime link, from a United States’ perspective, is ably summarised as:

The globalisation of energy and food markets, as well as cross-industry trade in industrial goods, makes the sea remarkably important for national well-being, not simply for the well-being of the American nation but for that of most nations. By the middle of the next century, even China will be critically dependent on its access to the ocean. Global naval hegemony—that is, the capacity to exercise control over the world’s high seas—thus offers a powerful reason to invest in naval power. At best, control of the world’s oceanic highways may convey the power to shape the general evolution of international society. At a minimum, it is likely to provide a veto power over many changes in international norms and regimes that the United States dislikes.¹⁰⁰

⁹⁷ Jan Aart Scholte, ‘The Globalisation of World Politics’, in Steve Smith & John Baylis (eds), *The Globalisation of World Politics: An Introduction to International Relations*, 27.

⁹⁸ Germany was Britain’s largest trading partner immediately prior to the outbreak of the First World War.

⁹⁹ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Longmans, Green & Co, London, 1911, 90.

¹⁰⁰ Edward Rhodes, ‘...From the Sea’ and Back Again: Naval Power in the Second American Century’, *Naval War College Review*, 51.

That, in one of its crudest forms, is the strength of *Pax Americana*.

By recognising the value placed on navigational freedom and maritime security, as offered under *Pax American*, one can also appreciate the developing trends in international trade that in turn are defining the vital economic interests of the State. Simply, the global maritime transport system is being shaped by globalisation and the homogeneity of the international market economy, not by the strategic desires of governments. It is therefore dictating the nature of regional interaction and inter-State dependency—regional security and cooperation are being linked directly to the economic desirability of conformity and political transparency, and it is being done through the State's growing reliance on trade and trade services.

In describing the global nature of both the open ocean liner shipping (container vessels) and the aviation industries, Peter Rimmer argues that when the world is stripped to its bare transport essentials it is apparent that centres within the northern hemisphere—Asia, Europe and North America—have been linked together into a world-spanning 'main street' with a distinct east-west alignment. From hubs at intersections on this main street, north-south offshoots run to terminals in southern hemisphere cul-de-sacs in Africa, Central and South America, and Australasia.¹⁰¹ Due to the high handling costs involved with traditional non-bulk shipping cargo the liner shipping industry introduced containerisation in the 1960s. This led to liner companies merging their cartel shipping access rights into global consortia¹⁰² and the progressive introduction of ever-larger vessels, fixed-day-of-the-week services, speedier turnarounds and faster and more reliable land transport connections.¹⁰³ The global ocean-liner shipping industry now owns approximately \$US 155 billion in vessels, containers, marine terminals and other direct operating assets in service around the world.¹⁰⁴

¹⁰¹ Peter J. Rimmer, 'A Cul-de-sac off Main Street: Transport', in Christopher Sheil (ed), *Globalisation: Australian Impacts*, University of New South Wales Press, Sydney, 2001, 35. See also J. Baylis & S. Smith, (eds), *The Globalisation of World Politics*, Oxford University Press Inc., New York, 2001, 10.

¹⁰² Peter J. Rimmer, 'A Cul-de-sac off Main Street: Transport', 36.

¹⁰³ *ibid.*

¹⁰⁴ World Shipping Council as cited in *Integrated Security—A New Approach for Ensuring the Security and Safety of Ports and Vessels*, Maritime Solutions, Ingersoll-Rand Company Limited, March 2004.

Also as a function of competitive efficiency and the consequential restructuring process, the members of the consortia transformed themselves into multi-modal transport operators. For example, by 1996 most major shipping groups had joined one of five global multinational alliances providing Asia-Europe-North America-Asia round-the-world east-west services. These services developed specialised handling ports known as ‘shipping hubs’. In Asia, the hubs ports are Hong Kong, Kaohsiung, Pusan¹⁰⁵ and Singapore,¹⁰⁶ and from them further feeder services link the hub centres to regional ports (cul-de-sacs), including those major shipping ports within Australasia. Rear Admiral Akimoto, JMSDF¹⁰⁷ refers to this entire structure as the consolidated ocean web of communications: ‘Like a spider spinning a web in mid-air, the sea lines of communication form a web that, when integrated with the various distribution systems, forms an organic complex...’¹⁰⁸ The result today is that global shipping is an industry of vast scale and labyrinthine complexity. But the industry is not only vast; it is lightly regulated, frequently beyond the reach of law and often secretive in its operations.¹⁰⁹ Moreover, regional economic well-being is totally dependent upon it.

¹⁰⁵ East Asian Container Port Volume (‘000 TEU) in Joon-Soo Jon ‘East Asian Shipping Ownership’, in Andrew Forbes (ed), *The Strategic Importance of Seaborne Trade and Shipping*, Sea Power Centre-Australia, 2003, 78.

¹⁰⁶ Kazumine Akimoto, ‘Re-routing Options and Consequences’ in Andrew Forbes (ed) *The Strategic Importance of Seaborne Trade and Shipping*, 115.

¹⁰⁷ Japanese Maritime Self Defence Force.

¹⁰⁸ Kazumine Akimoto, ‘Re-routing Options and Consequences’, 114. See also Figure 6: *Consolidated Ocean Web of Communications*.

¹⁰⁹ OECD, *Report on Security in Maritime Transport: Risk Factors and Economic Impact*, OCED Conference Paris, July 2003, 6.

Figure 6 Consolidated Ocean Web of Communications

The implications are that global maritime liner shipping is now completely dominated by multinational corporations, utilising very innovative, high-volume, high-growth, Northern Hemisphere centric, yet very efficient multi-modal distribution systems to the reliance of the global economy and to the demise of regional national carriers and other State-centric aspirations and security measures. Australia has effectively lost direct container-shipping services to its major markets and over 70 per cent of Singapore's container traffic volume now involve transshipments.¹¹⁰ According to John Jenkins, the President of the Australian Chamber of Shipping:

In fact, Australia has little choice in regard to the globalisation of shipping—in the vast majority of its international shipping requirements Australia is a taker, not a giver. Whilst Australia, therefore, has the influence of a buyer, it virtually has no international influence. It is not a question of whether Australia gets involved in the globalisation of shipping, but rather how it positions itself in the progression.¹¹¹

Raw economic efficiency has therefore clearly dominated over national strategic reserve liability and other national shipping ambitions, the hub itself has become significantly more important to the strategic well-being of the region it which it serves, and the consolidated ocean web's sea lines of communication linking the hub to 'main street' has gained global significance. In Asia, geography dictates that the greater part of the region's domestic trade and virtually all coastal and intra-regional trade moves by sea. Furthermore, large parts of the international trade moving along 'main street' pass through three internationally recognised maritime chokepoints: Straits of Malacca¹¹², 41,500 ships each year; Sunda Strait¹¹³, 3,500 ships each year; and Lombok / Makassar Straits¹¹⁴, 3,500 ships each year.¹¹⁵ Hypothetical scenarios that would interfere with these chokepoints include rising tension in the South China Sea over territorial rights to the Spratly Islands or the development of submarine oilfields, an armed conflict

¹¹⁰ Peter J. Rimmer, 'A Cul-de sac off Main Street: Transport', 41.

¹¹¹ Mr John Jenkins, 'ACOS Chief Executive's Report: Shipping—last year and this—a tough year', *ACOS International Shipping Review 1997-98*, Australian Chamber of Shipping, Sydney, 1997, 11, as cited in Peter J. Rimmer, 'A Cul-de sac off Main Street: Transport', 39.

¹¹² Located between Malaysia, Indonesia and Singapore. Draft is limited to 72 feet and the shipping lanes narrow to 1.5 miles width at its eastern end.

¹¹³ Located between the islands of Java and Sumatra. The draft limitation restricts the largest merchant traffic.

¹¹⁴ Consists of two connected waterways: the Strait of Lombok, which separates Bali to the West and Lombok to the East, and the Strait of Makassar located between Kalimantan and Sulawesi. No effective draft limits.

between China and Taiwan, or a crisis on the Korean peninsula—would impose serious disruption by disturbing the efficiencies of the ‘web’. But the consequence of losing a hub port is more difficult to contemplate. ‘Ships enter the Port of Singapore at the rate of almost one vessel every two minutes. It would be virtually impossible to redirect all of these ships to other ports. Today, with the global economy moving as one, the effects of the paralysis of a hub port would know no bounds.’¹¹⁶

Peter Rimmer also identifies similar parallels between air passenger transport and sea container shipping: Air passenger transport ‘global traffic patterns look remarkably similar, with strong east-west flows along the northern hemisphere ‘main street’...’¹¹⁷ Again, north-south flows are the next largest set of movements and, like shipping, these are closely linked with hub airports on main street. In Asia, the hubs include Singapore, Hong Kong, Osaka and Tokyo, which are all used by the resident airlines to achieve economies of traffic density.¹¹⁸ Likewise the telecommunications industry—through national policies of privatisation and market liberalisation, State-owned telecommunications monopolies have been exposed to foreign participants facilitating the development of global strategies by the world’s larger telecommunications companies. The result has been the rapid interpenetration of markets by the world’s major telecommunications operators and the appearance, through alliances and acquisitions, of communications companies with global reach.¹¹⁹

The implications of the above are that most States—Australia being a good example—are reactive cul-de-sacs within an emergent global hub-and-spoke sea and air transport and telecommunications systems—all of which are dominated by the three main Northern Hemisphere economic blocks. The patterns of development in telecommunications, air passenger and liner shipping transport (ideas, people and goods) reflect and reinforce the more general processes of globalisation where market economics have concentrated global distribution networks through multi-level hubs, and

¹¹⁵ See ‘Worldwide Maritime Threat Assessment 2000’, *United States Coast Guard Intelligence Assessment 2000*, <http://152.122.41.10.wmmta/chap1.htm>.

¹¹⁶ Kazumine Akimoto, ‘Re-routing Options and Consequences’ in Andrew Forbes (ed) *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific* Papers in Maritime Affairs, No 10, Australian Sea Power Centre, Department of Defence, Canberra, 123.

¹¹⁷ Peter J. Rimmer, ‘A Cul-de sac off Main Street: Transport’, 45.

¹¹⁸ *ibid.*

¹¹⁹ Ros Eason, ‘Trade Wars in the Information Economy: Telecommunications’, in Christopher Sheil (ed), *Globalisation: Australian Impacts*, 61.

regional security and economic well-being is totally dependent on these hubs. Under the security offered by *Pax Americana*, the emerging global social order has increased the interaction and dependence of countries on each other. In response, States are increasingly joining collective and cooperative groups to deal with issues that affect more than one nation and which can not be dealt with in isolation—the United Nations at the global level, and at the regional level, a plethora of organisations that deal with matters from economics, to the environment and security. APEC, ASEAN and the Asian Regional Forum are manifestations of this process in the Asia Pacific region.¹²⁰

Crisis of the Nation-State

If we accept that under the trade security offered by *Pax Americana*, the world's social order (in the context of globalisation and the global market) has increased the interaction and dependence of countries on each other, then a problem lies in that, increasingly, as dependency has increased, control has decreased—sovereign control of economies is being eroded by the activities of non-State actors: multinational corporations, social and environmental movements, the bureaucracies of world organisations and by the international market itself.¹²¹ A former British Chancellor of the Exchequer has placed on public record that:

The plain fact is that the nation State ...is being undermined ...The ability of national governments to decide their exchange rate, interest rate, trade rates, investment and output has been savagely crippled by market forces.¹²²

Multinationals, for example, have agendas not tied to any national aspiration and are usually beyond the control of an individual State; governments can only influence their behaviour. Globalisation is shaped by markets, not by governments.¹²³ States are also ceding more authority to international organisations such as the International Monetary Fund and the World Trade Organisation. The acceptance by Thailand and Indonesia of International Monetary Fund's imposed strategies in the wake of the financial crises

¹²⁰ Rodney Coombe, *Security in the post-Cold War Asia-Pacific*, Australian Defence College Monograph series, No 2, 2003, 9-10.

¹²¹ This is not necessarily a universally accepted point of view. In an article titled 'The Myth of the Powerless State', *The Economist* argues that the maculated State is but a myth, and that the traditional concept of the State still retains the dominating control of its economy. Source *The Economist*, 7 October 1995.

¹²² As cited in 'The Myth of the Powerless State', *The Economist*, 7 October 1995, 16-17.

¹²³ Kenneth Waltz, 'Globalisation and Governance', James Madison Lecture, 1999, <http://www.apsanet.org/PS/dec99/waltz.cfm>, 2, viewed 16 June 2003.

exemplify this trend.¹²⁴ To this melting pot add the permanently structuring role of the United States: militarily, politically, economically, and through their influence over the global institutions. Political globalisation, for example,

is characterised by the preponderance of the United States and its political institutions and by a vast array of international and regional organisations and transgovernment networks (specialising in areas such as policing or migration or justice). It is also marked by private institutions that are neither governmental nor purely national—say, Doctors Without Borders or Amnesty International.¹²⁵

Put simply, in a globalised world where there are now more States than ever before, and more sub-State groups, less and less of the transactions that shape world politics are in the control of governments.¹²⁶

To complicate matters further, the international market economy is also being characterised by an increasingly diffused and fragmented social-political system. The international market has exacerbated income inequalities to produce an ‘elite international system’¹²⁷ where local elites within poor States have common economic, and hence political, interests with powerful elite States, while these poor States are battling within themselves to maintain political, social and ‘governmental’ cohesion of their own destiny.¹²⁸ Globalisation may not necessarily have benefited undeveloped countries, or even developing countries, and the economic inequalities among countries continues to increase. Some two billion people still earn less than \$2 per day.¹²⁹ This is the ‘have-not’ environment that gives birth to social disenchantment and the festering of ethnic, cultural, religious, and socio-economic divisions between and within the Third World. These fissures reflect differences that predate colonialism and can appear as

¹²⁴ Amitav Acharya, ‘Regionalism, Institutionalism, and the Asian Economic Crisis’, *Contemporary Southeast Asia*, Volume 21, No 1, April 1999, 7; See also Martin Van Creveld ‘The Fate of the State’, *Parameters: Journal of the US Army War College*, Volume XXVI, Number 1, Spring 96, 4-18.

¹²⁵ Stanley Hoffmann, ‘Clash of Globalisations’, *Foreign Affairs*, July/August 2002, 108.

¹²⁶ The Centre for Defence and Strategic Studies’ Academic Conference for 2002 titled ‘Future Conflict—Beyond State versus State’ could have just as easily been titled ‘Future Conflict—Beyond International Politics’.

¹²⁷ *ibid.*, 68.

¹²⁸ ‘This present form of capitalism, ironically foreseen by Karl Marx and Friedrich Engels, poses a central dilemma between efficiency and fairness. The specialisation and integration of firms make it possible to increase aggregate wealth, but the logic of pure capitalism does not favour social justice. Economic globalisation has thus become a formidable cause of inequality among and within States.’ Stanley Hoffmann, ‘Clash of Globalisations’, 108.

religious fanaticism and cultural tensions that are often linked with ethnic partitions, internal corruption, cronyism, nepotism and the increasing activities of criminal non-State organisations.¹³⁰

It is therefore not difficult to see that under these pressures a number of less developed States are in a condition of crisis, hit often by violent domestic dissent, an international marketplace in which they cannot compete as national economies, often with levels of debt which not only provide no room for economic growth but condemn them to long-term economic failure, and operating under conditions imposed by foreign financial institutions that dictate short-term economic gain. The result is that they have little political purchase on a world no longer divided into strategic camps and that these conditions are uniquely constraining on national autonomy.¹³¹ The globalised 21st Century under the regime of *Pax Americana* is witnessing a ‘crisis of the State’.

On the other hand, the powerful elite States are dependent on the supply of essential raw materials, not the least being oil, to maintain their economic well-being. A number of academics have argued that the significant participation of a number of West European States in the 1991 Gulf War was directly attributable to this interest.¹³² Dilip Hiro spreads this argument a step further. In his own analysis of the 1991 Gulf War he links Western involvement directly to the inward investment by Kuwait in Europe.¹³³ Developing this hypothesis, it can be argued that as the world becomes increasingly interdependent States will use (or frustrate by denial) their military power more frequently to protect their exposed (or perceived) economic interests¹³⁴—as France acted over the invasion of Iraq in 2003. The old adage ‘the currency of power is the power of currency’ has more applicability than ever—and the interests of the ‘elite international system’ is heavily influencing the internal politics of States.

¹²⁹ Bruce R. Scott, ‘The Great Divide in the Global Village’, *Foreign Affairs*, January/February 2001, Volume 80, Number 1, 160.

¹³⁰ Hanns-Frank Saller, ‘A New Security Policy’, in Jurgen Schwarz, Wilfried A. Herrman, & Hanns-Frank Saller, (eds.), *Maritime Strategies in Asia*, 2002, White Lotus Press, Thailand, 10.

¹³¹ Michael Clarke, ‘Constraints on UK World Power Projection and Foreign Policy in the New World Order: the Maritime Dimension’, in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 65.

¹³² See John Roberts, ‘Oil, the Military and the Gulf War of 1981’, *RUSI Journal*, vol 136 Spring 1991, 11-16.

¹³³ Dilip Hiro, *Desert Shield to Desert Storm: The Second Gulf War*, Harper Collins, London, 1992.

¹³⁴ Andrew M. Dorman, ‘Back to the Future: the Royal Navy in the 21st Century’, in Andrew Dorman, Mike Smith and Matthew Uttley (eds), *The Changing Face of Maritime Power*, 169.

Nonetheless, the rising salience of economic power, the huge costs (financial and political) involved in forming and maintaining military coalitions and the huge costs involved in large-scale military interventions into the Third World¹³⁵ (for example the Gulf, Somalia, Afghanistan) further militates against the utility of using highly sophisticated and complex military forces to achieve today's political aims. Even with the resources that are available to the United States, the financial cost of military intervention needs to be carefully considered against the prospects of imperial or political gain—strategic, economic and humanitarian-political. In Afghanistan the expense was clearly worth the political gain, but for the Kurds in northern Iraq post-1991 Gulf War, for the Hutus in Rwanda, for the black Africans in Darfur and southern Sudan, and the many other impoverished tribal nations of Africa, apparently, the expense was not.

Yet, since the end of the Cold War, there has been continuing internal and external political pressure on Western governments to use their military forces. Internally, the media, particularly on the humanitarian front,¹³⁶ has significantly influenced domestic politics. Externally, the United States has, for its own domestic political 'high ground', relied significantly upon its allies for support when its own international interests have been at stake. During coalition operations during the 1991 Gulf War, the embargo against Iraq, the security operations against former Yugoslavia in the Adriatic, and now during the 'War against Terrorism' involving the invasions of both Afghanistan and Iraq, the expensive warships of medium and smaller powers are offered more as a risk-free political gesture than as a military requirement—the era of 'coalition tokenism' on the not-so-cheap.¹³⁷ Australia's embrace of the United States/United Kingdom's invasion of Iraq in 2003 also suggests a politically motivated strategy for safeguarding a

¹³⁵ The Pentagon estimation of the cost of the war with Iraq for the combat phase alone was between \$US 60-95 billion. The 1991 Persian Gulf War cost \$US 82.5 billion, of which roughly 80% was covered by Washington's allies. Source: *Washington Post* 26 February 2003. The United States' current intervention in Iraq post 'war' is running at \$US 1 billion per day. Source: *The Canberra Times*, 22 January 2005.

¹³⁶ Andrew M. Dorman, 'Back to the Future: the Royal Navy in the 21st Century', in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 27.

¹³⁷ 'Bigger slice of Budget flagged', *The Canberra Times*, 30 January 2002.

perceived position of favouritism, rather than a military need *per se*.¹³⁸ During the arguments generated by Mark Latham's¹³⁹ promise to bring Australian troops home from Iraq by Christmas 2004, it was stressed:

‘This brings us to a key consideration, which the Howard Government is unlikely to admit ... Australian troops... are in Iraq not primarily to assist the Iraqis in any practical sense but to aid the Americans politically. Their importance is a direct product of the limited support by the wider world for the intervention.’¹⁴⁰

Conclusion

So where has all this taken us? The main lesson is that the modern era of a world emerged in the phenomenon of *Pax Americana*'s guaranteed globalisation, has in itself initiated a new maritime paradigm. That the effects and influences of a globalised world are now rooted in our general culture and, through it, the underlying political, social, and economic reality of our time. That the nature of the global social order has changed—so have the factors that govern inter-State relations within what has been described as an increasingly diffused and fragmented international political system. That there are winners and losers within this global network and a growing number of the less developed States are in a condition of crisis. That the international market has become the mechanism of global economic discipline and regulation, and that sovereign control of economies is being continually eroded. That there is a growing global dependency on maintaining the efficiency of the systemised and organically complex hub-n-spoke communications web that supports the global total logistic support system, and that the hubs themselves have become significantly more important to the strategic well-being of the region in which they serve. And most importantly, that globalisation and the global market, has increased the interaction and dependence of countries on

¹³⁸ In an open ‘Statement of concern’ 43 former senior defence and public service chiefs and top diplomats collectively called for more ‘truth in government.’ Their Statement, in part, ‘... We are concerned that Australia was committed to join the invasion of Iraq on the basis of false assumptions and the deception of the Australian people. Saddam’s dictatorial administration has ended, but removing him was not the reason given to the Australian people for going to war. ... Because of our Government’s unquestioning support for the Bush Administration’s policy, Australia has also been adversely affected. Terrorist activity, instead of being contained, has increased. Australia has not become safer by invading and occupying Iraq and now has a higher profile as a terrorist target....’ Source: ‘Stinging criticism of Howard, Ex-defence, PS chiefs call for truth’ and ‘Time for Honest, Considered and Balanced Foreign and Security Policies’, *The Canberra Times*, 9 August 2004, 1 & 2.

See also ‘The Politics of those Elusive Weapons’, *Canberra Sunday Times*, 8 February 2004, 25.

¹³⁹ The then Leader of the Opposition, Australian Labor Party.

¹⁴⁰ William Maley, ‘Reasons for keeping troops in Iraq don’t stand close analysis’, *The Canberra Times*, Wednesday 31 March 2004.

each other. Thus it should not be surprising that one can also see changes in the global economic, political, and social organisation that now challenge the traditional perspectives underlying the current foundation of modern naval force structure: a foundation that was premised on inter-State conflict.

If the Corbettian idea on the function and employment of the fleet—‘firstly, to support or obstruct diplomatic effort; secondly, to protect or destroy commerce; and thirdly, to further or hinder military operations ashore’¹⁴¹—has continued merit, then naval force structure should reflect the changing emphasis of a State’s maritime interests: to govern and protect the coastal State’s expansion of State sovereignty; to contribute to the regulatory and asymmetric threat protection of the global communications web that underpins the State’s economic well-being; and to project military power ashore to ensure an external environment favourable to the interests of the State. As argued by Boothly, ‘the prime purpose of navies is not simply to fight battles but to protect a country’s maritime interests.’¹⁴² Navies exist in order to use the sea to further their nation’s interests: for the passage of trade and people, and the exploitation of resources, to further national wealth, and for the projection of influence to ensure the creation of that national wealth. The desire and ability to project power for policing, crisis management, conflict prevention and to obtain influence in the world order reflects a world freed from the imperatives of the Cold War and the ideological competition that it entailed.¹⁴³

During this era of globalisation and its resultant increase in international interdependence, and the global multilateral institutions that have enclosed the oceans for the benefits and obligations of the State, the balance of force structure has moved away from those naval forces needed for inter-State combat and contest, towards those naval forces needed for governance regulation and sea control utilisation. Edward Rhodes points to ‘a substantial refocussing of naval capabilities and efforts, from forces designed and trained to seek out aggressively and give battle to an advanced and highly capable opponent, to forces designed and trained to exercise gunboat diplomacy across

¹⁴¹ Sir Julian Corbett 1907, as quoted in ‘The Late Sir Julian Corbett’ *Naval Review*, Volume XI, Number 1, February 1923, 17.

¹⁴² D. Boothly, *Sailing Under New Colours*, USNI Proceedings, July 1992.

¹⁴³ Michael Clarke, ‘Constraints on UK World Power Projection and Foreign Policy in the New World Order: the Maritime Dimension’, in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 65.

a spectrum of violence.’¹⁴⁴ There has been a shift of emphasis towards the ship-of-law and the ship-of-expedition over the shore and these pressures are simply a reflection of the very same pressures that saw the re-structuring of Imperial Roman Navy and the Royal Navy during their respective eras of *Pax Romana* and *Pax Britannica*. It has all been done before.

¹⁴⁴ Edward Rhodes ‘ “...From the Sea” and Back Again: Naval Power in the Second American Century’ *Naval War College Review*, Spring 1999, Volume L11, Number 2, 15.

CHAPTER FIVE

THE ASYMMETRIC RESPONSE TO TECHNOLOGY

Unconditional war can no longer lead to unconditional victory. It can no longer serve to settle disputes. It can no longer be of concern to great powers alone. For a nuclear disaster, spread by winds and waters and fear, could well engulf the great and the small, the rich and the poor, the committed and the uncommitted alike. Mankind must put an end to war or war will put an end to mankind.

John F. Kennedy

This Chapter will present the dissertation's second hypotheses—the advance of weapon technology and the asymmetric response that has changed the character of warfare. In particular it will demonstrate how nuclear weapons, while guaranteeing the survival of the nation State, have effectively prevented the major powers, and their allies, from fighting each other. The change to the character of warfare is further evaluated against an analysis of major warship construction—historically they have become ‘time pieces’ of their nation’s technical sophistication. Yet the modern asymmetric antagonist and Third World adversary does not have a comparable resource base, nor a technically comparable ship-of-war. The modern battlefield reflects the wars associated with intra-State political instabilities, religious fundamentalist fanaticism, terrorist, guerrilla and partisan warfare, social and ethnic tensions, ethnic “cleansing” and the increasing activities of criminal non-State organisations. These are not the inter-State high-intensity conflicts that the ultra-sophisticated ships-of-war are designed to fight. Also, technologically, we are starting to see modern warships having rather less intrinsic value than the network of systems that they integrate with, while still requiring the numbers that are needed for the execution of governance control. This Chapter concludes by suggesting that the ‘end’ of traditional inter-State warfare represents another contemporary pressure influencing naval force structure development. The modern ship-of-war may find difficulty finding its nuclear-age Trafalgar or Jutland against an equally sophisticated foe: it needs to find a more contemporary configuration to remain strategically relevant.

The Supreme Super Weapon and Naval Panacea

If one looks back to the end of the 19th Century, the utility of the naval instrument was, at that time, submerged by a naval arms race that was dominated by the *Dreadnought*

battleship and the materialistic ethic¹—maritime forces that were intended primarily to fight for the control of the sea. The *Dreadnought* battleship had become the supreme super weapon and the naval panacea of arguably the first revolution in military affairs—mechanisation. While this was a false belief that two world wars would eventually expose, nevertheless, even at that time, there were those who promoted the idea that owing to their tremendous cost and destructive power, modern weapons of war tended to the promotion of peace—the more terrible the anticipation of war, the less likely would be its realisation.

Lord Roseberg (1847-1929)² touched upon the peace-making influence of great armaments, because they imposed ‘an awful responsibility on those who have to direct them.’³ It was the thesis of Jean de Bloch’s (1836-1902)⁴ famous book, *Is War Now Possible?*,⁵ that at the end of the next great war the victor would emerge almost as ruined and impoverished as the vanquished—‘War had therefore become impossible, except at the price of suicide.’ The *Manchester Guardian* had faith that ‘mechanical progress is one of the strongest of our allies in the cause of peace; this evil god of war may some day be devoured by his own children.’⁶ Rudyard Kipling (1865-1936)⁷ placed his faith in the discovery of some new engine of death so devastating that war must end and peace ‘arrive by herself.’⁸

The same materialist ethic of the supreme super weapon appeared again during the Cold War.⁹ For the United States, its grand strategy of Soviet containment and the possible need to reinforce Europe from across the Atlantic was pure Mahanian ‘sea power’ and

¹ The materialistic ethic refers to the Material School of Maritime Strategic Thought: the assumption that the dominant military hardware or weapon—the material strength—at a given time creates such an overwhelming superiority that it alone generally satisfies the nation’s defence needs. This line of thinking is usually concerned primarily with waging or deterring total war between the superpowers. In the industrial and scientific environment since the early 19th century, such technological determinism has tended to dominate strategic thinking. Source: Maritime Strategy Reader, Australian Command and Staff College, Canberra.

² Archibald Philip Primrose, 5th Earl of Roseberg, and Prime Minister of the United Kingdom 5 March 1894-22 June 1895. See www.victorianweb.org/history/pms/roseberg.html viewed 6 January 2004.

³ The *London Times*, 14 June 1894.

⁴ See www.cgsc.army.mil/carl/resources/csi/Bloch/BLOCH.asp or www.bartleby.com/73/1957.html both viewed 6 January 2004.

⁵ Jean de Bloch, *Is War Now Possible*, London, 1899.

⁶ The *Manchester Guardian*, 11 November 1902.

⁷ See www.nobel.se/literature/laureates/1907/kipling-bio.html viewed 6 January 2004.

⁸ As cited by Arthur Marder, *The Anatomy of British Sea Power*, Frank Cass & Co Ltd., London, 1940, 34.

the materialists' dream of the naval panacea—the carrier battle groups that were intended primarily to fight for the control of the sea. The supreme super weapon for both sides was the nuclear weapon. From the Soviet Union's perspective of Western encirclement, their counter strategy was to oppose those very same maritime strike forces that represented the United States' sea power; the carrier battle groups—the decisive 'big battleship-big battle'¹⁰ through the at sea exchange of the supreme super weapons—the tactics of the ship-of-war.

Today, with the political and economic collapse of the Soviet Union and the ideological challenge of religious fundamentalism, the ideas of a naval panacea and the supreme super weapon, as rationalised by the material strategists, are losing their influence. The realisation that nuclear weapons have made total war between nuclear-armed adversaries no longer politically viable or humanly acceptable has re-created the common purpose to prevent the next global war. The end product of centuries of large-scale inter-State warfare—the nuclear weapon—has finally become Kipling's engine of death so devastating that war must end and peace arrive by herself:

Nuclear weapons ... challenge [our] notions of symbolic immortality and connectedness because they threaten not only biological death but also ontological death, a rendering into nothingness of that which constitutes the world and human relatedness to it, including memory, history, the sense of individuality, and the belief in the inevitability of progress. Nuclear weapons, unlike all other weapons ... have the power to turn everything into nothing.¹¹

In a nuclear war-ravaged world we can not imagine the survival of nations, culture, works, or influence, and even 'the idea of an afterlife may not be sufficiently convincing to quell the anxieties of total severance.'¹²

What seems to have been the message of the nuclear age up until this point is that nuclear weapons do actually guarantee national survival. The United States, United

⁹ The Soviet Union's and the United States' four decades of military and ideological challenge to each other.

¹⁰ Decisive battle — A term used by Alfred Thayer Mahan where the aim of naval operations was to engage and destroy the enemy in a single massive encounter. Later usage includes a decisive outcome from a series of battles.

¹¹ Peter R. Beckman, Larry Campbell, Paul W. Crumlish, (eds), *The Nuclear Predicament—Nuclear Weapons in the Cold War and Beyond*, Prentice-Hall Inc, New Jersey, 1992, 22.

Kingdom, France and the Soviet Union saw nuclear weapons as essential to the preservation of their political systems and “ways of life”. Today, Israel, India and Pakistan, even North Korea and Iran, continue to present a similar point of view. But nuclear weapons cannot go much beyond guaranteeing national survival, whether one’s opponent does, or does not, possess nuclear weapons as well. In such situations, the ability to compel others to behave in certain ways seems to have been quite limited. The long history of the Soviet/United States confrontation demonstrates the relative ineffectiveness of nuclear weapons for dealing with most matters of international differences. Likewise, when one’s opponent does not have nuclear weapons, the ability to compel them to behave in certain ways is also quite limited—United States confrontations in Vietnam, Iraq, and Afghanistan. The central irony of the wars that have shaped the 20th Century is that the very situations that brings about a modern inter-State war are now destroyed in its wake.¹³ An exchange of even a small fraction of the strategic arsenals of the United States and the former Soviet Union would, at the very least, have destroyed both societies. The nuclear weapon has effectively prevented the major nuclear powers, and their allies, from fighting each other, while altercations with non-nuclear powers have to be dealt with by ‘conventional’ means.

Martin van Creveld encapsulates this argument:

From the beginning of history, political organisations going to war against each other could hope to preserve themselves by defeating the enemy and gaining victory; now, assuming only that the vanquished side retained a handful of deliverable weapons ready for use, the link between victory and self-preservation has been cut. On the contrary, at least the possibility had now to be taken into account that the greater the triumph gained over an opponent who was in possession of nuclear weapons, the greater the danger to the survival of the victor.¹⁴

Low-Intensity Warfare

Warfare, as we traditionally know it, has therefore moved away from the ‘First World’—to States that do not have either nuclear weapons, or nuclear capable allies. Ken Booth observed that there have been no wars between any of the 44 richest

¹² Jonathon Schell, *The Fate of the Earth*, Avon Books, New York, 1982.

¹³ Raymond Aron, *The Century of Total War*, Doubleday and Co, Garden City, New York, 1954, 17.

¹⁴ Martin van Creveld, ‘Through a Glass, Darkly—Some Reflections on the Future of War’, *Naval War College Review*, http://www.d-n-i.net/creveld/through_%20a_glass_darkly.htm viewed 31 May 2005.

countries since 1945.¹⁵ Since then, 75 per cent of all wars have been waged by, or against, political entities that were not States with the aid of armed forces not amounting to regular armies. Also at that time, in the 1990s, none of the twenty ongoing wars were being waged by State-based, regular, armies with the aid of heavy, modern weapons, or at least not on both sides.¹⁶

And as noted by van Creveld:

When the last colonies—those of Portugal—went free in 1975, many people felt that an era in warfare had come to an end.¹⁷ Having suffered one defeat after another, the most important armed forces of the ‘developed’ world in particular heaved a sign of relief; gratefully, they felt that they could return to ‘ordinary’ soldiering, by which they meant preparing for wars against armed organisations similar to themselves on the other side of the Iron Curtain. In fact, however, the hoped-for respite did not materialise. At the time these lines are being written, [2000] of the wars in progress, all, without a single exception, are being fought inside States, and none is fought between States on both sides. Though most continue to take place in what used to be called the third world, some are unfolding in the former second one; nor is the *soi-disant* first world necessarily immune.¹⁸

While it may be possible to find exceptions, the underlying premise remains. Instead of wars becoming more and more intensive and high-tech on both sides, the vast majority have been described, by the very misleading term, as being of the low-intensity type.¹⁹ Sebastian Mallaby expands on this point by observing that these wars have now grown nastier and longer. In a study of 52 conflicts since 1960, a recent World Bank study found that wars started after 1980 lasted three times longer than those beginning in the preceding two decades—the trend towards violent disorder may prove self-sustaining, for war breeds the conditions that make fresh conflict likely.²⁰

¹⁵ Ken Booth, *New Thinking About Strategy and International Security*, Harper Collins, London, 1991, iv.

¹⁶ Martin van Creveld, ‘High Technology and the Transformation of War Part II, *RUSI Journal*, December 1992, 62.

¹⁷ For example, W. Laqueur, *Guerrilla: A Historical and Critical Study*, Boston, Little, Brown, 1976, 404ff.

¹⁸ Martin van Creveld, ‘Through a Glass, Darkly—Some Reflections on the Future of War’.

¹⁹ ‘From Soviet Azerbaijan through Yugoslavia and the Baltic all the way to Northern Ireland—to say nothing of Lebanon, Afghanistan, Sri Lanka, Cambodia, the Philippines, Peru and Colombia—the most relevant model is not the Second World War, or the 1973 Arab-Israeli War, or the 1991 Gulf War, but the Hundred Years War...’ Source: Martin van Creveld, ‘The Structure of Strategic Studies’, D. Ball and D. Horner, (eds), *Strategic Studies in a Changing World: Global, Regional and Australian Perspectives*, Australian National University, Canberra, 1992, Chapter 5.

²⁰ Sebastian Mallaby, ‘The Reluctant Imperialist: Terrorism, Failed States, and the Case for American Empire’, *Foreign Affairs*, March April 2002, 2.

Low-intensity, long duration festering conflicts have risen through the intensification of ethnic, cultural, religious, and socio-economic divisions between and within Third World countries. Many of these fissures reflect differences that predate colonialism. These old schisms have been wedded in recent years to new divisions over ideology, political participation, and the distribution of national wealth—in complex and often violent configurations. Future conflict structures cannot be compared to the near-continuous military contests that have occurred between successive competing nation-States over the last three centuries. The formerly suppressed political instabilities are now combined with religious fanaticism, social tensions and terrorism culminating in the dissolution of government and regional power structures—often linked with ethnic “cleansing” and increasing activities of criminal non-State organisations.²¹

From a social perspective, these fissures have been exacerbated by urbanisation; the collection of unemployed or underemployed males who see the promise of globalised prosperity on television in every café but cannot enjoy it themselves.²² It is hard to escape the conclusion that the growing divide between rich and poor has aggravated existing tensions, producing fresh outbreaks of armed violence. In Israel, for instance, the Palestinians comprise most of the “have-nots”, in South Africa it is the black population, and in Saudi Arabia it is the Shi’ites. As the divide between rich and poor grows more acute, ethnic and religious divisions are likely to become more pronounced and unstable.²³ Stressing that terrorism today is the ‘poison fruit’ of several globalisation trends can also extend this argument.²⁴ While terrorism can be seen as the weapon of the weak—as in Peru, Nepal, Iraq, Chechnya, Kashmir, the Palestinian territories—it can also be seen as the product of ‘unjust’ globalised economic inequalities and, particularly in the Middle East, ‘an invasive American presence ... and to a Western culture deemed threatening to local religions and cultures.’²⁵ The expanded international presence of America has also stoked resentment to Uncle Sam’s large footprint. The marketing of American goods abroad, for example, results not just in

²¹ Hanns-Frank Seller, ‘A New Security Policy’, Jurgen Schwarz, Wilfried A. Herrman, & Hanns-Frank Seller, (eds), *Maritime Strategies in Asia*, 2002, White Lotus Press, Thailand, 10.

²² Michael Ignatieff, ‘The Challenges of American Imperial Power’ *Naval War College Review*, Spring 2003, Volume LVI, No 2, 57.

²³ Michael Klare, ‘Growing Firepower in the Third World’, *Bulletin of the Atomic Scientists*, Volume 46, Number 4, May 1990.

²⁴ Stanley Hoffmann, ‘Clash of Globalisations’, *Foreign Affairs*, July / August 2002, 112 & 108.

commercial facilities that may become targets, but in a more diffuse dislike of what is seen as an American cultural and economic intrusion,²⁶ thereby facilitating the idea that globalisation equals forced Americanisation²⁷ or forced American consumerism.

Notwithstanding, terrorism, as a military strategy in the traditional sense, depends on being able to eventually mobilise popular support for their cause, and this in itself constrains the terrorist's tactics. Terrorist atrocities generate publicity for their cause, make governments look ineffectual, and trigger repressive measures on the population,²⁸ which further alienates the governing body from the masses that are the terrorist's support base. It is the reaction to the terrorist act, rather than the act itself, which formulates the terrorist's 'traditional' strategy: '...the aim of terrorist action is to force the State to over-react, to take action that imperils its legitimacy.'²⁹ It is a strategy formerly designed to increase dissent against a colonial or authoritarian government—French colonial Algeria and the British occupation of Palestine, are examples. In causing too much suffering the terrorist risked losing his popular support and, therefore, the scale of terrorism tended to be naturally self-limiting.

However, in 1995 this 'conventional' military strategy on terrorism started to waver when Aum Shinrikyo Aleph, a Japanese religious cult, released Sarin nerve agent in the Tokyo underground killing 12 people and injuring a further 6000.³⁰ A more effective dispersal system for the gas might have caused deaths in the thousands. Fanatical Japanese end-of-the-world cults aside, Asian and European countries, even the United States, had been living with domestic and international terrorism for years, but following on from what Aum Shinrikyo symbolised came the dynamic expression of Islamic fundamentalism—al-Qaeda being the current example.

Sir Tim Garden argues that the al-Qaeda group grew from the West's support for the 'mujehideen' or Islamic warriors fighting against the Soviet Union's occupation of

²⁵ *ibid.*

²⁶ John Callaway, 'War on Terror Snaps', *Proceedings*, United States Naval Institute, July 2002, 36.

²⁷ Thomas Barnett, 'Globalisation is Tested', *Proceedings*, United States Naval Institute, October 2001, 57.

²⁸ Sir Tim Garden, 'Terrorism is the challenge of the century', *The Canberra Times*, 16 March 2004, 11.

²⁹ Mike O'Brien, 'Morality in Asymmetric War and Invention Operations', *RUSI Journal*, Volume 147, Number 5, October 2002, 40-44.

³⁰ See www.apologeticsindex.org/a06.html, www.factnet.org/cults/aum_shin_rikyo/AumShinrikyoCurrentNewspaperArticles.html?FACTNet and www.meta-religion.com/World_Religions/Hinduism/aum_shinrikyo.htm amongst many other possible references.

Afghanistan. Once the ‘West lost interest, Osama bin Laden had a ready source of trained and motivated recruits’ who were themselves disenchanted with Western globalised encroachment, and with their success were convinced of their own invincibility. With al-Qaeda, we now have a large international movement rooted in the radical Islamic doctrines of Wahhabism: ‘...as fanatical as Aum Shinrikyo, with followers who welcome martyrdom, who have the weaponry of the modern world coupled with the beliefs of medieval times. Their stated aim is to establish a pan-Islamic caliphate throughout the world. Here there is no possibility of political negotiation or compromise.’³¹

The succession of al-Qaeda sponsored attacks around the world has deliberately sought to maximise casualties. Roger Barnett argues that September 11 was different because it encroached on the American homeland sanctuary. Therefore, while the bombings of the United States Marine barracks in Beirut (1983), the Air Force barracks at Khobar Towers in Saudi Arabia (1996), and the United States Embassies in Kenya and Tanzania (1998) violated ‘the sanctuary the United States normally provides over its federal employees and military forces worldwide’³² the 11 September attacks differed in two key aspects: they indiscriminately targeted civilians, and those civilians were located with the US homeland.³³ Regardless, the 11 September 2001 attacks on the World Trade Centre’s twin towers clearly shocked the world community and changed the security outlook and agenda globally.³⁴

³¹ This notion is based in the distinction in fundamentalist Islam between “Dar el-Harb” (the realm of the Sword—that part of the world not yet under Islamic control) and “Darel-Islam” (the realm of Islam—that part of the world ruled by Islamic law). There is no grey, either you are an Islamic fundamentalist or you are an enemy. Source: Boaz Ganor, ‘The Changing Threat of International Terrorism’, 20 December 2002, <http://www.ict.org.il/articles/articleid=455> viewed 19 February 2003.

³² Roger Barnett, ‘Naval Power for a New American Century’, *Naval War College Review*, Washington, Winter 2002, Vol 55, No 1, 43-63.

³³ *ibid.*

³⁴ James Kurth offers a slightly different twist: ‘The 9/11 terrorist attacks were a monstrous example of a new kind of warfare, integrating three different and older forms of political violence: terrorism, which has had a long history in both the West and the East; political suicide, which was largely developed in the East during the 20th Century; and mass destruction, which was largely developed in the West...’ James Kurth, ‘The War and the West’, *Watch on the West*, Volume 3, Number 2, February 2002, at <http://www.fpri.org/ww/0302.200202.kurth.warandthewest.html> viewed 18 December 2002. Michael Ignatieff sees a more alarming trend: ‘...the single most dangerous thing about [post September 11] terrorism is the claim that terrorists are responding to grievances about which, in fact, they do not care. The 11 September attackers made no demands at all, declared no explicit political agenda. They went to their deaths in complete silence. Nonetheless, hundreds of millions of people accepted them as representatives of their own long-frustrated political desires—to drive Israel into the sea, to expel America from the holy places, and so on. The hijackers themselves were more interested in the spectacle of destruction, in violence for its own sake, than in the redemption of the downtrodden,

...the sheer audacity of a relatively small band of suicidal and lightly armed terrorists attacking the political and financial centres of the world's superpower, the enormity of the civilian casualties, and the visual impact on a worldwide television audience ensured that September 11 would move terrorism to the top of the international security agenda. So, too, did the response of the United States, which immediately declared a 'war' against terrorists 'of global reach' and 'the States that harbour them', pledged to be proactive in this campaign, and vowed to judge its relations with other nations on their cooperation.³⁵

To the nearly 3,000 civilians who died in the September 11 attacks we now must add the 180 casualties of the Bali nightclub bombing 12 October 2002, the 191 dead and 1,400 injured in the Madrid atrocities 11 March 2004, the Paradise Hotel bombings in Mombasa, Kenya 28 November 2002, the suicide bombings of the housing complex in Riyadh 13 May 2003 and the British Consulate and HSBC Bank in Istanbul, Turkey 20 November 2003, the Marriott Hotel and Australian Embassy bombings in Jakarta and, most recently, the 8 July 2005 London commuter attacks; the list goes on.

The outcome for the future is that, 'wherever they might be, adversary forces can no longer be expected to be arrayed in lines.'³⁶ Adversaries will employ all the dimensions of warfare to both offensive and defensive advantage, and they will endeavour not to present stationary targets—which afford no sanctuary, for they can now be attacked with great precision from long ranges. They are seeking, in other words, to establish their own sanctuaries. Distance offers sanctuary, as does darkness, stealth, secure locations such as caves, the depths of the seas, the extent of cities, bad weather, and passive and active defences. Of course, adversaries will attempt to attack targets for which protective sanctuary is very difficult to provide—large, fixed, valuable nodes of national infrastructure or population concentration will be favoured.³⁷ The use of asymmetric tactics thus restores a degree of initiative and manoeuvrability to an opponent who is significantly outclassed on the conventional battlefield.³⁸

but they have been taken as martyrs for political ends.' Michael Ignatieff, 'The Challenges of American Imperial Power', *Naval War College Review*, Washington, Spring 2003, Volume LVI, Number 2, 56.

³⁵ Christopher McNally & Charles Morrison (eds), *Asia Pacific Security Outlook 2002*, Japan Centre for International Exchange, 2002, 9-16.

³⁶ Roger Barnett, 'Naval Power for a New American Century', *Naval War College Review*, Washington, Winter 2002, Volume 55, Issue 1, 43-63.

³⁷ *ibid.*

Also, the American hegemon has no great power enemies. Its only serious threat to its security comes from ‘an archipelago of rogue States (some connected with transnational terrorists) wielding weapons of mass destruction. The threat is not trivial.’³⁹ Weapons of mass destruction ‘are not new, nor are rogue States. Their conjunction is.’⁴⁰

However, the West’s militaries still ‘remain uncomfortable’, about the risks of getting caught up in long and drawn-out low-intensity wars of limited perceived self-interest⁴¹ and the absence from the peacekeeping agenda of the concept of ‘winning’. Intervention in intra-State and rogue-State conflicts is messy, expensive, a quick exit strategy is usually a delusion, and stabilisation rather than victory is the objective. Lieutenant General Peter Leahy, Chief of the Australian Army, recently stressed that the nation States have lost their near monopoly on waging war. ‘The soldier who will fight ... will be a warrior first and foremost, but an aid worker, diplomat and media relations expert as well...’ Iraq, Somalia, and the Balkans had shown it is impossible to quarantine war fighting from humanitarian and nation-building operations. Terrorists, criminals and low-level insurgency ‘and their ilk are the most likely adversary in most credible scenarios the [Australian Defence Forces] will face in the next decade.’⁴²

Maritime Terrorism

From a military maritime perspective, terrorism at sea became a reality with the failed attack on USS *The Sullivans* in January 2000, then the successful attacks on the USS *Cole*, 12 October 2000, and the French supertanker MV *Limburg*, 6 October 2002, and, more recently, the attempt of 24 April 2004 to destroy an Iraqi oil terminal. In both the successful cases al-Qaeda operatives placed a small boat packed with explosives

³⁸ Vice Admiral Sir Jeremy Blackham, ‘Future Littoral Warfare Requirements: A New Paradigm’, *World Defence Systems*, Volume 4, Issue 1, April 2002, 45.

³⁹ Charles Krauthammer, ‘The Unipolar Era’, Andrew Bacevich, *The Imperial Tense: Prospects and Problems of American Empire*, Ivan R. Dee, Chicago, 2003, 52.

⁴⁰ *ibid.*

⁴¹ As the foundation of this policy see ‘The Weinberger Criteria’, *Annual Report of the Congress: Fiscal Year 1987*, Department of Defense, Washington DC, 1986, 78-82. Also, after the end of Gulf War in 1991, Colin Powell, then chairman of the Joint Chiefs of Staff, outlined his vision for efficient and decisive military action. His plan is now referred to as the Powell Doctrine, although there is not an actual formal document named as such. Nevertheless, as the U.S. Secretary of State, Colin Powell invoked his Doctrine in articulating the justifications for the Bush administration’s preparations for war in Iraq. Essentially, the Powell Doctrine expresses that military action should be used only as a last resort and only if there is a clear risk to national security by the intended target; the force, when used, should be overwhelming and disproportionate to the force used by the enemy; there must be strong support for the campaign by the general public; and there must be a clear exit strategy from the conflict in which the military is engaged.

⁴² As reported by David McLennan, *The Canberra Times*, 11 February 2004, 10.

alongside their target's hull before detonating themselves in their ultimate sacrifice. The attack on USS *Cole* in the port of Yemen blew a 6 x 12 metre hole in the port side of the destroyer, killing 17 crewmembers and injuring another 39.⁴³ The attack on the MV *Limburg* in the Gulf of Aden ruptured both hulls and breached the tanker's internal tanks. The attack killed one crewmember and released 90,000 barrels of oil into the waters off the Yemeni coast.⁴⁴ An audio tape claimed to be the voice of Osama bin Laden, was released hours after the attack on the MV *Limburg*, stating: 'the youth of Islam will target key sectors of your economy until you stop your injustice and aggression.'⁴⁵ A second Statement, also presumably from Osama bin Laden, states:

By exploding the oil tanker in Yemen, the holy warriors hit the umbilical cord and lifeline of the crusader community, reminding the enemy of the heavy cost of blood and the gravity of losses they will pay as a price for their continued aggression on our community and looting of our wealth.⁴⁶

Terrorist training manuals and attack plans specifically targeting naval and commercial shipping in Asia, the Gulf and in the Mediterranean were recovered following the invasion of Afghanistan in October 2001.⁴⁷ On a better note, the capture of Abdul Rahim Abda al-Nasheri, head of al-Qaeda's maritime operations, in Yemen in November 2002, seems to have allowed for extensive anti-terrorist countermeasures to curtail some of their more ambitious maritime undertakings.⁴⁸ In spite of this apparent success, the presence of al-Qaeda cells, or other sympathetic terrorist groups operating in Southeast Asia has gained prominence since Jemaah Islamiyah's terrorist attack in Bali on 12 October 2002. Jemaah Islamiyah remains a threat to Western interests throughout Southeast Asia having been observed conducting surveillance on several other potential land based targets, including the Caltex Oil Company offices in

⁴³ See M. Sudam, 'US Starts Probe into Yemen Blast', *Middle East Times*, www.metimes.com/2K/issue2000-41/reg/us_starts_probe.htm, viewed 21 May 2003; and Michael Richardson, *A Time Bomb for Global Trade*, Institute of Southeast Asian Studies, Singapore, 2004, 18.

⁴⁴ B. Whitaker, 'Tanker Blast was Work of Terrorists' *The Guardian*, 17 October 2002 www.guardian.co.uk/yemen/Story/0,2763,813411,00.html viewed 21 May 2003; and Michael Richardson, *A Time Bomb for Global Trade*, 18.

⁴⁵ 'Tanker blast: Experts cry 'Osama!''', *Asia Times*, 9 October 2002, www.atimes.com, viewed 21 May 2003.

⁴⁶ B. Whitaker, 'Tanker Blast was Work of Terrorists', *The Guardian*, 17 October 2002.

⁴⁷ Michael Richardson, *A Time Bomb for Global Trade*, 18-19.

⁴⁸ *ibid.*

Singapore.⁴⁹ Also, the Moro Islamic Liberation Front continues to attack Philippine shipping by placing bombs on domestic ferries.⁵⁰

In summary, it seems almost inevitable that maritime terrorism will continue as new stresses occur in the global social order. Sub-national terrorist movements, separatist organisations, religious fundamentalism and ecological extremism will persist in capturing the media's headlines by inflicting mass civilian casualties as opportunities present themselves. As countermeasure bite, maritime terrorist attacks will spread to ever softer targets, particularly those with symbolic maritime importance, Western oil or commercial interests, or where attacks can adversely impact a State's coastal tourist industry. The likelihood of commercially available unconventional weapon technologies being used in the future can not be discounted—for example, the Tunisian Islamic Combatant Group's attack on a Jewish synagogue in Djerba, Tunisia using a LPG road tanker⁵¹ may dawn a new era of infamy if ever applied in a shipping context. And, in June 2003 Greek commandos boarded the cargo ship *MV Baltic Sky* finding it packed with 680 metric tons of ammonium nitrate-based explosive and 8,000 detonators. The ship's manifest stated that the cargo had been loaded in Tunisia bound for Sudan. The importing company, Integrated Chemicals and Development Limited, was just an empty office box in Khartoum. The ship flew the flag of the Comoros Islands, but its 37 year life in the shipping industry had been marked by frequent changes in both owner and flag. The ship's final destination or target, if known, has not been publicly released.⁵²

⁴⁹ Matthew Flint, 'The Timor Sea Joint Petroleum Development Area Oil and Gas Resources: Defence Implications', *Sea Power Centre Australia Working Paper No 13*, Canberra, 2003.

⁵⁰ Clive Williams, 'Australia's Evolving Maritime Border Threat Environment' in Martin Tsamenyi and Chris Rahman (eds) *Protecting Australia's Maritime Borders: The MV Tampa and Beyond*, Wollongong Papers on Maritime Policy No 13, Centre for Maritime Policy, University of Wollongong, 2002, 7.

⁵¹ Michael Richardson, *A Time Bomb for Global Trade*, 23.

⁵² 'Greek Probe Terror Link to Cargo Ship', *Associated Press*, 24 June 2003; 'NATO Hunting 20 Suspect Ships', *Reuters*, 24 June 2003; 'New Explosives Cargo Mystery', *BBC News*, 26 June 2003; 'NATO Terror Tip-off on Explosive Ship Sailing to Sudan', *The Guardian*, 24 June 2003.

Piracy and Armed Robbery at Sea

Recent trends⁵³ also suggest that distinctions between terrorism, and of piracy and armed robbery at sea,⁵⁴ activities hitherto regarded as being separate, may be becoming blurred. Although different in outcome and motivation, the unabated frequency of criminal activities at sea illustrates the potential and relative ease for an increase in maritime terrorism in the south and south-east Asian region. The root sources of disenchantment for those participating also appear strikingly similar, creating a ready source for recruitment.⁵⁵ Some of many “oil-type” examples include: in 2002 an Exxon Mobil supply ship supporting the North Sumatra Oil Field was hijacked while underway. The perpetrators, believed to be members of the Free Aceh Movement (GAM)⁵⁶ boarded the ship from two fishing vessels, took the 11 crewmembers ashore, released two and held the remaining nine hostage.⁵⁷ More recently, 5 January 2004, the Indonesian tanker *MT Cherry 201*, was hijacked by armed boarders while underway in the Malacca Strait. Taking 13 crew members hostage they released the captain so that he could convey their ransom demand. After one month of negotiations the pirates shot dead four crew members; the remaining eight jumped overboard and escaped.⁵⁸ On 9 February 2004, the tug *Sing Sing Mariner* and its barge *Kapuas 68* were boarded by pirates about 150 km south of Singapore. The tug was 11 days into its voyage from Satui in South Kalimantan to Penang in Malaysia, carrying a cargo of 3,000 tons of crude palm oil worth an estimated \$US 2 million. The cargo has not been recovered.⁵⁹ On 23 March 2004, the Liberian tanker *MCT Almark* was surrounded by six boats while underway and ordered to anchor in the Warri River, Nigeria. The boarders then forced the vessel to pump its gasoline cargo into a barge that they had brought alongside. The

⁵³ Stephen Saunders, ‘Executive Overview’, *Jane’s Fighting Ships 2004-2005*; See also Uijay Sakhuja, ‘Maritime Order and Piracy’, *Strategic Analysis*, Volume 24, Number 5, August 2000, 923-938.

⁵⁴ Piracy is defined in Article 101 of LOSC and armed robbery in the IMO Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships.

⁵⁵ ‘Piracy will continue to exist in disparate regions. While the bulk of such attacks will occur in ports and territorial waters, the practice of organised gangs intercepting ships outside of these regions and forcing them to pre-arranged locations to be offloaded may well increase. Traditional forms of piracy and maritime robbery will co-exist with more advanced practices, many involving gangs or being of a quasi-military nature.’ Source: Brett D Kravitz and Dr Samuel Pyeatt Menefee, *Jane’s Information Group*, 1998.

⁵⁶ More correctly referred to as the liberation organisation Gerakan Aceh Merdeka or GAM.

⁵⁷ Matthew Flint, ‘The Timor Sea Joint Petroleum Development Area Oil and Gas Resources: Defence Implications’, 34.

⁵⁸ Captain P. Mukundan, ‘Piracy threat dictates need for intelligence-led solution’, *Jane’s Navy International*, November 2004, 39.

⁵⁹ Dave McRae, ‘The Pirates of Malacca’, 12.

tanker was eventually released after losing 650 tons of its cargo.⁶⁰ On 11 June 2004 the Indonesian tanker *MT Pematang/Pertamina 1021* was illegally boarded while underway off Pulau Berhala. The Indonesian Navy stormed the ship and shot dead three of the ‘pirates’ also believed to be GAM rebels.⁶¹

In 2004 the International Maritime Bureau of the International Chamber of Commerce received reports of 325 actual and attempted acts of piracy and armed robbery.⁶² The number of incidents of piracy and armed robbery against ships reported to the International Maritime Organisation during the first nine months of 2004 was 252. While this figure represents a decrease of 28 per cent compared with the corresponding period in 2003, the level of violence has escalated. During the period, 30 crew members and passengers were reportedly killed, 94 were injured and 113 were taken hostage.⁶³ The areas most affected by acts of piracy and armed robbery against ships were the Far East, in particular the South China Sea and the Malacca Strait; but also in South America and the Caribbean, the Indian Ocean, and west and east Africa. In the Malacca Straits, 13 successful attacks were against ships underway.

International drug crime is conceptually the third leg of the maritime constabulary response triad. It is estimated that internationally based criminal organisations make \$US 300 billion to \$US 500 billion annually from the illicit traffic in narcotic drugs and psychotropic substances⁶⁴ and at least some of this money can be linked to the funding of ‘freedom’ or other fundamentalist causes. It is also known that containers facilitate the trafficking of large quantities of heroin and cocaine. For example, in 1999, 64 per cent of the global seizure volume of cocaine reported to the World Customs Organisation was intercepted in maritime containers.⁶⁵ In response to the projected doubling of the container trade by 2012, the United Nations Office on Drugs and Crime has launched a Container Control Pilot Programme, in cooperation with the United States’ own initiatives (to be discussed later), to support additional port State control

⁶⁰ Captain P. Mukundan, ‘Piracy threat dictates need for intelligence-led solution’, 39.

⁶¹ *ibid.*

⁶² International Maritime Bureau, *Annual Report of Incidents of Piracy and Armed Robbery against Ships* (2004).

⁶³ Report of the Secretary-General, *Oceans and the law of the sea*, United Nations, 4 March 2005.

⁶⁴ Report A/59/565, para.166 as cited in Report of the Secretary-General, *Oceans and the law of the sea*.

⁶⁵ As cited in Report of the Secretary-General, *Oceans and the law of the sea*.

measures. However, this is only the tip of an immense and costly surveillance problem.⁶⁶

The International Maritime Bureau believes that piracy and terrorist attacks similar to that on the MV *Limburg* are difficult to prevent: ‘No shipboard response or action can protect the ship... they are slow vessels and their manoeuvrability [is] restricted. It is therefore impossible for the vessel to avoid a fast moving boat intent on a ...collision.’⁶⁷ Oilrigs, manoeuvring tankers, and floating support facilities are equally, if not more, vulnerable to attack.⁶⁸ Others are more alarmist: ‘Sooner or later, al-Qaeda or one of its affiliates will make and detonate a radiological bomb, whether it’s in a ship or a shipping container.’⁶⁹ Singapore’s Coordinating Security Minister Tony Tan has also warned repeatedly since November 2003 that there was a “very serious” risk of terrorists using ships to attack the city-State:⁷⁰ ‘the marine sector, and specifically the container transport sector, remains wide open to the terrorist threat.’⁷¹ The effect of paralysing Singapore, being a regional hub port, would be significant⁷²—as discussed previously. Bin Laden has already focused on ‘the umbilical cord and lifeline of the crusader community’ and the region is well endowed with marine hydrocarbon exploration and drilling structures that are difficult to protect against the determined saboteur.

The destruction of the Kuwaiti oilfields at the end of the 1991 Gulf War and the Longford plant gas fire in Victoria, Australia, in 1998 illustrate the costs that could result from a successful terrorist attack on oil and gas facilities. At the end of the Gulf

⁶⁶ Article 108 of LOSC and Article 17 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances provide the legal framework for cooperation among States in the suppression and combating of illicit traffic of narcotic drugs and psychotropic substances by sea.

⁶⁷ ICC International Maritime Bureau, *Piracy and Armed Robbery Against Ships: Annual report 1 January – 31 December 2002*, 22.

⁶⁸ J. McFarlane, ‘The Potential for Illegal Activity’, Jack McCaffrie (ed), *Managing the Offshore EState*, Australian Defence Studies Centre, University College, Australian defence Force Academy, Canberra, 1995, 25.

⁶⁹ Michael Richardson, a senior researcher at Singapore’s Institute of South-East Asian Studies as cited in ‘Maritime terror attack new fear’, *The Canberra Times*, Friday 19 March 2004.

⁷⁰ *ibid.* Lee Hsien Loong, Singapore’s Deputy Prime Minister and Finance Minister, made similar comments at the Jurong Shipyard National Day Observance Ceremony, 10 August 2002.

⁷¹ RAND Europe, *Security: A Stakeholder Consultation On Improving The Security Of The Global Sea-Container Shipping System*, as cited Stephen Saunders, ‘Executive Overview’, *Jane’s Fighting Ships 2004-2005*.

⁷² Frits Bolkestein, the European Union Commissioner for Internal Market Taxation and Customs, stated in his address to Freight Forwarders in Brussels, 1 December 2003, that it is ‘impossible to picture the disastrous consequences which a [successful] terrorist attack would have on global freight supply systems ... [there would be] enormous consequences for the global economy.’

War, retreating Iraqi troops set alight more than 700 oil wells and installations. The Kuwaiti oil industry accounts for 75 per cent of government revenue and 95 per cent of the country's total export earnings.⁷³ After the war, Kuwaiti oil exports stopped for approximately five months. The fires cost Kuwait approximately \$US 75 billion: recovery draining almost 70 per cent of the country's financial reserves.⁷⁴ At the other end of the scale, the explosion and resultant fire at the Longford processing plant in 1998 interrupted gas supplies in Victoria for only two weeks. The fire burned for two and a half days and losses are estimated to have been in the order of \$A 200 million. In addition to the initial gas losses, the two week long gas crisis was estimated to have cost gas users \$A 1.3 billion. The rebuilding of the gas processing plant cost an additional \$A 500 million—all up approximately \$A 2 billion.⁷⁵ The Longford disaster also had a social and health impact, in terms of disrupted utilities and potential job losses.⁷⁶

Maritime terrorism may or may not come to Australia—regardless, preventive countermeasures still need to be addressed, both politically and militarily. Australia, as a modern regional power, needs an overarching maritime strategy that comprises all the components of her network of relations—military, politico-military and constabulary capability—to achieve the protection of offshore areas, facilities and resources both in national areas of maritime jurisdiction and possibly on the high seas. To shape a regional security environment which is favourable to Australia's interests—the role of the ship-of-law.

⁷³ J. Murphy, *Ruin in Kuwait recalls Hussein's tactics*, SunSpot.net, 6 March 2003 www.sunspot.net/news/nationworld/balte.kuwait06mar06,0,6279064.story?coll=bas1%2Dnews%2Dnation viewed 7 March 2003.

⁷⁴ Matthew Flint, 'The Timor Sea Joint Petroleum Development Area Oil and Gas Resources: Defence Implications', 32.

⁷⁵ The Premier of Victoria, *Premier Recommissions ESSO Plant at Longford*, 13 March 2002, The Premier of Victoria, Australia, Newsroom, Archive www.premier.vic.gov.au/newsroom/news_item_archive.asp?id=45.

⁷⁶ Matthew Flint concludes: '...terrorism has become a significant strategic issue in the wake of the attack on New York in 2001, and Bali in 2002. It has already impacted on Australia's strategic outlook... Despite the focus of terrorism in Southeast Asia, the regions archipelagic nature, [the location and small craft accessibility of the Timor Sea Joint Petroleum Development Area, and the Bonaparte, Browse, and Carnarvon Basins oil and gas fields] and therefore the potential for maritime terrorism to become prevalent, it is yet to enter the debate. Attacks by maritime terrorists with a domestic focus have been occurring in the Southeast Asian region for the last 10 years.' Matthew Flint, 'The Timor Sea Joint Petroleum Development Area Oil and Gas Resources: Defence Implications', 32 & 35.

Belligerent Rights

It is also interesting to note that slavery in the 19th Century, rather like terrorism today, was a practise that found few open defenders beyond the narrow ranks of those directly involved in it.⁷⁷ Slavery was declared anathema by the Treaty of Paris in 1815 and outlawed everywhere in Europe, even by the States that tacitly supported the overseas trade between Africa and the Americas. Yet the British, as the dominant sea power imperialist and regulator, were unable to construct an international legal consensus because action against slavery was thought to jeopardise other important interests—free trade in the case of the United States, and national pride and autonomy in the case of small countries such as Portugal and Belgium, who profited surreptitiously from it. In the end, the British proceeded on the basis of bilateral treaties and by asserting what was a belligerent right—the right of search—in peacetime. A borderline illegal practise that, at the time, heightened Britain’s reputation for arrogant unilateralism,⁷⁸ yet remains a High Seas jurisdiction today enshrined in Articles 99 & 110 of the LOSC. Slavery and the trade in slaves were proscribed by international law only in 1926, long after the issue had been substantially settled by more forcible means—it would appear that, in matters of international law, practice trumps theory,⁷⁹ or, more precisely, it precedes it, both logically and for the most part historically. This same approach may be the eventual solution in the fight against terrorism:

[H]ad the attacks of September 11 been delivered not by hijacked airliners but by liquefied natural gas tankers detonated in New York Harbour and Delaware Bay, the subsequent actions of the US Navy probably would not have been much constrained by concern for a 12-mile territorial sea.⁸⁰

It should not be surprising, therefore, that in the era of *Pax Americana* the constraints of ‘belligerent rights’ are again being raised under the guise of anti-terrorist and anti-weapons of mass destruction protection measures⁸¹—ironically by the ‘maritime power’

⁷⁷ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, Weidenfeld and Nicolson, London, 1986, 54-55.

⁷⁸ See Chaim D. Kaufmann and Robert A. Pape ‘Explaining Costly International Moral Action: Britain’s Sixty-Year Campaign Against the Atlantic Slave Trade’, *International Organisation*, Autumn 1999, 631-668.

⁷⁹ Daniel Moran, ‘The International Law of the Sea in a Globalised World’, *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁸⁰ *ibid.*

⁸¹ ‘The interception of the MV *Nisha* by the Royal Navy in December 2001 and the *Karine-A* by the Israeli Navy in January 2002 in the wake of the [11 September 2001] attacks, show that terrorists may,

that has so fervently championed the principles of freedom on the high seas in the past. The modern concept of ‘belligerent rights’ is being re-raised, indirectly, through the International Ship and Port Facility Security (ISPS) Code⁸² and, directly, through the Proliferation Security Initiative.⁸³

The ISPS Code is a comprehensive set of requirements and measures designed to enhance the security of ships and port facilities, developed in response to the perceived threats to ships, port facilities, and cargo in the wake of the 11 September 2001 terrorist attacks.⁸⁴ The Code is implemented through Chapter XI-2 Special measures to enhance maritime security in the International Convention for the Safety of Life at Sea (SOLAS). It’s accompanying Container Security Initiative (CSI)⁸⁵ and Customs–Trade Partnership Against Terrorism (C-TPAT)⁸⁶ requires the advance transmission of manifest documentation with the aim to pre-screen and clear containers bound for the United States before they are even loaded onto the ship. But the task, on a global scale, is a big one. As many as 15 million containers are in global circulation, criss-crossing the oceans, and making 230 million journeys through the world’s ports each year. Annually, some seven million containers arrive by sea into the United States; carrying more than \$US 730 billion worth of trade.⁸⁷ In essence, the ISPS Code and the CSI take the approach that ensuring the security of foreign imports and ships into the United States (and elsewhere) is a risk management activity that needs to be addressed at the

like anyone else, use merchant vessels to transport people and weaponry from place to place.’ Geoffrey Till, *Seapower: A Guide for the Twenty-First Century*, Frank Cass, London, 2004, 320.

⁸² Michael Richardson, *A Time Bomb for Global Trade*, 73-83.

⁸³ *ibid.*, 97-107.

⁸⁴ FAQ on ISPS Code and maritime security, http://www.imo.org/Newsroom/mainframe.asp?topic_id=897 viewed 25 May 2005.

⁸⁵ In January 2002, the United States Customs Service sparked a revolution in the handling of containerised sea freight worldwide when they launched their Container Security Initiative (CSI) in response to fears that containers bound for the United States could be used to bring weapons, such as a nuclear/radiological device, or even terrorists directly into a United States port. The CSI is being implemented in two main phases, with Phase 1 already operational and aimed at the top twenty ports sending sea cargo containers to the United States, and Phase 2 designed to include smaller ports with the necessary infrastructure and technology in place. In addition to the twenty ports identified by United States Customs as a priority under Phase 1, other countries around the world have been approached to sign on for Phase 2, including Australia and at least a further eleven European ports. See <http://www.aph.gov.au/library/pubs/CIB/2002-03/03cib27.pdf>.

⁸⁶ While CSI encompasses the seaborne leg of a container’s journey to the point at which it leaves the landing port, C-TPAT aims to secure other parts of the global supply chain, including sea and air cargo moving on or over land. By 2004 4,000 companies had enrolled in C-TPAT—importers, rail and trucking carriers, brokers and terminal operators. Michael Richardson, *A Time Bomb for Global Trade*, 80.

⁸⁷ OECD, *Report on Security in Maritime Transport: Risk Factors and Economic Impact*, Paris OECD Meeting Report, July 2003, 6.

point of departure, rather than only at the point of import. The purpose of the Code is to provide a standardised, consistent framework for the inspection of ships, their crews and their cargo. While it is a standardised process for evaluating risk, it is also a condition of entry.⁸⁸ However, the practical implementation of the CSI still has some way to go; Robert Bonner, the Commissioner of United States Customs and Border Protection, proclaims that by September 2003 physical searches of containers reaching American ports will increase from two per cent of total arrives to just 5.2 per cent,⁸⁹ and less than one per cent of shipped cargo worldwide is screened using electronic scanning devices.⁹⁰ More controversially, it can be argued that the ISPS Code and the CSI/C-TAPT are in effect a version of belligerent search that transcends the high seas directly onto another's sovereign territory.

The Proliferation Security Initiative was launched 31 May 2003, and when fully implemented would result in the creation of a network of international agreements and partnerships⁹¹ that would allow the United States and its allies to search planes and ships carrying suspect cargo and to seize illegal weapons or missile technologies.⁹² It reflects the international call for a more dynamic, active approach to the global proliferation problem, envisioning partnerships of States working in concert, employing their national capabilities to develop a broad range of legal, diplomatic, economic, military and other tools to interdict 'threatening' shipments of weapons and missile-

⁸⁸ '... compliance with the Code is now close to 100 per cent, as compared to some 86 per cent of ships and 69 per cent of port facilities immediately prior to its entry into force. [But] there is concern ... that some ... port authorities ... have not yet taken all of the actions necessary to implement the Code fully in their port facilities.' Opening address by the Secretary-General of IMO at the 79th session of MSC, IMO document MSC 79/23, p.9 as cited in Report of the Secretary-General, *Oceans and the law of the sea*.

⁸⁹ Robert Bonner, *CSI in Brief*, United States Department of Homeland Security, speech to the Heritage Foundation 9 September 2003, Washington DC.

⁹⁰ UNCTAD, *Review of Maritime Transport*, 2003 UNCTAD Conference Report, Geneva, 7 November 2003, 77-78.

⁹¹ The actual initiative calls for bilateral agreements between the flag State and the United States to allow boardings on the High Seas. The United States and Liberia, as the world's second largest ship registry, signed such an agreement 11 February 2004 (to enter into force 9 December 2004). Likewise with the Republic of the Marshall Islands 13 August 2004 (into force 24 November 2004) and Panama 12 May 2004 (into force 1 December 2004). <http://www.State.gov/tnp/c12386.htm> viewed 25 May 2005.

⁹² Proliferation Security Initiative <http://www.globalsecurity.org/military/ops/psi.htm> and <http://www.State.gov/tnp/c10390.htm> both viewed 25 May 2005. The United States proposed that PSI countries be able to board to search for suspect WMD related material on the High Seas. They would attempt to contact the flag State in the first instance, but if no response is received within four hours it would be taken as consent to stop and search the said vessel. See Australia's Foreign Minister Alexander Downer official transcripts of answers to questions National Press Club, Canberra 26 November 2003 and United States State Department transcript of interview with John Bolton by the

related equipment and technologies.⁹³ Its proponents argue that the initiative is consistent with, and a step in the implementation of, the United Nations Security Council Presidential Statement of January 1992, which states that the proliferation of all weapons of mass destruction constitutes a threat to international peace and security, and underlines the need for member States of the United Nations to prevent such proliferation.⁹⁴ The Proliferation Security Initiative is also consistent with statements from the G-8 and the European Union, establishing that more coherent and concerted efforts are needed to prevent the proliferation of weapons of mass destruction, their delivery systems, and related materials. They argue, with less than subtle reference to North Korea, that the increasingly aggressive efforts by proliferators to stand outside or to circumvent existing non-proliferation norms, and to profit from such trade, require new and stronger actions by the international community.⁹⁵ To the detractors, the initiative is an act of belligerent search on the High Seas by the 'dominant sea power imperialist and regulator', regardless of the guise in which it is marketed.

Summary

The point being made is that through the evolution of weapon technology, as well as geopolitical hegemony and the social influences of globalisation, the underlying political, social, and economic reality of our time has changed. With the existence of nuclear weaponry, the location of the battlefield and the nature of the participants have changed. Ironically, the end product of inter-State warfare and the search for the supreme super weapon has effectively prevented the most significant powers from

Arms Control Association 4 December 2003. See also the IMO Summary of Legal Committee session 28 April-2 May 2003.

⁹³ The Legal Committee of IMO is currently proposing the revision of the Convention for the Suppressing of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (SUA Protocol) to focus primarily on the non-proliferation offences and the boarding provisions of the Proliferation Security Initiative. The terrorist offence provisions have received general support. New boarding provisions have been included in the draft protocol which: (a) require express flag State authorisation before a boarding may take place; (b) require the requesting party to consider warning other States if a flag State does not comply with its obligation to respond to a request; (c) require States to take into account the dangers and difficulties involved in boarding a ship at sea and searching its cargo and to consider whether other appropriate measures agreed between the States concerned could be more safely taken in the next port of call or elsewhere; and (d) specify that the flag State may consent to the exercise of jurisdiction by another State having concurrent jurisdiction. It was also agreed that any use of force during boarding must not exceed the minimum degree of force necessary and reasonable in the circumstances and to include provisions concerning compensation for unjustified boarding or if the measures are unlawful or exceed that reasonably required. Source Report of the Secretary-General, *Oceans and the law of the sea*, United Nations, 4 March 2005.

⁹⁴ *ibid.*

fighting each other. The ‘impervious to criticism’ paradigm of war being waged overwhelmingly for national political ends, and thus by the most powerful nation States, has also changed.

Low-intensity conflict has become the ‘dominant military motif.’ Internal wars, border struggles, police actions and other types of ‘brushfire’ combat represent the principal form of conflict in the world today, and will likely remain so in the foreseeable future. Also, the indiscriminate brutality of contemporary terrorism appears as an aspect of a broader assault on the conventions that have governed international morality and diplomacy to date. Weapons of mass destruction add a dimension to this brutality that can not be responded to in kind. The State-on-State conflicts of the 20th Century are now being replaced by hybrid wars, asymmetric contests and quasi-criminal activities in which there is no clear cut distinction between soldiers and civilians and between organised violence, terror, crime and war. ‘Future wars will be the step-children of Somalia and Chechnya, as well as the sons of *Desert Storm*, and they may have more in common with tribalism and anarchic savagery of the Middle Ages than the structured conflicts of the ...past,’⁹⁶ and there appears every reason to believe that this trend is set to continue. Disconcertingly, a number of commentators have also suggested the dawning of an insurrectionist’s era:

[T]he resentments underlying the present wave of international terrorism and our reactions to it will aggregate into a prolong revolutionary epoch sustained by the under-privileged against the over-privileged in order to force the latter to face up to the world’s growing inequalities.⁹⁷

Modern conventional warfare has moved to the Third World⁹⁸—against rogue States that may threaten weapons of mass destruction but do not have either nuclear weapons, or nuclear capable allies, or the technical sophistication and resource base to support the modern warship. The modern ship-of-war no longer has its equally sophisticated enemy.

⁹⁵ Maritime Forces Pacific Asia-Pacific Naval Brief 13 June 2003 as reported in the *New York Times* 10 June 2003; the *Telegraph* 13 June 2003; *SMH* 11 June 2003; and the *ABC* 12 June 2003.

⁹⁶ Alan Dupont, ‘Transformation or Stagnation? Rethinking Australia’s Defence’, inaugural presentation of the Australian Security in the 21st Century lecture co-hosted by the Menzies Centre and Australian Defence Industries, Parliament House, Canberra, 13 November 2002.

⁹⁷ John Downey, *The Third World Versus the West*, 21 August 2002, <http://www.globalpolicy.org/wtc/terrorism/2002/0821poverty.html> viewed 10 February 2003.

Modern maritime asymmetric security reflects today the Corbettian philosophy on the need ‘for numbers’ to exercise governance control in the more subtle applications of naval power and security management, such as sea communications, commerce freedom, unfettered movement, anti-piracy and anti-terrorist patrols, marine infrastructure protection, and the whole constabulary relationship with police, immigration and customs operations. This recognises, as Sir Julian Corbett once noted, that ‘bigger/brighter’ ships-of-war are still necessary for strategic security, even strategic ‘cover’, but it is the numbers prevalent in the ships-of-law that are needed for the exercise of governance control.⁹⁹

Weapons of Statecraft

If this hypothesis is accepted, that the State-on-State conflicts of the 20th Century are indeed being replaced by hybrid wars and asymmetric contests, then it would seem reasonable to also expect that this influence should be seen in the evolution of the modern ship-of-war. But this is not the nature of the current Australian, and most other ‘Western’, force development processes. The ship-of-war’s military worth remains its combat capability rather than its operational utility. It has always been, as it still is, at the forefront of technological development and the product of a nation’s technical ability and resources.

With the advance of technology, the evolution of the ocean-going fighting ship has continued to reach new stages of complexity and destructive power. Since the earliest times, the aim of designers and builders of ships has been to create vessels powerful enough to withstand not only the forces of nature, but also the forces of opposing nations’ ships. Before sail, oar-propelled galleys were equipped with reinforced protruding bows for ramming and crewed by warriors armed for boarding. When the technology of sail was later combined with the might of gunpowder, warships were laden with muzzle-loading cannon, capable of firing broadsides into enemy ships and shore fortifications. Wooden-hull ships gave way first to iron and then steel, and sail was replaced by the steam-powered engines of the new industrial age. As with any contest, advances in technology were transferred to weaponry, as shell-firing guns

⁹⁸ See also Martin van Creveld’s ‘The Transformation of War Revisited’, *Small Wars and Insurgencies*, Volume 13, Number 2, Summer 2002, 3-15.

⁹⁹ ‘...on numbers depends our exercise of control: on the battle-fleet depends the security of control’. ‘The Late Sir Julian Corbett’ *Naval Review*, Volume XI, Number 1, February 1923, 18.

extended their destructive potential well beyond the horizon. Today, missile technology has provided near pinpoint accuracy at hundreds of miles distance.

Also, the ship-of-war has always represented far more than simply firepower at sea: ‘the battleship was the supreme instrument of naval power’, ‘the battle fleet, the great deterrent’, ‘a country with a fleet of battleships is more than a country—it’s an empire’. At the dawn of the 20th Century ‘the battleship was very much the core of Britain’s perception of herself in the world.’¹⁰⁰ Not just weapons of destruction, the ships-of-war are the national symbols of a State’s industrial and technological achievement. They are the demonstration of ‘national power’ and greatness—the ability to wield foreign diplomatic pressure and exert the confidence of the nation. As such, they have continually captured the imagination of politicians and the general public alike.

Pax Romana was built on the maritime victories of the Punic Wars and the security offered by Roman control of the Mediterranean Sea. In the whole course of Roman expansion, from the First Punic War to Actium, her fleet was indispensable to Rome’s conquests. After many centuries of naval warfare, the battle of Actium established the economic unity of the Mediterranean basin and thereafter, for over three centuries, the peace of Romana prevailed over those waters.¹⁰¹ Likewise, *Pax Britannica* represented a ‘world naval force which utilised a whole host of bases and protected an ever-growing trade; ... and an industrial revolution which poured out its products into the rest of the world, drew large overseas territories into its commercial and financial orbit, encouraged an enormous merchant marine, and provided the material strength to support its great fleets.’¹⁰² Fighting ships were considered the backbone of ‘mighty global empires’ and the British Empire was built and protected largely by the power of its ships-of-war—its ‘wooded walls of England’—and, later, by its fleet of battleships.¹⁰³ For *Pax Americana*, the United States Navy has become the most tangible embodiment of the Anglophone Western ascendancy carried over from the 20th

¹⁰⁰ Various historians as presented in television series ‘The Battleships’, Channel 4, as cited by Ian Johnston and Rob McAuley, *The Battleship*, a companion to the television series ‘The Battleships’, Channel 4 Books, London, 2000, 12.

¹⁰¹ William Rodgers, *Greek and Roman Naval Warfare: A Study of Strategy, Tactics, and Ship Design from Salamis (480 BC) to Actium (31 BC)*, United States Naval Institute Press, Annapolis, 1937 Reprinted in 1977, 317.

¹⁰² Paul M. Kennedy, *The Rise and Fall of British Naval Mastery*, Penguin Book Ltd, London, 1986, 157.

¹⁰³ Ian Johnston and Rob McAuley, *The Battleship*, 13.

Century.¹⁰⁴ Quite simply it is the United States' ships-of-war that underpin today's global maritime security.

But this trend towards more and bigger machines that intensified during the naval arms race at the turn of the 20th Century, and has continued somewhat slower since, has had the by-product of specialising warships. They have become 'time pieces' at the forefront of technological development and the product of their nation's technical sophistication and resource base.¹⁰⁵ Due to the ship-of-war's sophistication, they have become weapons of statecraft—as only States could afford the infrastructure and organisational costs to support them. Like most other highly sophisticated military platforms, the ship-of-war is also designed to fight against a similarly sophisticated enemy; it has become a weapon of statecraft that was, and still is, designed to fight against a platform that resembles itself in technical sophistication—in inter-State warfare.

But 'bigger/brighter' is not necessarily better—it may not even be relevant. The *Dreadnought* battleship was built to fight at Jutland, but it could not protect Britain from the alarming losses being suffered to her merchant shipping by the German submarine. And the US Ships *Princeton* and *Cole*¹⁰⁶ may not necessarily have been the best platforms for tackling an unsophisticated asymmetric threat. Both were modern highly sophisticated and very expensive warships designed to protect a carrier battle group against waves of Soviet *Badger* and *Backfire* bombers. Both were equipped with the latest *Aegis* battle management systems capable of tracking literally hundreds of targets and controlling up to 18 SM2ER Standard missiles (74nm range) in the air

¹⁰⁴ Paul Monk, 'Maritime power and "the Augmented Indies"', <http://www.austhink.org/monk> viewed 6 September 2004.

¹⁰⁵ 'Let it be considered whether the world's falling to the enlarging the burthen of their ships from the small size that they anciently were limited to, did not spring almost at once through all the European parts of any note for their navigation, that is to say, within one century or less, namely, upon the invention of great guns and the employment of them in sea service; and together with the increase of their burthen, the increase also of the strength in their fabric, as well for bearing the weight of their own guns as withstanding the shot of their adversaries.' Samuel Pepys, *Naval Minutes*, N.R.S. Volume 1X, 425. 'Each new program of construction embodied, therefore, an improvement in type—in other words, an increase in size. Competition drove all the navies up the steep rise: none, and this nation [Great Britain] in particular, felt it could afford to risk getting behind in the race—...not to do so would have been to possess inferior and therefore useless weapons.' Admiral Sir Herbert W. Richmond, *Naval Warfare*, Ernest Benn Ltd, London, 1930, 85.

¹⁰⁶ USS *Princeton* (CG59) is a 9,926 ton Aegis Class Cruiser. She was severely damaged by a 1940 contact mine in the Persian Gulf, 18 February 1991.

simultaneously—USS *Princeton* was crippled by a 1940 contact sea mine, USS *Cole* by two men and a bomb.

While it seems perfectly reasonable to contend that the maritime interests of the State should guide the size and sophistication of the fleet, concentration, to a fault, on the ultimate Armageddon must be considered a gross misdirection of limited national resources. The major business of navies today and beyond is not the fighting of nuclear-age Trafalgars or Jutlands, but in using warships to support policy by less drastic methods.¹⁰⁷ The modern warship remains a complex surveillance and targeting platform, but if conventional warfare has indeed moved to the Third World—against States that do not have either nuclear weapons, or nuclear capable allies—then these Third World States are also the very same States that do not have the technical sophistication and resource base to support the modern warship, or other forms of highly sophisticated weaponry. The modern warship may have difficulty finding its Trafalgar, or its Jutland, against an equally sophisticated foe—there is a changing emphasis away from the continual drive to advance the technical sophistication and destructive power that has underpinned each individual ship-of-war of the past, and towards the utility of its contribution to an overall desired effect.

Network-Centricity

One distracting theme of the ship-of-war's technological advance is in the concept referred to as 'network-centric warfare'.¹⁰⁸ It is a fundamental shift from the individual combat power of the platform to the contribution that the platform's sensors and weapons can make to the overall effectiveness of the network.¹⁰⁹ This reveals an appreciation that the Navy has had to focus not on the material instruments of the order of battle—what the Navy is (ships, aircraft and weapons)—but on what the Navy needs to accomplish. Vice Admiral Sir Jeremy Blackham,¹¹⁰ in giving the British perspective

USS *Cole* (DDG67) is a 8,889 ton Arleigh Burke Destroyer. She was severely damaged by a terrorist attack in the port of Aden, Yemen, 12 October 2000.

¹⁰⁷ Ken Booth, *Navies and Foreign Policy*, Holmes and Meier, New York, 1979, 10.

¹⁰⁸ See *Enabling Future Warfighting: Network Centric Warfare*, ADDP-D.3.1, Australian Defence Doctrine Publication, Defence Publishing Service, Canberra, February 2004; and 'Network Centric USW – Exploring the Realities', *Semaphore, Newsletter of the Sea Power Centre, Australia*, Canberra, Issue 12, November 2004.

¹⁰⁹ Remarks delivered by Admiral Jay L. Johnston, USN, Chief of Naval Operations, to the U.S. Naval Institute, Annapolis, Maryland, 23 April 1997 as recorded in <http://proquest.umi.com/pqdweb?index=0&sid=6&srchmode=1&vinst...> viewed 24 Nov 03.

¹¹⁰ Deputy Chief of Defence Staff (Equipment Capability) – United Kingdom.

adds, we are ‘starting to see platforms as rather less intrinsically important than the systems which they are built to deploy... There is no doubt that it is the way ahead and that it is consistent with the whole unifying concept of network-centric activity.’¹¹¹ Network-centric warfare draws its strength and its effectiveness from the power of the information technology network; from what naval platforms and a host of other joint and combined contributors can achieve in concert with one another. The power to prevail is grounded in the ability not to hoard but to share information and act on it. More simply, network-centric warfare pivots on the centralisation and maintenance of a common operational picture and on the decentralisation of action and response.

For the Americans, the network-centric concept is being developed as a key component in projecting power more efficiently and effectively ashore. However, the common operational picture, as a networked function, is also invaluable to the constabulary and the asymmetric warfighter. Conceptually, networks link together sensors, a command and control grid, and the ability to engage or intercept the adversary.

In the future, most data collection, processing, analysis, and storage for network-centric information grids will not be organic to the naval forces at sea; it will be accomplished ashore. For the inputs that ensure information superiority, at-sea commanders will be, as never before, dependent on capabilities that lie beyond, perhaps well beyond, their control.¹¹² Ships and other sensor units can therefore be considered as nodes within a shared common picture network, sharing the products of many different surveillance and information assets, but still needing ‘numbers’ in order to respond. This point brings us back yet again to the opportunity offered within Sir Julian Corbett’s tractate: while ‘bigger/brighter’ may bring strategic security, numbers are required to exercise governance control—and to maximise the effectiveness of the network-centric information grids across broad surveillance areas.

¹¹¹ Sir Jeremy Blackham, ‘Future Littoral Warfare Requirements: A New Paradigm’, *World Defence Systems*, Volume 4, Issue 1, April 2002, 46.

¹¹² Roger Barnett, ‘Naval Power for a New American Century’, *Naval War College Review*, Washington, Winter 2002, Volume 55, Issue 1, 43-63.

Conclusion

The assumption that a dominant piece of military hardware or weapon—the material strength—at any given time can create such an overwhelming superiority that it alone can satisfy a nation's defence needs, does not withstand contemporary scrutiny for today's naval force structure planning. There appears to be no strategic panacea in the form of a supreme super weapon or platform. The advent of nuclear weapons have broken the link between victory and self-preservation, as the greater the triumph gained over an opponent who is in possession of nuclear weapons, the greater the danger to the survival of the victor. While apparently guaranteeing the survival of the nation State, nuclear weapons have effectively prevented the major powers, and their allies, from fighting each other—they have made total war between nuclear-armed adversaries no longer humanly acceptable.

In turn, modern technologically advanced weaponry has changed the character of warfare—warfare has moved into the sanctuaries of the Third World and brought about an asymmetric response. Current conflict structures can no longer be compared to the near-continuous military contests that have occurred between successive competing nation-States over the last three centuries. The future appears to be the so-called low-intensity, long duration festering conflicts that have risen through the intensification of ethnic, cultural, religious, and socioeconomic divisions.

This change to the character of warfare does not sit comfortably with the modern ship-of-war. Warships reflect, and champion as show pieces, their nation's technical sophistication. Yet the modern asymmetric antagonist and Third World adversary does not have a comparable resource base nor a technically comparable fleet. Wars associated with intra-State instabilities are not the inter-State high-intensity conflicts that the ultra-sophisticated ships-of-war are designed to fight. The main task of military forces in the future will be security management. Immediacy, volume and duration of activity in security management are likely to be bigger challenges than military intensity. The modern ship-of-war may find difficulty finding its equally sophisticated foe: it needs to find a more contemporary configuration to remain strategically relevant. A configuration where the technologically advanced, yet less sophisticated, highly networked and more numerous ships-of-law are needed to exercise governance control 'by less drastic

methods' in a political, diplomatic and legal context and within a low-intensity constabulary environment.

CHAPTER SIX

THE GREAT OCEANIC COMMON

*Nature has made neither sun nor air nor waves private property; they are public gives
... the sea can in no way become the private property of any one, because nature not
only allows but enjoins its common use.*

Hugo Grotius, 1608

This Chapter introduces the third hypotheses of this dissertation—the comprehension of what ocean enclosure and governance has meant to the coastal State through the expansion of State sovereignty and sovereign rights. As an escalating historical trend, it will trace the early attempts to encroach onto the universal freedoms of the High Seas from the 1494 Treaty of Tordesillas through to the 1909 Declaration of London, thereby setting the scene for the modern era. The Chapter will provide an understanding of the legal arguments advanced by Hugo Grotius and John Selden, and how each argument has gained prominence through different eras in determining the nature of the High Seas. It will provide the background to the modern terms of innocent passage, territorial sea, belligerent rights, the law of prize, and freedom of navigation. Taken as a whole, it will provide the foundation in determining that the coastal State’s sovereign jurisdiction and maritime interests, and therefore its maritime planning paradigm, has fundamentally changed.

Chapter Seven, *Ocean Exploitation and Enclosure—Modern Oceans Governance*, continues this argument by informing on the nature of ocean exploitation and regulation of the modern era. It will look at the issues and ‘landmark’ unilateral actions that have shaped international maritime law and eroded the traditional ‘freedoms’ of the ocean commons, from the 1930 Hague Codification Conference to the 1982 United Nations Convention on the Law of the Sea and beyond.

The Early Juridical Nature of the Sea

The Oceans have impacted upon human evolution in two ways. The first is felt through the impact that the oceans have had through the sea’s natural character. The second is seen in the way people and States have attempted to use and control the oceans. It is the latter form that has recently undergone an increase in its relative importance, for it is

through using the maritime arena as a conduit of power and as a power generator (the exploitation of the ocean's resource) that man has affected his own history.¹

The history of mankind, since the Achaean raiders began documenting political thought, is littered with examples of States trying to legitimise their influence over who uses the oceans and who can exploit its resources—control. During the 2nd Century AD a Roman jurist, Marcianus, first advanced the juridical nature of the sea. Relying on Rome's version of 'natural law' he proposed that the sea, and all of its living resources, to be *communis omnius naturali iure*²—common to all—a position later codified in Roman law³. But, it was also the Romans, in the *Theory of Glassators*, who declared that they exercised control over the resources of the Mediterranean Sea⁴ referring to it as *Mare Nostrum*—literally 'Our Sea'. Throughout the Middle Ages, western European States attempted to obtain exclusive control over their trade routes and rich fishing grounds, and their efforts took the form of schemes attempting to extend their sovereign jurisdiction.⁵ As examples, the Scandinavian countries claimed the Baltic and North Seas, and the British claimed as the territorial sea of the British Isles, an area extending across the North Sea to the shores of Scandinavia,⁶ the English Channel and the Irish Sea.⁷ Much later, the British even assumed 'ownership' of their traditional fishing grounds as far afield as Iceland, Canada and Greenland. Genoa, Tuscany, the Ottoman Empire, the Venetian Republic, and the Papacy itself all advanced early, yet similarly extensive claims.⁸

¹ Harold J. Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Co., Aldershot, 1992, xii.

² Of significance—Grotius, 1200 years later, classified the sea as *res nullius*—belonging to no one. And even later, in 1982 the United Nations readopted Marcianus thesis in Article 136 of LOSC 'The Area and its resources are the common heritage of mankind'.

³ Dick Sherwood, 'Oceans governance and its impact on maritime strategy', in Wilson & Sherwood, *Oceans Governance and Maritime Strategy*, Allen & Unwin, St Leonards, NSW, 2000, 24. For the historical development of Maritime Law see *The New Encyclopaedia Britannica*, Volume 28, 895.

⁴ George V. Galdorisi and Kevin R. Vienna, *Beyond the Law of the Sea: New Directions for US Oceans Policy*, Praeger, Westport, 1997, 8.

⁵ Thomas Clingan, *The Law of the Sea: Ocean Law and Policy*, Austin and Winfield, San Francisco, 1994, 11.

⁶ Daniel Moran, 'The International Law of the Sea in a Globalised World', *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁷ 'That the King of Great Britain is lord of the sea flowing about [Great Britain]... the high seas to the south and east of England, as well as to undefined regions to the north and west.' See James Scott, *Carnegie Endowment for International Peace*, Oxford University Press, New York, 1916, vii-ix.

⁸ Daniel Moran, 'The International Law of the Sea in a Globalised World', *Globalisation and Maritime Power*.

For the purposes of this thesis it is necessary to look initially at 1494 and Treaty of Tordesillas.⁹ In this treaty Spain and Portugal agreed to a division of the world's oceans between themselves.¹⁰ The Treaty of Tordesillas (and later the Treaty of Zaragoza to complete the hemisphere) had its roots in the disputes arising from the determination of trade and title of the newly discovered land territories in Africa and the Americas. The declarations seeking to resolve these disputes influenced the rights of navigation over, and control of, the oceans of the world. In particular, three disputes seem to be significant—the title to the Canary Islands; access to the lucrative trade being generated along Africa's west coast; and Christopher Columbus' discovery of the New World—the Americas.

The Canary Islands

The Canary Islands lie in the Atlantic Ocean off the northwest coast of modern-day Morocco. The islands were recorded in Phoenician and Roman records as the Gardens of the Hesperides or Atlantida, and have been romantically portrayed as the home of the lost continent of Atlantis.¹¹ The original inhabitants were known as the Guanches—a tall, white skinned race originating from Celtic, Norse or Berber extraction.¹² The first vaguely reliable account of a landing by Europeans comes in the early 14th Century when a Genoese mariner, Lanzarotto Malocello, came across the island that would later bear a version of his name: Lanzarote.¹³ Speculators and dreamers from throughout Europe then followed to look for the mythical Rio de Oro (River of Gold) that was reported to be the area. After them came the missionaries and slavers. In 1344, the French Admiral Don Luis de la Cerda claimed title of the Canary Islands through a papal declaration of Investiture from Pope Clement VI—but he never actually took possession. Spanish and Portuguese adventurers came and went until 1402 when Jean de Bethencourt, from Normandy, occupied the islands of Lanzarote, Fuerteventura, Gomera and Hierro in the name King Henri III, the king of Castile, Spain.¹⁴ Even though King João I of Portugal tacitly accepted Spanish title when agreeing to a non-

⁹ See the Treaty of Tordesillas, Frances Gardiner Davenport, *European Treaties Bearing on the History of the United States to 1648*, The Carnegie Institution of Washington, Washington DC, 1917.

¹⁰ George V. Galdorisi and Kevin R. Vienna, *Beyond the Law of the Sea: New Directions for US Oceans Policy*, Praeger, Westport, 1997, 8.

¹¹ In his dialogues *Timaeus* and *Critias*, Plato spoke of Atlantis; a continent that had sunk beneath the ocean in a great cataclysm that left only the peaks of its highest mountains above the water.

¹² *ACANTUR-History of the Canary Islands* at

<http://www.ecoturismocanarias.com/canarias/uk/historia.htm> viewed 21 February 2003.

¹³ *ibid.*

aggression treaty with Castile in 1411, the practical issue of access and transit remained contentious. Portuguese exploration depended on the resupply and the unencumbered and unconditional transit via the Canary Islands, which by 1460 had become a staging port.¹⁵ This access was frequently challenged, and stretched Spanish benevolence as competition in the lucrative slave trade out of Guinea was maturing. The issue of access remained controversial until the Portuguese gained agreement to the universal form of unfettered freedom of movement (the right of innocent passage).¹⁶

Africa's West Coast Trade

The second dispute concerned the Portuguese colonisation of North Africa and access to the lucrative trade that they would eventually establish along the African west coast. At the beginning of the 15th Century, Portugal still retained the crusading legacy that had lead to the expulsion of the Islamic north Africans from the Algarve and Iberian Peninsula a hundred years previously. In 1415, King João's third son Prince Henry the Navigator (1394-1460),¹⁷ committed to convert the heathen to Christianity, took the Moslem city of Ceuta on the southern coast of Straits of Gibraltar. Ceuta was, at that time, a vast Islamic trading port serving the Atlantic/Mediterranean exchange and north African trans-Saharan caravan routes with gold, metals, silks, ivory, slaves, pepper, spices and weapons. Ironically, the capture of Ceuta gave the Portuguese access to the Islamic and Jewish (from Majorca) maps at a time when most Christian maps¹⁸ were more inclined to be the product of half-truths and fertile imaginations,¹⁹ and exposed the Portuguese to the stories of African travels and geography.²⁰ Denied the opportunity to explore the interior by land by the warriors of the Islamic Moors, Prince Henry

¹⁴ *ibid.*

¹⁵ The Madeiras, the Canaries and the Azores provided the Portuguese both with a series of supply stations, for they were more suited to Europeans' health and diet than the African mainland, and with a security net to catch vessels blown off course on their voyage back home.

¹⁶ See also *ACANTUR-History of the Canary Islands* at <http://www.ecoturismocanarias.com/canarias/uk/historia.htm> viewed 21 February 2003.

¹⁷ See also *Henry the Navigator* at <http://www.win.tue.nl/-engals/discovery/henry.html> viewed 21 February 2003.

¹⁸ By Christian tradition, Jerusalem was located at the centre of the world '...at the hub of the known continents of Europe, Africa and Asia, with Terra Incognita surrounding the rim. These were in sharp contrast to those maps drawn by the geographers of classical antiquity, which were far more accurate.'

¹⁹ The 15th Century seaman '...was afraid to sail the Atlantic coast of Africa beyond Morocco for there he would enter the 'green sea of darkness' an unnavigable swamp full of monsters ...if he headed out across the Atlantic he might drift close to the equator, where men turned permanently black and no life could be sustained. If he went north he would find himself in a frozen waste where Judas lurked near the mouths of hell.' As cited by John R. Hale, *Great Ages of Man: Age of Exploration*, Time-Life Books, Amsterdam, the Netherlands, 1977, 21.

embarked on his quest: to trace the source of trade in gold, ivory, slaves, and pepper found at Ceuta; and to join with Prester John,²¹ of the mythical eastern Christian Empire, with whom he hoped to plan a crusade that would clear the Moslems from North Africa and the Holy Lands once and for all.²²

Numerous expeditions were sent forth under the captainship of Alvise de Cadamosto, João Gonçalves Zarco, Tristão Vaz and Bartolomeau Perestrelo.²³ In 1434 Gil Eanes led the expedition that was the first to sail beyond the Cape of Bojador. In 1441 Antão Gonçalves sought out a village along the Rio do Ouro and took several captives back to Portugal—the start of what would eventually far surpass the already lucrative overland African slave trade. By 1445 the Portuguese explorer Tristão Vaz sailed even further south finding the end to the desert, reporting the beginning of a lush green country. Recognising the opportunity that was being presented Portuguese merchants, like Ferão Gomes, then started to finance their own expeditions. Gomes' ventures grew into a thriving pepper trade that in turn led to the discovery of the gold-producing Gold Coast (modern day Ghana).

The prospect of mercantile wealth and the growing trade with the new discoveries along the western African coast were quickly realised not only in Portugal, but also in the Spanish kingdoms of Castile and Aragon. The Castilian king, John II (1406-1454) seized the opportunity by laying claim to Africa by virtue that his ancestors, the Visigoth kings, had formerly possessed these territories. To ease tension King Alfonso²⁴ of Portugal sought papal intervention. In 1443 Pope Engenius IV (1383-1447) issued the bull *Rex regum* in which he tried to avoid granting favour one way or the other.

²⁰ Medieval storytellers like Sir John Mandeville had made Africa out to be the 'Land of Marvels', the legendary source of King Solomon's wealth.

²¹ Prester John is a medieval legend that originated sometime in the 1140s during the time of the Second Crusade. According to rumour, or fervent belief, Prester John ruled over the perfect Christian Kingdom somewhere in Asia, or perhaps in Africa or India. The first authentic mention of him occurs in the chronicle of Otto of Freising recounting that news of Prester John brought to the Holy See by the Bishop of Gabala. According to the Bishop's report Prester John was descended from the Magi, and has recently destroyed the Moslem armies of Media, Persia and Assyria, and was heading for the Holy Land to defend Jerusalem. Later, in 1165, a seemingly authentic letter from Prester John, describing himself as the ruler of the Three Indias, gave an elaborate account of the marvels of his kingdom and declared his intention of visiting the Holy Sepulchre after defeating the enemies of Christ (the Moslems). See www.newadvent.org/cathen/124006.html or <http://faculty.biu.ac.il/~barilm/presjohn.html> or <http://www.saradouglass.com/prestjohn.html>, all viewed 5 January 2004.

²² John R. Hale, *Great Ages of Man: Age of Exploration*.

²³ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, Weidenfeld and Nicolson, London, 1986, 40.

Nine years later this dispute would not go away, so Pope Nicholas V (1398-1455) issued the bull *Dum diversas*, which granted the Portuguese ‘indefinite powers to seek out and enslave infidels and appropriate their lands’—virtually a guarantee for Portuguese colonial expansion. This bull was followed in 1455 with the bull *Pontifex romanus*²⁵ that reaffirmed Portugal’s exclusive right to Africa—specifically to Ceuta, the district from Cape Bojador and Nao, through all of Guinea and ‘beyond towards the southern shore’. It provided that all lands acquired by Portugal from non-Christians were to be vested in King Alfonso, his successors, and no other. Of particular significance, is that it granted Portugal the right to legislate for all lands and sea acquired by virtue of the bull, and that no other Christians could trade in such lands, or enter the adjacent seas or harbours. It granted Portugal with unassailable title and exclusive control over vast tracts of ocean—known and still yet to be discovered.

In spite of the papal letters, and Portuguese protests, Castile continued to want access to the slave trade developing out of Guinea. The Spanish/Portuguese war of 1475-79 interrupted African exploration until such time as both kingdoms negotiated the Treaty of Alcáçovas on 4 September 1479. The treaty acclaims ‘perpetual peace between’ the kingdoms of Portugal and Spain, and guarantees that Spain

...willed and resolved ... neither of themselves nor by another secretly, ...or by their heirs and successors, will they disturb, trouble, or molest, in fact or in law, in court or out of court, the said King and Prince of Portugal or the future sovereigns of Portugal or their kingdoms, in their possessions or quasi possessions in all the trade, lands, and barter in Guinea... For whatever has been found or shall be found, acquired by conquest, or discovered ...beyond what has already been found, occupied, or discovered, belongs to ... Portugal ..., excepting only the Canary Islands ...acquired or to be acquired, which belong to the kingdoms of Castile.²⁶

On 21 June 1481 Pope Sixtus IV (1414-1521) issued the bull *Aeterni Regis*, by which he approved the Treaty of Alcáçovas stating that this treaty is ‘valid and acceptable

²⁴ Brother of Henry the Navigator, eldest son of King João I.

²⁵ See the English translation, *European Treaties bearing on the History of the United States and its Dependencies to 1648*, Francis Gardiner Davenport, (ed), Carnegie Institution of Washington, 1917, Washington D.C. at pages 20-26. The original text in Latin is in the same volume at pages 13-20.

²⁶ The original manuscript of the ratification, signed by Ferdinand and Isabella at Toledo, 6 March 1480 is in the National Archives in Lisbon, gav. 17, maço 6, no.16.

...[and] possess full authority [to] be observed forever...'²⁷ With peace came further discoveries. The Portuguese explorer Diogo Cáo opened up some 1,500 miles of coastline from Cape St Catherine to Cape Cross, and discovered the Kingdom of the Congo. In 1488 Bartolomeu Dias (1457-1500) rounded the southern extremity of the African continent, naming it the Cape of Storms²⁸—a feat that only the Phoenicians may have achieved 2,000 years previously.

Discovery of the New World

This period was also a turning moment for Spain. On 2 January 1492 the city of Granada, the last great Moorish stronghold in Europe, capitulated to the Christian armies of King Ferdinand²⁹ of Aragon and Queen Isabella³⁰ of Castile (the union of Crowns). In December of that same year the cause for the third dispute between Portugal and Spain occurred when the son of a Genoese weaver 'dropped the imperial plum of the New World into the lap of the Spanish Crown because no one else seemed to want it.'³¹ Christopher Columbus' (1451-1506)³² feat in discovering the Americas opened an era in which Spain would surge to the forefront of maritime exploration,³³ and become mistress of an empire of riches such as European civilisation had never known.

Curiously, in an era of burgeoning monarchies and ever more imposing States, this signal venture into exploration came about not by direction from the Spanish Crown, but through the perseverance, in the face of incredible odds and no little humiliation, of a commoner, a foreigner, a strange and lonely figure possessed of a quixotic notion that the Atlantic Ocean was a mere sea,^[34] narrow enough to be sailed in a few days' time.³⁵

²⁷ The original manuscript of the promulgated bull is in the National Archives in Lisbon, Coll. de Bullas, maço 26, no. 10.

²⁸ To be renamed by King João II of Portugal as the Cape of Good Hope, so as not to discourage further exploration into the Indian Ocean.

²⁹ See also *Ferdinand II* at <http://www.kfki.hu/-arthp/tours/spain/ferdina2.html> viewed 21 February 2003.

³⁰ See also *Isabella I* at <http://www.carmensandiego.com/products/time/columbusc10/isabella.html> viewed 21 February 2003.

³¹ Richard Humble, *The Explorers*, Time-Life Books, Amsterdam, 1978, 53.

³² John Hale summed Columbus up as: 'As an administrator he was fallible. But as a seaman, a leader, and an inspired hawker of brave ideas, this canny and mystical, practical and prophetic man was one of the great forces of history.' John R. Hale, *Great Ages of Man: Age of Exploration*.

³³ 'The Voyages of Columbus', Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 41-42.

³⁴ More accurately, it is reported that Columbus was influenced by the Italian physician and geographer Paolo Toscanelli whose studies had led him to believe that China was only 5,000 nautical miles from Europe by sea. Columbus selectively used those computations offered by Toscanelli to argue that the distance was only 3,550 nautical miles—the real distance is 11,766 miles.

³⁵ Richard Humble, *The Explorers*, 53.

Learning of Columbus' discovery King João II of Portugal suspected that at least part of the New World would lie within the bounds of his lordship over the lands beyond 'the southern shore' granted by the bull *Pontifex romanus*, the 1479 Treaty of Alcáçovas—'for whatever has been found or shall be found', and its associated perpetual decree by the bull *Aeterni Regis*. As King João II prepared to take possession of 'his' New World, Queen Isabella sought to safeguard 'her' discovery by gaining a further papal decree³⁶ from Pope Alexander VI (1431-1503). Unlike Nicholas, who had been favourably disposed towards Portugal, Alexander VI was a native of Valencia, was head of the notorious Borgia clan, and owed much of his successful career as a churchman to the favour of the Spanish sovereigns.³⁷ Alexander VI resolved the question of title to the New World by a series of bulls, all of which favoured Spain.

The first, the bull *Inter Caetera*, was issued on 3 May 1493. It provided that all lands of the Americas, and all future lands yet to be discovered, are to be vested in Castile, with the exception of lands already processed by Portugal or some other Christian king. A second bull, also known as *Inter Caetera*,³⁸ was issued the very next day. It was more specific, and provided that Castile enjoyed exclusive rights to all territories to the west of the longitudinal meridian lying 100 leagues³⁹ west of the Azores and Cape Verde islands—approximately 38 degrees west of Greenwich.⁴⁰ It differed from the bull of 3 May in several important respects. There was no clause safeguarding lands already subject to Portuguese sovereignty, and it prohibited, on pain of excommunication, anyone from crossing the line for the purposes of trade, or for any other reason, without the permission of Castile (Spain).⁴¹

³⁶ The assumption underlying the bulls was that Portugal, as a crusading power, was doing the Church's work and was entitled to some secular perquisites. Queen Isabella's argument rested on the same grounds. See John R. Hale, *Great Ages of Man: Age of Exploration*.

³⁷ 'The Voyages of Columbus', Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 42.

³⁸ See the English translation, *European Treaties bearing on the History of the United States and its Dependencies to 1648*, 75-78. The original text in Latin is in the same volume at pages 72-75.

³⁹ About 300 miles.

⁴⁰ Columbus had apparently noticed changes in wind and the appearance of the sea, as well as rather unusual compass variation, which convinced him that here an invisible but real frontier divided the Atlantic Ocean. See John R. Hale, *Great Ages of Man: Age of Exploration*.

⁴¹ See also *The Legal background of the Spanish claim and colonisation of the Caribbean and the New World*, at http://www.kwabs.com/spanish_claim_.html, viewed 11 March 2003.

For obvious reasons Portugal was dissatisfied with these decrees. Not only did they prevent Portuguese expansion westward; they also gave them little room to manoeuvre around the Azores and Cape Verde islands, both of which were frequently visited by Portuguese vessels. Spain, on the other hand, was anxious to secure Portuguese recognition of their American territories. On 26 September 1493 another bull was issued granting to Spain almost unlimited rights, but this decree was without consequence. At the suggestion of King Ferdinand of Aragon, it was agreed that, to avoid complications already threatening, a conference should be held. Portuguese ambassadors were sent to Barcelona and, after many negotiations, a settlement⁴² was finally reached at the small Spanish town of Tordesilla.⁴³

The Treaty of Tordesillas

The Treaty of Tordesillas, 7 June 1494,⁴⁴ provided for a new demarcation line drawn along the longitudinal meridian lying 370 leagues west of the Azores and Cape Verde islands—approximately 46 degrees 37 minutes west of Greenwich. The Treaty thus implied a division of the globe into two equal hemispheres; more importantly, it attempted to establish territorial rights at sea analogous to those existing on land—dividing the oceans of the world to the west for Spain, and to the east for Portugal.⁴⁵ The Treaty paved the way for Portuguese colonisation in Africa, Persia, India and the East Indies and, as the new demarcation line passed through Brazil, allowed for Portuguese colonisation in South America. On the other hand, Spain gained unfettered access to the Americas, Central America and ultimately through to the Pacific Ocean. If the church had processed any effective sanctions then the history of exploration would henceforth have concerned only Spain and Portugal.

⁴² See the English translation, *European Treaties bearing on the History of the United States and its Dependencies to 1648*.

⁴³ See also *The Papal Bulls as Pertaining to the Americas*, <http://bullsburning.itgo.com/essays/caetera.htm> viewed 11 March 2003.

⁴⁴ Ratified by Spain 2 July 1494, and by Portugal 5 September 1494; See Figure 7: Treaty of Tordesillas 1494.

⁴⁵ See James Scott, (ed), *Carnegie Endowment for International Peace*, vii.

Figure 7 Treaty of Tordesillas 1494

By 1515 the Portuguese had established fortified trading posts in East Africa, at Hormuz, at Cochin and Goa, at Malacca, and in the Moluccas—the fabled Spice Islands. By jealously guarding the secrets of how to navigate the predominate South Atlantic winds that gave access around the Cape of Good Hope and the Indian Ocean monsoon winds to the Indies, and by blockading the choke points dominating the trading routes throughout the Orient, the Portuguese managed to monopolise the spice trade into Europe. By 1555 they had continued their discoveries up the coast of East Asia by settling in Macau and extending their influence through to China and Japan.

In order to allow Spain to travel to her American possessions, the Treaty permitted Spanish vessels to ‘sail in either direction, freely, securely, and peacefully, over the said seas of the said King of Portugal, and within the said line...’ The Treaty further provided that such vessels ‘shall take their courses direct to the desired region and for any purpose desired therein and shall not leave their course, unless compelled to do so by contrary weather...’ The right of passage created by the Treaty of Tordesillas was to be the precursor of the modern day right of innocent passage, now codified in Articles 17 and 18 of the United Nation’s 1982 Convention on the Law of the Sea.⁴⁶

Some 25 years later, when Ferdinand Magellan (1480-1521), a Portuguese sailor in the service of Spain, set off to search for a passage to Cathay around the southern tip of South America he was warned not to invade ‘the demarcation and limits of the most serene King of Portugal.’⁴⁷ But when voyage after voyage showed how great were the prizes to be won, and as other countries came to join in the race to secure them, neither the political nor the ecclesiastical sanctions of Tordesillas and *Inter Caetera* had any real power to stop them. Francis I (1494-1547), King of France, is reported to have sarcastically remarked ‘I should very much like to see the passage in Adam’s Will that

⁴⁶ Article 17 : Right of innocent passage.

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 18 : Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:

(a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or

(b) proceeding to or from internal waters or a call at such roadstead or port facility.

2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

⁴⁷ As cited in John R.Hale, *Great Ages of Man: Age of Exploration*.

divides the New World between my brothers, the Emperor Charles V [of Spain] and the King of Portugal'. And by the middle of the 16th Century, when England was taking an increasing interest in discovery, Queen Elizabeth's Chief Secretary of State, William Cecil⁴⁸ (1520-1598), sharply warned the Spanish Ambassador that 'the Pope had no right to partition the world and to give and take kingdoms to whomever he pleased.'⁴⁹

The Protestant Challenge

Beginning in the middle of the 16th Century the English and Dutch, both champions of the Protestant Reformation and therefore no respecters of papal bulls, separately sought to break this monopoly.⁵⁰ With their challenge a different historical paradigm would gain succession. The general culture of normality and the underlying political, social, and economic realities of that time would be re-shaped to what eventually would realise the great oceanic common during the European age of discovery.

In 1580 King Henry of Portugal dies leaving no heirs—Portugal is invaded by the Duke of Alba (1507-1583) allowing King Philip II (1566-1625) of Castile and Aragon (Spain) to be proclaimed the new king, thereby uniting the colonial empires of both Spain and Portugal, and thus dominating the world's oceans as the primary maritime power.⁵¹ However, also in 1580, Sir Francis Drake (1540-1596)⁵² completed his voyage around the world.⁵³ Three years later Sir Humphrey Gilbert (1539-1583) established the first English colonies in Newfoundland and Nova Scotia, and five years later a loose assemblage of English ships under Lord Howard of Effingham (1536-1624) defeats the Spanish Armada.⁵⁴

English maritime confidence was dawning when, in 1592, the *Madre de Deus*, a Portuguese carrack⁵⁵ captured while homeward bound from India, revealed a fortune in

⁴⁸ William Cecil was the main architect of Queen Elizabeth's religious and political policies. See <http://www.spartacus.schoolnet.co.uk/TUDcecilW.html> viewed 5 January 2004.

⁴⁹ John R.Hale, *Great Ages of Man: Age of Exploration*.

⁵⁰ 'English & French Explorations' and 'The Dutch Colonial Empire', Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 45 & 46.

⁵¹ <http://www.historymole.com/cgi-bin/main/results.pl?type=theme&theme=SpainPhilipII> viewed 12 March 2003.

⁵² Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 45.

⁵³ <http://www.mcn.org/2/oseeler/voy.htm> and <http://www.global-travel.co.uk/drake.htm> both viewed 12 March 2003.

⁵⁴ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 49-50.

⁵⁵ The larger type of trading vessel of northern and southern Europe of the 14th-17th Centuries developed as a compromise between the typical square rig of the northern European nations and the lateen rig of

gold, silver, and jewellery worth ‘about half-a-million pounds—or nearly 50 per cent of all the money then in the English Exchequer.’⁵⁶ In 1594, the first Dutch ‘clove ship’ from the East Indies makes a profit for its owners of over 2,500 per cent.⁵⁷ As overlords of Portugal, and thus her colonial possessions, the Spanish strenuously wanted to resist this new Protestant adventurism, but the prospect of wealth drove the expansionist policies beyond even Spanish influence—the struggle for maritime mercantile superiority between the countries of Europe quickly ensued.⁵⁸

Rivalry between the Dutch and British also began with the Dutch taking Surinam from the British, Britain seizing India and Malaya at the expense of Holland, eventually leading to the Anglo-Dutch Wars 1652-4, 1664-67, and 1672-74.⁵⁹ Nevertheless, during the first decade of the 17th Century, British and Dutch merchants⁶⁰ laid the foundations for what was to become the most powerful commercial organisations the world had ever known—the Honourable East India Company (British) and the Dutch East India Company (Holland). France and Scandinavia also formed massive trading companies, but it was the British and Dutch who eventually controlled great areas of Asia with their

the Mediterranean. They were very similar in rig to the later three-masted development of the caravel (*caravela rotunda*) though larger, beamier, and generally more robust, with very high fore and after castles. The carrack was the forerunner, and first example, of the larger three-masted ship that dominated naval architecture until the general introduction of steam propulsion in the mid-19th century. During the 16th and early 17th centuries, almost all the Spanish and Portuguese trading voyages to India, China, and the Americas were performed in carracks. The best drawing of a carrack appears to be that printed in J.R. Hill (ed) *The Oxford Illustrated History of the Royal Navy*, Oxford University Press, Oxford, 1995.

⁵⁶ Russell Miller, *The East Indiamen*, The Seafarers Collection, Time-Life Books, Amsterdam, 1980, 8.

⁵⁷ *ibid.*

⁵⁸ As summarised by Geoffrey Till: ‘They went by sea because it meant they could outflank the Islamic dominance of the land routes. They arrived at a time when the Asian communities were in a state of conservative decadence; they found that a few gun-ships could easily blow local warships out of the water and scatter the strongest of local fleets.’ Geoffrey Till, *Maritime Strategy and the Nuclear Age*, Macmillan Press Ltd, Basingstoke, 1982, 2. Or as summarised by John Hale: ‘Out sailing, out shooting and out witting peoples who had no wish to be explored, let alone exploited, the Europeans thrust their way across the world, nowhere encountering either equal technological ability or an ideology that would support an effective resistance. For two centuries and more, European expeditions, with their few seamen, would enter unfamiliar waters all over the world, take notes, snatch a few natives as hostages or interpreters, and leave for home. They were followed by larger ships with merchandise, sometimes with soldiers and settlers. Always the Europeans were recognised, either at once or after a short time, as enemies and exploiters. But almost always they were able to gain a foothold and dominate local shipping.’ John R. Hale, *Great Ages of Man: Age of Exploration*, 19.

⁵⁹ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*; and John Richard Hill (ed), *The Oxford Illustrated History of the Royal Navy*, 70-73.

⁶⁰ ‘The Dutch Colonial Empire’ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 46-47.

own quasi-commercial armies and ruled over hundreds of millions of people—‘sea power and [European] prosperity advanced side by side.’⁶¹

Hugo de Groot

In 1602, to counter the perceived legality of the Treaty of Tordesillas and Spain’s continuing claims under the papal bull *Inter Caetera*, and to justify the capture by Admiral Jacob van Heemskerck (1567-1607) of a Portuguese galleon,⁶² the *Catherine*, in the Straits of Malacca, the Dutch East India Company engaged, as council, the young although accomplished lawyer Hugo de Groot ‘Hugo Grotius’ (1583-1645).⁶³ His dissertation⁶⁴ in 1604 on the ‘law of prize’ was in the nature of a legal brief. But contained as a chapter within it, was the treatise known as *Mare Liberum*—the freedom of the seas. *Mare Liberum* was also subsequently published as a separate identity in 1608.⁶⁵

Grotius argued, in respect of Portugal’s claim to the Moluccas Islands and Java in the East Indies, that discovery alone is insufficient to confer sovereignty; rather, discovery must be accompanied by actual possession. He challenged the Pope’s right to grant title to lands as yet undiscovered on the grounds that they were not subject to the Pope’s

⁶¹ Geoffrey Till, *Maritime Strategy and the Nuclear Age*, 2.

⁶² A development of the Carrack following the successful experiments of Sir John Hawkins in 1570 in eliminating the high forecastle with which all large ships were then built. This new design reached Spain and Portugal about 17 years after its introduction in England and resulted in the development of the galleon, originally as a warship but over the course of the next 30 years also taking the place of the carrack as the principle type of trading vessel.

⁶³ Hugo Grotius became a lawyer at age 16, and was appointed as prosecutor and attorney of the State’s property interests at age 24. Grotius was sentenced to life in prison due to his Protestant religious beliefs but only served two years of his sentence. In addition to works on freedom and prize, he wrote ‘On the Law of War and Peace’ in 1625, what would become his most famous work focusing on the legal obligations of human societies in war. He is referred to as the ‘father of international law’.

⁶⁴ Grotius’ work was entitled *De Jure Praedae* (On the Law of Prize and Booty). He argued, in summary, that Admiral van Heemskerck was justified in his actions because of the impropriety of Portuguese claims to exclusive trading rights in the East Indies. Four years later, one chapter of this legal brief was published as a book under the title *Mare Liberum* (The Freedom of the Seas), in which it was argued that the seas must be open to all. See Hugo Grotius, ‘The Freedom Of The Seas, Or The Right Which Belongs To The Dutch To Take Part In The East Indian Trade’, translated by Ralph Van Deman Magoffin, in James Scott (ed), *Carnegie Endowment for International Peace*.

⁶⁵ This is not to suggest that the Europeans were the first to advance such a concept of universal freedom. For example in ancient Tahiti (the Society Islands) the open sea was regarded as a great marae, where anyone could go, rather than a possession of a particular tribal group. See Teuira Henry, *Ancient Tahiti*, Bernice P. Bishop Museum Bulletin, Honolulu, 1928, 143-4. Also Joseph Banks (of Capt James Cook’s first Pacific expedition) reports ‘...They answered him in their usual cant “come ashore and we will kill you all.” Well, said Tupaia, but while we are at sea you have no manner of business with us, the sea is our property as much as yours. Such reasoning from an Indian who had not the smallest hint from any of us surprised me much...’ See J.C. Beaglehole, (ed), *The Endeavour Journal of Joseph Banks 1768-1771*, Volume I, Angus and Robertson, Sydney, 1962, 435.

dominium. Similarly, he rejected the notion that the Pope could grant title to the sea. By drawing on philosophy, religion, and Greek and Roman natural law, Grotius argued the high seas lacked the conditions necessary for the acquisition of property rights and therefore could not be subject to the sovereignty of any State. His argument rested on two premises—firstly, one can acquire property rights in a thing (*res*) only if it can be appropriated or prescribed, and secondly, a thing could only be the property of someone if it is liable to be exhausted. Grotius argued that the high seas were so vast that no navy was sufficiently powerful to control an entire sea, and that the sea's resources were inexhaustible:

...that States, like individuals, were bound by natural law—that is, rules and principles independent of historical practice and divine revelation... [and] as far as the ocean was concerned, the essential facts were its ubiquity, immensity, and fecundity. In contrast to the land, from which benefit could be derived only by possession, the sea represented an inconsumable, self-renewing resource, whose political subdivision was contrary to nature.⁶⁶

...the sea is one of those things which is not an article of merchandise and which cannot become private property...that no part of the sea can be considered as territory of any people whatsoever.⁶⁷

[That] ...by the Law of Nations navigation is free to all persons whatsoever ...[that] neither the Indian Ocean nor the right of navigation thereon belongs to the Portuguese by title of occupation ...[and that] the Dutch must maintain their right of trade with the East Indies by peace, by treaty, or by war.⁶⁸

Today, both of the premises upon which Grotius built his argument in favour of the tractate of *Mare Liberum* are open to challenge. Moreover, Grotius' categorisation of the high seas as *res nullius*—the property of no one—has generally been superseded by the original Roman view that the high seas are *res communis*—the property of everyone. This subtle distinction is the foundation that guides the 1982 United Nations

⁶⁶ Daniel Moran, 'The International Law of the Sea in a Globalised World', *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁶⁷ George V. Galdorisi and Kevin R. Vienna, *Beyond the Law of the Sea: New Directions for US Oceans Policy*, Praeger, Westport, 1997, 9.

⁶⁸ Hugo Grotius, the chapter headings of 'The Freedom Of The Seas, Or The Right Which Belongs To The Dutch To Take Part In The East Indian Trade', translated by Ralph Van Deman Magoffin, in James Scott (ed), *Carnegie Endowment for International Peace*.

Convention on the Law of the Sea (LOSC).⁶⁹ However, at that time, it satisfied the requirements of the Dutch East India Company and the legality of Admiral Heemskerck's prize.

John Selden

Grotius' tractate was challenged by the Professor of Civil Law at St Andrews University in Scotland, William Welwood,⁷⁰ in 1613, and the English jurist John Selden (1584-1654)⁷¹ in 1618, amongst others. Although Grotius' works were not directed at England, the English became concerned that should Grotius' arguments prevail, English claims to large tracts of ocean surrounding her territories⁷² and her historical fishing grounds could not be legally sustained. Matters came to a head when England seized several Dutch cargoes of walrus, taken in the waters off Greenland, on the grounds that the Dutch had no British authority to fish there. In an attempt to find academic justification for this seizure, King James I (1566-1625) directed that John Selden write a treatise in response to Grotius' arguments.

Selden produced *Mare Clausum, seu de Dominio Maris* in 1618 (although it was not published until 1635). In it, Selden advanced two premises—firstly, although acknowledging the right of passage, he argues that the sea, like land, is susceptible to private *dominium*. Secondly, he argued that Britain exercises *dominium* over the seas surrounding the British Isles, as well as most of the Bay of Biscay and the Atlantic Ocean west of Britain. While conceding that the air and water were traditionally regarded as *res communis*, he argued that the customary practice of nations showed a pattern of allowing *dominium* over the seas. Indeed, this is precisely the nature of the Treaty of Tordesillas. Selden argued that rivers and lakes—which are equally fluid and

⁶⁹ See Chapter 7 'Ocean Exploitation and Enclosure - Modern Oceans Governance' in this thesis.

⁷⁰ The most serious objections to Grotius' arguments involved his assumption that the resources of the sea were unlimited, a claim that even 17th century fisherman knew to be false. William Welwood, *An Abridgement of all the Sea-Lawes*, (sic) London & University of Aberdeen, 1613.

⁷¹ James Scott's ed., *Carnegie Endowment for International Peace*, viii; John Selden was born in Sussex 16 December 1584. He came to London in 1602 to study law, and was called to the bar in 1612. In 1623 Selden entered Parliament and was a staunch supporter of parliamentary rights and a steady opponent of the crown's prerogative. Selden represented Oxford University in the 'Long Parliament' from 1640-49, and died 30 November 1654. He was an erudite, learned man, now best remembered for the posthumous *Table Talk: Being the Discourses of John Selden, Esq ... Relating to Religion and State*, 1689, collected by his secretary, Richard Milward. See <http://www.luminarium.org/encyclopedia/selden.htm> and <http://www.infoplease.com/ce6/people/A0844344.html> both viewed 22 November 2002.

amorphous, and are bounded by shores—are susceptible to *dominium* and hence sovereignty, then logically so too must the high seas. Selden also regarded the high seas as an exhaustible resource.

For the next two hundred years Selden's work generally stood in stark contrast to the works of most other European jurists, who argued in favour of Freedom of the Seas. Nevertheless it remained the basis for English policy until the early 19th Century, when State practise⁷³ generally vindicated Grotius, and the philosophy he had proposed. The British position since has waxed and waned as it has suited their purpose.

Separate to, yet in parallel with, these legal arguments were the early notions of ocean ownership—the perception that coastal States 'own' the 'territorial' waters that lie adjacent to their coast. The proponents of this treatise drew from the writings of the Glossators and Post-Glossators, in which the Italian jurist Bartolus de Saxoferrato (1314-1357)⁷⁴ argued that the State enjoyed absolute sovereignty over the sea within 100 miles of its coast—a status he termed as *territorium*. Alberico Gentili (1552-1608)⁷⁵ forwarded a similar argument in his work, *De Jure Belli*, published in 1598. Although various methods of determining the extent of a State's territorial waters enjoyed support at various times, the most durable treatise proved to be *portée du canon*—the 'cannon shot' rule. The 'cannon shot' rule holds that a coastal State enjoys sovereignty over the waters adjacent to its coastline as far seawards as the coastal State can control: as far as a cannon can fire a cannon ball—'Wherefore on the whole it seems a better rule that the control of the land extends as far as cannon will carry; for that is as far as we seem to have both command and possession.'⁷⁶

⁷² 'That the King of Great Britain is lord of the sea flowing about [Great Britain]... the high seas to the south and east of England, as well as to undefined regions to the north and west.' See James Scott (ed), *Carnegie Endowment for International Peace*, vii-ix.

⁷³ In the leading case of *The Louis* (2 Dodson 210), decided in 1817, some two hundred years later, Sir William Scott, later Lord Stowell, said in rejecting the claim of his country to the exercise of jurisdiction beyond a marine league from the British shore, 'that all nations being equal, all have an equal right to the uninterrupted use of the unappropriated parts of the ocean for their navigation.' See James Scott (ed), *Carnegie Endowment for International Peace*, x.

⁷⁴ Professor of the Civil Law at the University of Perugia and the most famous master of the dialectical school of jurists. His treatise 'On Procedure' and 'On Evidence' are amongst his most valuable works, whilst his Commentary on the Code of Justinian has been regarded as of equal authority as the code itself. See <http://94.1911encyclopedia.org/B/BA/BARTOLUS.htm> viewed 22 November 2002.

⁷⁵ Gentili was an Italian jurist who has been credited as the founder of the science of international law. See http://37.1911encyclopedia.org/G/GE/GENTILI_ALBERICO.htm viewed 22 November 2002.

⁷⁶ Cornelius van Bynkershoek, 1702, *De Domino Maris*, as cited in <http://streamer.rug.ac.be/cdlaw/chap2/doctrine/cvanb.htm> viewed 22 November 2002.

It is believed that Holland first advanced the ‘cannon shot rule’ in 1610 in protest against the British claim to the fishing grounds off Greenland. As a consequence, while it has been attributed to the Dutch jurist, Cornelius van Bynkershoek (1673-1743)⁷⁷ he may not have invented it—more likely his writings simply reflected the practice of States, certainly in France and Holland. The principle of a maritime coastal belt of sovereignty began to command general acceptance after it was taken up by Emer de Vattel in his influential book *Le Droit des Gens*, published in 1758. From that date it was incorporated into the customs and fisheries regulations of a number of States.⁷⁸ The formalisation of the ‘cannon-shot rule’ into the now defunct three nautical mile limit for the breadth of a coastal States’ Territorial Sea was the work of the British and American prize courts during the Napoleonic Wars.⁷⁹

America’s Advocacy for Freedom at Sea

The experiences and rise of the New England whaling industry in the late 17th and 18th Centuries, and its ensuing competition with British and other European whaling interests, initiated America’s advocacy on universal freedom at sea.⁸⁰ At the forefront of the American whaling industry were the inhabitants of a small island near Cape Cod called Nantucket. Little more than a crescent shaped sandbank 22 kilometres long and 5½ kilometres across at its widest point, the occupants of this island, with their local natives, would grow to dominate the global production of processed whale oil and associated products. Starting in 1690 by rowing from shore sites and using 12-ton sloop-whalers towing a single whaleboat, the Nantuckers preyed on the migrating North Atlantic Right Whales transiting north along the North American littoral. Circa 1712 their prey was extended to include the more profitable Physeter or Sperm Whale, from which was manufactured the highly sought after spermaceti candles—being ‘not inferior to those of beeswax for clarity of light and absence of smoke and odour. They were also cheaper.’⁸¹ By 1730 the Nantucket whaling fleet had grown to 25 vessels ranging in size

⁷⁷ He had a remarkable career as a judge and sat on the Supreme Court of Appeals at the Hague for 40 years, 19 of which as President of the Court. See http://96.1911encyclopedia.org/B/BY/BYNKERSHOEK_CORNELIUS_VAN.htm viewed 22 November 2002.

⁷⁸ See Ian Brownlie, *Principles of Public International Law*, 5th ed., rev., New York, Oxford, 1998, 179.

⁷⁹ Daniel Moran, ‘The International Law of the Sea in a Globalised World’, *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁸⁰ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 111-112.

⁸¹ Allen Mawer, *Ahab’s Trade: The Saga of South Seas Whaling*, Allen & Unwin, Sydney, 1999, 5.

from 38 to 50 tons sailing east into the Atlantic in search of the Sperm Whale in spring and then north along the North American and Greenland coasts as they followed the migrating Right While in summer.⁸² With them the other New England provincial whaling ports also prospered.

But, as the ‘British whalemens felt the American competition intensifying de facto was succeeded by de jure discrimination.’⁸³ In 1766 a duty was placed on colonial whalebone and oil imported into Britain (the main market) while, at the same time, British producers were paid a bounty to promote their own industry. The British restrictions created the incentive to find even more profitable grounds and so commenced the movement southwards on both sides of the Atlantic and eventually into the Pacific. By 1769 Nantucket alone harboured 119 whalers producing over 19,000 barrels of whale oil each season.⁸⁴ Their success invited the British government to directly tax the American industry without giving it representation—a policy that so agitated the colonists. As a consequence American profit came mainly from British tax avoidance. Oil imported in ‘English’ vessels attracted duty of three shillings per tun, while oil imported in a colonial vessel paid six shillings⁸⁵—the manipulation of ‘flag State’ papers and questionable affiliations was a predictable outcome.

In April 1775, at the commencement of the American War of Independence, the New England whale industry, being particularly vulnerable to the strength of the Royal Navy, dispersed their prime assets. Some relocated to Nova Scotia registering as British ships, others to Dunkirk in France, while home fleets ventured further south hoping to out-last the political difficulties. Dual registration and multiple ownership papers were also common as the whalers attempted to avoid prize capture and pressment of crews from marauding American, British and French privateers and naval cruisers. As it was, upwards of 30 Nantucket whalers, as Royal Navy prizes, were sold to Britain’s Greenland and southern whaling fleets and overall the New England provinces fleets were depleted by over 200 ships.⁸⁶ Post war, the continuing access of the United States to British claimed fisheries was a major sticking point in the negotiations that lead to

⁸² *ibid.*

⁸³ *ibid.*, 32

⁸⁴ *ibid.*

⁸⁵ *ibid.*

⁸⁶ *ibid.*

peace. Most fortunately Charles Gravier, Count de Vergennes,⁸⁷ (1719-1787) then the French foreign minister, narrowed the ambit of contention by declaring the ‘the fishery on the high seas is as free as the sea itself, and it is superfluous to discuss the right of the Americans to it’⁸⁸ thereby further cementing in policy the European precedence that supported the philosophy of ‘freedom of the seas’.

While the American whaling industry would eventually recover—at its peak in 1846 its whaling fleet numbered 722 vessels⁸⁹—its encroachment into British traditional and new fisheries, including the Australian colonies, continued to sour relations and was targeted by adverse import duties and tariffs, licensing fees and ‘backloading’ restrictions. The commercial interests of the Honourable East Indian Company ensured that American ships could not commercially operate in the Indian Ocean. Also, the peace of 1783 had not inhibited the Royal Navy in its accustomed practice of searching American ships for deserters and impressing British nationals. While this may appear somewhat zealous it should be appreciated that in 1807 35 per cent of the crew of USS *Constitution* were British subjects.⁹⁰ And during the Napoleonic Wars New England’s whalers were well known to be supplementing their income by transshipping French colonial goods into European ports under protection of the United States flag—to the gamble of the ‘prize courts’.

It was also the ‘prize courts’ that played such a significant role in interpreting the philosophy of legal theory and implementing what would become the precedence of future legal practise. During the 18th and early 19th Centuries, these courts regarded commerce, piracy, and warfare as, if not synonymous, then as points on a single continuum of international rivalry. As observed by Daniel Moran:

Clausewitz’s peremptory dismissal of international law as a restraint upon the conduct of war ^[91], which must have struck the soldiers of his day as mere common sense, would have

⁸⁷ Charles Gravier, count de Vergennes, born 28 Dec 1719 in Dijon, died 13 Feb 1787 in Versailles, was the French foreign minister who fashioned the French alliance with the North American colonists that helped throw off British rule in the American War of Independence, at the same time, he worked, with considerable success, to establish a stable balance of power in Europe.

⁸⁸ G. Bancroft, *History of the United States of America*, 1885, reissued Kennikat Press, Port Washington, 1967, vol V, 321-4.

⁸⁹ Allen Mawer, *Ahab’s Trade: The Saga of South Seas Whaling*, 32.

⁹⁰ *ibid*, 45.

⁹¹ Carl von Clausewitz, *On War*, 1832, edited and translated by Michael Howard and Peter Paret, Princeton University Press, 1976, 75.

seemed absurd to the sailors, whose professional lives proceeded amongst a dense web of prize courts, Orders in Council, Navigation Acts, letters of marque, and a host of treaties and licenses by which the rights to trade and plunder were parceled out.⁹²

Grotius' 1604 'law of prize' legal brief also gave legal and theoretical integrity to the management and conduct of the prize court by recognising the concept of 'belligerent rights'—what would become known through the writings of Thomas Pelham-Holles, the Duke of Newcastle (1693-1768) as the 'Old Rule' of prizes, specifically:

- The goods of an enemy, on board the ship of a friend, may be taken.
- That the lawful goods of a friend, on board the ship of an enemy, ought to be restored.
- That contraband goods, going to the enemy, through the property of a friend, may be taken as prize; because supplying the enemy, with what enables him better to carry on the war, is a departure from neutrality.⁹³

These rules afforded belligerent warships, in particular the Royal Navy, the right to stop, search, and demand explanations from any merchant vessel they encountered—a hard system for those in the carriage of trade who could be hauled before a foreign prize court upon any pretext of irregularity in their papers or cargo. It is not surprising that Great Britain, exercising her constabulary role as the world's predominate maritime power, would have a long history of favouring such a concept—the right to interfere with neutral freedom of navigation as the regulator of maritime trade. Examples include the British blockade of western European ports during the Napoleonic Wars and the molestation of United States shipping on the High Seas, which was one of the direct causes of the War of 1812.⁹⁴

⁹² Daniel Moran, 'The International Law of the Sea in a Globalised World', *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁹³ The Duke of Newcastle's *Letter by His Majesty's Order*, to Monsieur Michell, the King of Prussia's Secretary of the Embassy (London, 1753), 10. Newcastle, citing Grotius as his authority, wrote to defend Britain's wartime seizure of French goods on a neutral Prussian merchantman. As quoted in Daniel Moran, 'The International Law of the Sea in a Globalised World'.

⁹⁴ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, 96-98.

Trade Liberalisation and the Hague Conferences

However, the defeat of France and the rise of the ‘free trade’ policies of *Pax Britannica*⁹⁵ marked the beginning of a secular trend towards political and trade liberalisation. ‘Internal customs duties disappeared in Germany and much of the Habsburg Empire; the paramilitary royal companies that had dominated global trade under the Old Regime were disbanded; and Britain, now uncontested master of the High Seas, shifted its weight decisively in favour of free trade by abolishing its tariffs on imported grain. ... The rate of trade expansion between 1820 and 1914 more than tripled compared to that of the previous three centuries...’⁹⁶

The rise of free trade demanded a new approach—an approach that would recognise the unfettered use of the High Seas and uninterrupted access to the ports of trading partners. This new approach materialised in the declaration that accompanied the Treaty of Paris of 1856. The Declaration of Paris⁹⁷ was, in effect, a statement of principles of international law adopted at the conclusion (16 April 1856) of the negotiations for the Treaty of Paris at the suggestion of Alexandre Colonna, Count Walewski (1810-1868),⁹⁸ a French politician and diplomatist. The declaration set out that maritime law, in time of war, had long been ‘the subject of deplorable disputes’, that the uncertainty of the rights and duties in respect of maritime law gave rise to differences of opinion between neutrals and belligerents which might ‘occasion serious difficulties and even conflicts’, and that it was ‘consequently desirable to agree upon some fixed uniform rules’. The plenipotentiaries therefore adopted the four following principles⁹⁹:

- Privateering¹⁰⁰ is and remains abolished;
- The neutral flag covers enemy’s goods, with the exception of contraband of war;
- Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy’s flag;

⁹⁵ See Chapter 3 ‘Sea Power Dominance – The Empires of *Pax Romana* and *Pax Britannica*’ in this thesis.

⁹⁶ Daniel Moran, ‘The International Law of the Sea in a Globalised World’, *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁹⁷ See 1856 Declaration and Treaty of Paris, www.yale.edu/lawweb/avalon/lawofwar/decparis.htm viewed 12 June 2003.

⁹⁸ Alexandre Florian Joseph Colonna, Count Walewski (4 May 1810 – 27 October 1868), was born at Walewice near Warsaw, the son of Napoleon I and his mistress Marie, Countess Walewski.

⁹⁹ ‘Paris Declaration Respecting Maritime Law’ 16 April 1856, in *Documents on the Laws of War*, Robert Adams and Richard Guelff, 3rd ed., rev., Oxford University Press, New York, 2000, 47-49.

¹⁰⁰ The licensing of private ships as commerce raiders by the State.

- Blockades, in order to be binding, must be effective—maintained by a force sufficient to prevent access to the coast of the enemy and not simply proclaimed as a proforma means to legalise prize taking.

In Great Britain these declarations were extremely controversial. It is reported that Lord Salisbury commented: 'I believe that since the Declaration of Paris, the fleet, valuable as it is for preventing an invasion of these shores, is almost valueless for any other purpose.'¹⁰¹ Notwithstanding, the declaration was signed by Great Britain, France, the Ottoman Empire, Sardinia and Russia, and its provisions were later accepted by most other powers. While the United States and Spain never became parties to this declaration, both, during the Spanish-American War (1898), observed its principles. In practise, the declaration increased the freedom of the seas for neutrals, and Britain chose to temporarily abandon its claim to 'belligerent rights' on the High Seas in order to secure the *quid pro quo* from the other European States to abolish privateering. Most importantly, it codified a fundamental change in the balance of interests between warfare and trade on the High Seas.

Prompted by the acrimonious race for empire developing amongst the major powers towards the end of the 19th Century, Tsar Nicholas II (1868-1918) of Russia and Queen Wilhelmina (1880-1962) of the Netherlands summoned the First Hague Conference in May 1899.¹⁰² The conference was charged with charting a course towards limiting armaments, mitigating against the horrors of war, and achieving a form of international arbitration.¹⁰³ At the time, most were sceptical of the Tsar's real motivations; he had less need of a strong navy yet was re-arming more than most. The *Globe* newspaper

¹⁰¹ Lord Salisbury, *Hansard*, 6 March 1871, as quoted in Admiral Sir Herbert W. Richmond, *Naval Warfare*, Ernest Benn Ltd, London, 1930, 58.

¹⁰² The motivations behind the first Hague Conference may not necessarily have been totally righteous. As Arthur Marder comments: 'The real motives for it were attributed to Russia's great need of such assurance of peace as would allow her to consolidate and assimilate her gains in the Far East; the need of the utmost economy to complete the success of the gold standard policy; and the large governmental expenditure due to the great famine.' Arthur J. Marder, *The Anatomy of British Sea Power*, Frank Cass, London, 1940, Third impression 1972, 342.

¹⁰³ The Russian memorandum covered three main topics:

- (1) the limitations of armaments – an understanding not to increase for a fixed period the existing effective of the armed military and naval forces;
- (2) mitigation of the horrors of war – prohibition of the use of new firearms or explosives, and of submarines and rams, application to naval warfare of the principles of the Geneva Convention of 1864, and revision of the unratified Brussels Convention of 1874 concerning the laws and customs of war; and

headlined '*Que messieurs les assassins commencent*' and the *Naval and Military Record* noted:

Taking the [Russian] Navy alone, it is being increased at an alarming rate. Already the Russian fleet is an European scandal. She has no more need of a navy than has Switzerland.¹⁰⁴

A more optimistic note was recorded by the *Daily Telegraph* on the conference's completion:

Yet perhaps, after all, the chief benefit rendered by the Tsar to mankind ...is that he has sown an idea. This generation may not see the grain of mustard seed germinate, still less develop; but it is more than likely that remote history will date the inauguration of a period of universal peace from the moment it occurred to the Tsar to make what seemed a Quixotic appeal to an armed and jealous world.¹⁰⁵

The First Hague Conference did not achieve many of its material aims, although it did achieve the establishment of the Permanent Court of Arbitration (popularly known as the Hague Tribunal¹⁰⁶).

The Second Hague Conference¹⁰⁷ was sponsored by the United States in 1907. Although the United States pushed unsuccessfully for the establishment of a world court, the conference was more effective in giving even more heed to the rights of neutral shipping¹⁰⁸ and contraband, and also to the protection of noncombatants.¹⁰⁹

(3) Arbitration – the acceptance in principle of good offices, mediation, and arbitration with the object of preventing armed conflicts between nations.

¹⁰⁴ The *Navy and Military Record*, 15 December 1898 as cited by Arthur J. Marder, *The Anatomy of British Sea Power*, 343.

¹⁰⁵ The *Daily Telegraph*, 25 July 1899 as cited by Arthur J. Marder, *The Anatomy of British Sea Power*, 349.

¹⁰⁶ The Hague Tribunal was to settle differences amongst signatories, except in cases involving sovereignty, vital interests or national honour.

¹⁰⁷ The Second International Peace Conference, at the Hague, 15 June 1907, University of Minnesota Human Rights Library, <http://www1.umn.edu/humanrts/instree/1907a.htm>.

¹⁰⁸ The 'Convention relative to the status of enemy merchant ships at the outbreak of hostilities', 'Convention relative to the conversion of merchant ships into warships', 'Convention relative to certain restrictions with regard to the exercise of the right of capture in naval war' and the 'Convention concerning the rights and duties of neutral Powers in naval war'. All these conventions were part of the 'Final Act of the Second Peace Conference, at the Hague, assembled 15 June 1907.

¹⁰⁹ *The Columbia Electronic Encyclopedia*, 1994, 2000, Columbia University Press at <http://www.factmonster.com/ce6/history/A0822352.html> and through U.S. History.com at <http://www.u-s-history.com/pages/h989.html> both viewed 16 December 2003.

Later, 'belligerent rights' were further limited in scope by the 1909 Declaration of London¹¹⁰ by codifying the rules applicable to, and limiting the extent of, a naval blockade: 'a blockade must not extend beyond the ports and coast belonging to or occupied by the enemy' the rules as to declaration and notification of a naval blockade, the nature of contraband of war, 'unneutral'[sic] service, destruction of neutral prizes, resistance to search etc.

However, ultimately, it was the United States, as the emerging champion of 'freedom of the seas', that took a principled stand on the issue. As so dramatically outlined in President Woodrow Wilson's (1856-1924) 1918 speech to Congress in which he enunciated what he considered to be the basic premises of a just and lasting peace arising from the ashes of the Great War:

...absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and in war... the removal ...of all economic barriers and the establishment of an equality of trade... covenants we are willing to fight and to continue to fight until they are achieved.¹¹¹

Likewise, 23 years later in July 1941, prior to the United States entering into the Second World War, Franklin D. Roosevelt (1882-1945) gained Sir Winston Churchill's universal commitment to unconditional freedom of the seas through the Atlantic Charter:¹¹² '...access, on equal terms, to the trade ...of the world. ...enable all men to transverse the high seas and oceans without hindrance.'¹¹³

¹¹⁰ Declaration Concerning the Laws of Naval War, London, 26 February 1909, University of Minnesota Human Rights Library <http://www1.umn.edu/humanrts/instree/1909b.htm>.

¹¹¹ President Woodrow Wilson's *Fourteen Points Speech*, 1918, Source Arthur S. Link et al., eds., *The Papers of Woodrow Wilson*, Volume 45, 1984, 536, <http://usinfo.state.gov/usa/infousa/facts/democrac/51.htm> viewed 10 December 2003. The last of the Fourteen Points would establish "A general association of nations...affording mutual guarantees of political independence and territorial integrity to great and small States alike."

¹¹² See <http://usinfo.state.gov/usa/infousa/facts/democrac/53.htm> viewed 6 February 2003; and also The Atlantic Charter 14 August 1941.

¹¹³ Extracts from the fourth and seventh terms of the Atlantic Charter, July 1941, Samuel Rosenman, ed., *Public Papers and Addresses of Franklin D. Roosevelt*, vol.10 (1938-1950), 314, at <http://usinfo.state.gov/usa/infousa/facts/democrac/53.htm>.

Conclusion

All the above events cemented Hugo Grotius' treatise based on *Mare Liberum*, the freedom of the seas; the unfettered use of the high seas and the uninterrupted globalisation of mercantile trade—universal freedom at sea, or at least until it suits otherwise. Therefore, from the early 1800s until the modern era, the oceans of the world became the resource to which no single decision-making authority held exclusive title.¹¹⁴ And the generally, though not necessarily universally, accepted belief was that the oceans were open to all for the purposes of navigation and resource collection.¹¹⁵ 'Consumption of the common pool of resources was rival but non-excludable, and the resources generally thought to be inexhaustible.'¹¹⁶ The basic doctrine of 'freedom of the seas' meant that the High Seas were not subject to the legislation, jurisdiction or administration of any State and could not be acquired through prescription or occupation.

However, this freedom could not be sustained into the modern era. Coastal State assertion of rights, and international legal codification, progressively encroached into the great oceanic common, dawning the modern era of oceans governance. With regulation came obligations, and a fundamental change to the international maritime planning paradigm.

¹¹⁴ P.M. Wijkman, 'Managing the Global Commons' *International Organisation*, vol. 36, no. 3, 1982, 512.

¹¹⁵ Article 2 of 1958 Convention on the High Seas 'Freedom of navigation, Freedom of fishing, Freedom to lay submarine cables and pipelines, Freedom to fly over the high seas.'

¹¹⁶ Dick Sherwood, 'Ocean governance and its impact on maritime strategy', David Wilson and Dick Sherwood (eds), *Oceans Governance and Maritime Strategy*, 23.

CHAPTER SEVEN

OCEAN EXPLOITATION and ENCLOSURE – MODERN OCEANS GOVERNANCE

*When it comes to maritime conflict, the sea is no longer just something to fight on,
it is something to fight for.*

Harold J. Kearsley 1992 ¹

This Chapter continues the theme of the third hypotheses as identified in Chapter Six, *The Great Oceanic Common*—that the escalating historical trend of State sovereignty expansion and ocean enclosure has fundamentally changed the naval planning paradigm that has been used for the last one hundred years. Specifically the Chapter will look at the issues and ‘landmark’ unilateral actions that have shaped international oceans law and eroded the traditional ‘freedoms’ of the ocean commons, from the 1930 Hague Codification Conference to the 1982 United Nations Convention on the Law of the Sea and beyond. It will look at the obligations that are imposed on coastal States to conserve and manage their new extensions of sovereignty and sovereign rights, and the ‘good order at sea’ issues and responsibilities that coastal States have inherited. The Chapter will demonstrate that the coastal State’s responsibilities have changed, their national interests have changed, their instruction, management, and constabulary enforcement obligations have changed and so their naval force-planning paradigm should also change.

The Intensification of Users and Uses

Against the background of geopolitical transformation arising initially from the aftermath of the First World War, the expansion of trade liberalisation in the aftermath of the Second World War, and the demands of an interdependent and truly global economy, modern technological development has also increased the efficacy with which mankind could exploit the resources of the oceans. In Grotius’ day, or for that matter in Mahan’s, the users of the oceans were the mercantile traders and the direct appropriation of ocean resources was chiefly the business of fisherman and whalers, whose disputes, while perennially contentious, were ultimately parochial. However, with advancing technology the traditional ocean uses increased significantly, and new oceans uses, the exploitation of the non-living resources of the seabed such as oil,

¹ Harold J. Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Co., Aldershot, 1992, 13.

natural gas, sand, gravel, phosphories, rare metals and stones, metalliferous mud, brines (in the form of salts) underwater nodules (copper, nickel, cobalt and manganese); the exploitation of different living resources such as molluscs, *beche de mer*, seaweed, coral poriferans and plankton; and the dumping of land wastes at sea, have also developed. In particular, as the industrial world shifted from coal to oil as its principal source of energy, the attractions of the seabed for the world's oil industry became intense and the stakes involved in regulating economic use of the ocean grew. Add to this list the modern developing potential of polymetallic sulphides and direct ocean energy extraction—wave action and tidal forces—then the whole concept of sea wealth, and what constitutes sea wealth, is also changing.

The intensification of users and uses has each increased the stress being placed upon the marine environment, especially from pollution. This has lead to heightened concerns over the importance of the ocean to the environmental health of the adjacent State, and the economic returns that the coastal State can derive from it. The reasons for this greater interest in the oceans are not difficult to appreciate. Apart from 'just' economics, they include, *inter alia*: population growth; the steady depletion of easily exploitable minerals and fossil energy sources on land; the growing scarcity of cultivable soils due to the increasing demand for agricultural land, urbanisation and desertification; food scarcity and protein deficiency in the developing world; pollution; problems related to the disposal of dangerous wastes; and the spectre of rising sea levels.²

As a consequence, also over the last 70 years, the treatise of *Mare Liberum* has increasingly been under assault from coastal States through two perspectives. The first by coastal States claiming an expanded national jurisdiction over their adjacent ocean areas, and the second from international pressure to codify public international law that, in turn, gave the coastal States their opportunity.

² *Oceans: The Source of Life*, United Nations, http://www.un.org/Dept/los/convention_agreements/convention_20years/oceansourceoflife.pdf viewed 11 January 2005.

On the later point, the League of Nations, arising from the Treaty of Versailles³ and dawning the new era of hope after ‘the war to end all wars’, appointed two committees to consider areas of public international law suitable for discussion at a codification conference.⁴ Their preparatory work led ultimately to the Hague Codification Conference 13 March - 12 April 1930.⁵ The Conference dealt with three issues of international maritime law: the width of the Territorial Sea, the notion of a Contiguous Zone, and the nature of a coastal State’s rights in respect of their Territorial Sea.

In respect to the width of the Territorial Sea, the longstanding but uncodified three-nautical mile convention that had arisen from the Napoleonic Prize Courts and van Bynkershoek’s ‘cannon shot’ rule,⁶ was challenged by the new post-colonial regimes⁷ that had scant means of exploiting or defending their maritime rights, but were fearful of the encroachment by more capable outsiders.⁸ For the developed world, the expansion of the territorial sea posed a threat to navigation and overflight through international straits. Special rules concerning international strait navigation had been a feature of international custom since the Royal Navy had forced the abrogation of the Russian-Ottoman Empire treaty on restricting the right to transit the Dardanelles in 1841.⁹ For most such vital waterways the three-mile limit provided a de facto middle

³ The Treaties of Peace 1919-1923, *Carnegie Endowment for International Peace*, New York, 1924; Arno J. Mayer, *Politics and Diplomacy of Peacemaking: Containment and Counterrevolution at Versailles, 1918-1919*, Harcourt, New York, 1967; and Margaret Macmillan, *Paris 1919: Six Months that Changed the World*, Random House, New York, 2002.

⁴ ‘Before the First World War notable success was achieved by the Hague Conventions of 1899 and 1906, resulting from the Hague Conferences of the same years, on the laws of war and neutrality. Between the two world wars, the League of Nations sponsored a Codification Conference at The Hague in 1930 which was prepared for in optimistic mood and which examined the law of nationality, territorial waters and State responsibility.’ D.M. Harris, *Cases and Materials on International Law* 52-53, 1987, www.law.uga.edu/~bodansky/courses/International_Law/class15.html.

⁵ http://www.law.uga.edu/~bodansky/courses/International_Law/class15.html viewed 26 May 2005.

⁶ See Chapter 6 – *The Great Oceanic Common* in this thesis.

⁷ Ten States favoured 3 nautical miles, two States favoured 3 nautical miles and were willing to accept a Contiguous Zone, seven States favoured 3 nautical miles with a mandatory Contiguous Zone, three States favoured 4 nautical miles, one State favoured 4 nautical miles with a mandatory Contiguous Zone, six States favoured 6 nautical miles and six States favoured 6 nautical miles with a mandatory Contiguous Zone. Two States abstained from voting. See Lawrence Schafer, Rhodes University at http://cdserver2.ru.ac.za/cd/011120_1/Aqua/Marine%20Fisheries/chap3/width.htm viewed 22 November 2002.

⁸ Daniel Moran, ‘The International Law of the Sea in a Globalised World’, *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁹ www.historybookshop.com/articles/events/dardanelles-campaign.asp viewed 2 March 2002.

channel, but a 12-mile limit would see over 100 international straits become subject to sovereignty claims by the coastal States that bordered them.¹⁰

States' views on the Contiguous Zone ranged from complete opposition, to a willingness to accept the concept for certain defined purposes, such as customs control, but not for conservation.¹¹

As for the nature of the coastal States' rights within its Territorial Sea, two views were advanced. The first from Spain, France, Italy and Turkey, that the coastal State should have 'jurisdiction' for specific purposes—a jurisdictional belt.¹² The second from the United States and Great Britain, was that the coastal State exercised 'proprietary rights', or at least sovereign or plenary jurisdiction—a belt of maritime sovereign territory. Although many States favoured the doctrine of coastal State sovereignty, the issue was ardently contested with other proposals being considered that amounted to something less than full sovereignty—including 'sovereign rights', 'rights of jurisdiction', 'exclusive competence' and even 'domestic jurisdiction'.¹³ While the irreconcilable differences of opinion led to the Conference not producing a convention on the law of the sea, it did germinate the doctrine and concepts that would so heavily influence the later conventions—in this regard it started a process that continues today.

Coastal State Unilateral Assertions

On the point of claiming an expanded national jurisdiction, paradoxically, it was the United States' unilateral assertions¹⁴ in 1945 that marked the most significant change, since Grotius, in the way the world viewed ocean governance. These assertions arose from the fishing disputes concerning the Bering Sea fur seals and Alaskan Pacific salmon that led to the ideas of a national 'fishery conservation zone' and, in due course, coastal State control of offshore resources on their continental shelf. Up until 1945, the traditional pattern of jurisdiction had been one largely of high seas, free for all States to use, with narrow bands of territorial waters over which coastal States exercised some

¹⁰ Rhodes University, 'The Second United Nations Conference on the Law of the Sea', *Legal Aspects of Contemporary Marine Fisheries*, http://cdserver2.ru.ac.za/cd/011120_1/Aqua/Marine%20Fisheries/cha p3/unclosii.htm viewed 22 November 2002.

¹¹ *ibid.*

¹² *ibid.*

¹³ *ibid.*

degree of sovereignty, subject to the right of innocent passage.¹⁵ Increasingly from this point on, coastal States began to claim exclusive rights to the resources in the waters and seabed adjacent to their shores.

The Bering Sea fur seal dispute arose in the late 19th Century between the United States, Russia, Japan and Great Britain acting on behalf of Canada.¹⁶ Fur seals bear their young on land, but spend most of their life at sea. The fur seals in the Bering Sea raise their young on islands belonging to the United States, Japan and Russia. However, indiscriminate harvesting of fur seals on the High Seas were threatening the seal populations ashore, thus affecting the livelihood of coastal State fishermen and the survival of the species. The United States attempted to prevent High Sea harvest by claiming property rights in the seas through the fur seal's association with United States territory while they were ashore. Great Britain, acting on behalf of Canada, challenged the American move.¹⁷ The dispute was referred to arbitration and, in terms of the arbitral award of 15 August 1893, the United States' claim was rejected.¹⁸ Subsequently agreement was reached which prohibited High Seas harvest in return for a portion of the land rookeries harvest. However, of more significance is that the Fur Seal Arbitration¹⁹ identified that migratory species management and conservation can not be conducted by the national action of the coastal State alone—an enduring principle that still has considerable merit today.

The second dispute concerned the Pacific salmon during the 1930s. Being an anadromous species, the Pacific salmon originate in fresh waters, migrate to the ocean, then return to fresh water to reproduce and die. The salmon harvesting industry is

¹⁴ What has become known as the Truman Proclamations of 1945. See www.ibiblio.org/pha/policy/1945/450928a.html viewed 22 August 2003.

¹⁵ George V. Galdorisi and Kevin R. Vienna, *Beyond the Law of the Sea: New Directions for US Oceans Policy*, Praeger, Westport, 1997, 23.

¹⁶ Rhodes University, 'The Second United Nations Conference on the Law of the Sea', *Legal Aspects of Contemporary Marine Fisheries*, http://cdserver2.ru.ac.za/cd/011120_1/Aqua/Marine%20Fisheries/cha p3/unclosii.htm viewed 22 November 2002.

¹⁷ Kurkpatrick Dorsey, *The Dawn Of Conservation Diplomacy: U.S.-Canadian Wildlife Protection Treaties In The Progressive Era 39-41*, University of Washington Press, Seattle, 1998.

¹⁸ The legal basis for such action was the claim that Russia had controlled all the Bering Sea and that the control had passed to the United States with the purchase of Alaska in 1867. This was not accepted by the British, and a move to settle the matter of protection by international agreement was blocked by the Canadians. The matter was referred to an international court of arbitration, which, meeting in Paris, declared in 1893 against the United States claim and awarded \$473,151 in damages to the owners of the seized vessels. It also imposed some restrictions on pelagic sealing, but these were ineffective. <http://www.encyclopedia.com/html/B/BeringSeal.asp> viewed 26 May 2005.

¹⁹ Fur Seal Arbitration: Proceedings of the Tribunal of Arbitration, convened at Paris, 1895, as cited in David Starr Jordan, *Report of Fur Seal Investigations*, Washington, 1898.

economically significant to Alaska, where (in the 1930s) few other employment opportunities existed. However, Pacific salmon were also harvested extensively on the High Seas, with the resultant diminishing effect on coastal fisheries. The potential for dispute arose between the United States and Japan after Japan conducted exploratory work in the waters near Alaska.²⁰ Although Japan eventually agreed not to license vessels for the purposes of harvesting Alaskan salmon,²¹ the tenuous nature of this compromise during a period of anxious political relationships resulted in the Truman Proclamations of 1945.²²

In September 1945, President Harry S. Truman (1884-1972) unilaterally issued two proclamations claiming jurisdiction and control of the resources of the sub-soil and seabed of the continental shelf²³ adjacent to the territory of the United States,²⁴ and their right to establish fishery conservation zones.²⁵ In effect, these proclamations arbitrarily extended United States sovereignty into the customary doctrines and freedoms that had been so championed by Hugo Grotius and his treatise of *Mare Liberum*.²⁶ The Truman Proclamations also provided the justification for other coastal States to claim an ever expanding national jurisdiction over their adjacent ocean areas. In practise, these proclamations encouraged and forewarned the modern era of ocean enclosure.

One month later Mexico proclaimed jurisdiction over the continental shelf and all natural resources, known or unknown, existing on it, and the right to monitor, exploit and control a fisheries zone necessary for the conservation of the resources within its continental shelf.²⁷ Panama, in 1946, claimed the continental shelf adjacent to its shore, as part of its national territory. Argentina claimed sovereignty over the continental shelf

²⁰ Rhodes University, 'The Second United Nations Conference on the Law of the Sea'.

²¹ http://cdserver2.ru.ac.za/cd/011120_1/Aqua/Marine%20Fisheries/CHAP3/SALMON.HTM viewed 26 May 2005.

²² www.ibiblio.org/pha/policy/1945/450928a.html viewed 22 August 2003.

²³ Although the proclamation did not define the Continental Shelf, an accompanying press release referred to the 100 fathom (600 foot) bathometric contour.

²⁴ See 1945 Truman Proclamation on the Continent Shelf www.ibiblio.org/pha/policy/1945/450928a.html viewed 22 August 2003.

²⁵ See 1945 Truman Proclamation on Conservation www.ibiblio.org/pha/policy/1945/450928a.html viewed 22 August 2003.

²⁶ Hugo Grotius, 'The Freedom Of The Seas, Or The Right Which Belongs To The Dutch To Take Part In The East Indian Trade', translated by Ralph Van Deman Magoffin, in James Scott's (ed), *Carnegie Endowment for International Peace*, Oxford University Press, New York, 1916.

²⁷ Rhodes University, *Legal Aspects of Contemporary Marine Fisheries*, http://cdserver2.ru.ac.za/cd/011120_1/Aqua/Marine%20Fisheries/chap3/unclosii.htm viewed 22 November 2002.

and the Epicontinental Sea, the latter being defined as ‘the waters covering the submarine platform’.²⁸ In 1947, President Gonzalez-Videla of Chile claimed sovereignty over the continental shelf, sovereignty over the seas adjacent to the coast of Chile, and control over ‘all the seawater included within a perimeter formed by the coast with a mathematical parallel projected towards the sea up to 200 nautical miles from the continental coasts of Chile ... within those limits necessary to resume, protect, preserve and exploit ...’ the natural resources within the zone so claimed.²⁹ Similar claims were made by Costa Rica in 1948, followed by Honduras, Brazil and El Salvador in 1950. In each case, the claim was implicit in the wording of the respective national constitutions, in which their national territory was described as including the seas adjacent to their coasts up to a limit of 200 miles. Also, soon after the Second World War, Egypt, Ethiopia, Saudi Arabia, Libya, Venezuela and some eastern European countries laid claim to a 12-mile territorial sea, thus clearly departing from the traditional three-mile limit. Later, the archipelagic nation of Indonesia asserted the right to dominion over the water that separated its 13,000 islands; The Philippines did likewise.³⁰ Of note is that each claim was made without prejudice to the universal right of navigational freedom, although in archipelagic claims, the universality of navigational freedom was being ‘conditioned’.

In August 1952, as a process to further legitimise their claims, Chile, Peru and Ecuador issued the Santiago Declaration.³¹ In the Santiago Declaration each State claimed ‘sole sovereignty and jurisdiction’ over the area of the sea not less than 200 nautical miles adjacent to their respective coasts. The declaration also established the Permanent Commission for the South Pacific with the mandate to promote the conservation and optimum utilisation of fauna and other resources thereby foreshadowing the latter international fishery bodies, such as the North American Fisheries Organisation and the International Whaling Commission. The Santiago Declaration reinforced the rejection of the three nautical mile territorial sea, and it was the first international declaration to

²⁸ *ibid.*

²⁹ *ibid.*

³⁰ The United Nations, ‘A Historical Perspective’, *Oceans and Law of the Sea, Division for Ocean Affairs and the Law of the Sea*, http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.html viewed 19 August 2003.

³¹ See 1952 Santiago Declaration www.cpps-int.org/english/santiagodeclaration2002.html viewed 22 August 2002.

proclaim a 200 nautical mile limit—effectively marking the birth of what has now become the Exclusive Economic Zone.

Early Attempts at Law of the Sea Codification

Notwithstanding the demise of the League of Nations and the birth of the United Nations, the pressures to codify public international law have remained. Article 13(1)(a) of the United Nations Charter,³² requires the General Assembly to ‘initiate studies and make recommendations for the purposes of ... encouraging the progressive development in international law and its codification.’³³ To this end, the General Assembly established the International Law Commission in 1947. After preparatory studies in the early 1950s, the Commission drafted a series of reports³⁴ concerning the High Seas, territorial waters, continental shelf, High Seas fisheries, conservation, and piracy and presented them to the General Assembly in 1956. These reports ultimately led to the First United Nations Conference on the Law of the Sea (UNCLOS I) from 24 February to 29 April 1958.³⁵

UNCLOS I presented four conventions for two-thirds majority approval:

- The Convention on the Territorial Sea and the Contiguous Zone³⁶—which, in part, acknowledges that coastal States exercise sovereignty, and not just jurisdictional rights, over their territorial sea, and determines baselines and the meaning of ‘innocent passage’;
- The Convention on the High Seas³⁷—which for most part was the codification of the accepted customs in dealing with navigation, piracy, smuggling, collision and the protection of cables;
- The Convention on the Continental Shelf³⁸—prescribed, in part, the general rule that coastal States have sovereign rights for the purpose of exploring and exploiting the continental shelf to a depth of 200 metres, and defines ‘natural

³² *United Nations Treaty Collection* <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

³³ Rhodes University, *Legal Aspects of Contemporary Marine Fisheries*.

³⁴ Bearing the name of the Special Rapporteur to the Commission, J.P.A. François of the Netherlands.

³⁵ http://www.un.org/Depts/los/consultative_process/consultative_process.htm.

³⁶ See 1958 Convention on the Territorial Sea, *United Nations Treaty Collection* <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

³⁷ See 1958 Convention on the High Seas, *United Nations Treaty Collection* <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

³⁸ See 1958 Convention on the Continental Shelf, *United Nations Treaty Collection* <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

resources’ as including non-living resources, such as minerals, and living resources, such as sedentary species; and

- The Convention on Fishing and the Conservation of Living Resources of the High Seas³⁹—which, in part, characterise the features of freedom of fishing, recognition of the special interests of the coastal State, and the responsibility to conserve the living resources of the High Seas.

UNCLOS I achieved considerable progress in what was, at that time, a very contentious area. It has also been criticised for a variety of reasons, the most pertinent being that: no agreement was made on the width of the territorial sea, no agreement was reached of the limits of fishing zones, it failed to represent the interests of the rising number of newly independent States, it failed to accommodate the increasing importance of international organisations, and it failed to adequately conserve and manage the living resources of the oceans. These shortcomings behoved the General assembly to call a second conference to, in part, consider ‘further the questions of breadth of the territorial sea and fisheries limits...’

The Second United Nations Conference on the Law of the Sea (UNCLOS II)⁴⁰ was held at Geneva from 17 March to 26 April 1960. At that time, State practise regarding the width of the Territorial Sea varied considerably. Reportedly, some 22 States had fixed the territorial seas at three miles, 16 had claimed between four miles and 12 miles, 13 had claimed 12 miles and two had claimed in excess of 12 miles.⁴¹ Various proposals were submitted, significantly all were for widths exceeding three nautical miles, yet no universal agreement could be obtained.⁴²

As a consequence of the failure of these talks, States then acted unilaterally to establish their own wider territorial seas, or fishing zones, or combinations thereof. The common thread running through the various arguments advanced in support of these extended claims was that the traditional three-nautical mile territorial sea ‘was insufficient to

³⁹ See 1958 Convention on Fishing and Conservation, *United Nations Treaty Collection* <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

⁴⁰ http://www.un.org/Depts/los/consultative_process/consultative_process.htm.

⁴¹ Rhodes University, ‘The Second United Nations Conference on the Law of the Sea’, *Legal Aspects of Contemporary Marine Fisheries*.

⁴² *ibid*.

protect the interests of the coastal State. As beyond this limit, coastal States were powerless⁴³ to act.

The United Nations summed up this situation thus:

From oil to tin, diamonds to gravel, metals to fish, the resources of the sea are enormous. The reality of their exploitation grows day by day as technology opens new ways to tap those resources. In the late 1960s, oil exploration was moving further and further from land, deeper and deeper into the bedrock of continental margins. From a modest beginning in 1947 in the Gulf of Mexico, offshore oil production, still less than a million tons in 1954, had grown to close to 400 million tons. Oil drilling equipment was already going as far as 4,000 metres below the ocean surface. The oceans were being exploited as never before. Activities unknown barely two decades earlier were in full swing around the world. Tin had been mined in the shallow waters off Thailand and Indonesia. South Africa was about to tap the Namibian coast for diamonds. Potato-shaped nodules, found almost a century earlier and lying on the seabed some five kilometres below, were attracting increased interest because of their metal content. And then there was fishing. Large fishing vessels were roaming the oceans far from their native shores, capable of staying away from port for months at a time. Fish stocks began to show signs of depletion as fleet after fleet swept distant coastlines. Nations were flooding the richest fishing waters with their fishing fleets virtually unrestrained: coastal States setting limits and fishing States contesting them.⁴⁴

One such manifestation was the so-called ‘Cod Wars’⁴⁵ between Iceland and the United Kingdom, an event that saw a number of deliberate intimidatory collisions between fishing vessels, coastguard vessels and warships. This conflict rose following the failure of UNCLOS I to define a wider and more viable limit to the territorial sea. In response, Iceland made a series of unilateral expansions of its fishing zone into parts of the High Seas that, in turn, threatened the well-established fishing industries of Great Britain and the then Federal Republic of Germany, and sparked a prolonged dispute between them.

⁴³ *ibid.*

⁴⁴ The United Nations, ‘A Historical Perspective’, *Oceans and Law of the Sea, Division for Ocean Affairs and the Law of the Sea*, http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.html viewed 19 August 2003.

⁴⁵ In June 1958 Iceland announced an unilateral extension of its territorial waters to 12 nautical miles. Great Britain protested and defended its trawlers against Icelandic compliance action. The dispute was renewed in 1972 when Iceland again unilaterally extended its territorial waters from 12 to 50 nautical miles and again in November 1975 when it extended its territorial waters to 200 nautical miles. Both of these actions renewed the confrontations at sea between the Icelandic Coast Guard and British trawlers and Royal Navy frigates. The dispute was eventually referred to the International Court of Justice and culminated in the landmark Fisheries Jurisdiction Case. Source Rhodes University, *Legal Aspects of Contemporary Marine Fisheries*.

The dispute was eventually referred to the International Court of Justice and culminated in the Fisheries Jurisdiction Case.⁴⁶ While the International Court of Justice added nothing helpful to the original dispute it nevertheless recognised the preferential rights of the coastal State in an area beyond the narrow limits of the three-mile territorial sea, and also recognised the obligation of the coastal State to take into account the needs and interests of other user States. This philosophy of balancing the interests of all parties has continued into the 1982 Convention on the Law of the Sea. Moreover, the International Court of Justice gave added recognition to those States that are ‘overwhelmingly’ reliant on the harvesting of their own fish stocks: the special provision for ‘overwhelmingly dependent States’ that appears in Article 71 of the 1982 Convention⁴⁷—a category that comprises only Iceland.

Elsewhere, as a consequence of the dramatic improvements in distant-water fishing techniques, global-roaming large fishing vessels, with their own internal bulk processing capacities, led to a massive increase in fish takings. Overfishing, allegedly by Japanese, Korean, Taiwanese, Soviet and East European fleets, resulted in coastal State stock depletions to the extent where it was now adversely affecting the local industries worldwide.⁴⁸ Also, some States, particularly in Africa, felt that a three-mile territorial sea was insufficient to safeguard their newly won national security and independence. This argument was used to justify Tanzania’s unilateral proclamation of a 50-mile territorial sea in 1973.

By 1960, 13 States had claimed territorial seas of 12 miles.⁴⁹ By 1971, this number had jumped to 45 States. Similarly, whereas six States had claimed fishing zones of 12 miles in 1960, 25 had made this claim in 1971.⁵⁰ In South America, Argentina, Panama, Peru and Ecuador all claimed territorial seas of 200 miles, while Nicaragua established a 200-mile fishing zone. The unilateral South American claims led to the Montevideo⁵¹ and

⁴⁶ Fisheries Jurisdiction Case [1974 Rep.3] International Court of Justice 17 Aug 72 - 25 Jul 74 at <http://www.intfish.net/cases/fisheries/fishj1/>. See also for United Kingdom vs Iceland www.oceanlaw.net/cases/fishj1.htm and for Germany vs Iceland www.oceanlaw.net/cases/fishj2.htm both viewed 11 January 2005.

⁴⁷ ‘The United Nations Convention on the Law of the Sea 1982’ *United Nations Treaty Collection* <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

⁴⁸ Rhodes University, *Legal Aspects of Contemporary Marine Fisheries*.

⁴⁹ Rhodes University, ‘The Second United Nations Conference on the Law of the Sea’, *Legal Aspects of Contemporary Marine Fisheries*.

⁵⁰ *ibid.*

⁵¹ See 1970 Montevideo Declaration, www.fao.org/docrep/s5280T/s5280t0p.htm viewed 14 April 2003.

Lima Declarations of 1970. These declarations extended the exclusive rights of State sovereignty over the ocean areas adjacent to their coasts, its soil and its subsoil to a distance of 200 nautical miles from the baseline of the territorial sea.⁵² This was followed by the Santo Domingo Declaration⁵³ of 1972.

The sovereignty of a State extends, beyond its land territory ... to an area of the sea adjacent to its coast, designated as the territorial sea ... The coastal State has sovereign rights over the renewable and non-renewable natural resources, which are found in the waters ... adjacent to the territorial sea called the patrimonial sea ... [and] The whole of the area of both the territorial sea and the patrimonial sea ... should not exceed a maximum of 200 nautical miles.⁵⁴

The newly independent States on the African continent rallied to the cause and some adopted the South American model of unilateral expansion. Guinea proclaimed a territorial sea of 130 miles in 1965, and extended it to 200 miles a year later.⁵⁵ Cameroon declared its territorial sea to be 18 miles in 1967, and Gabon claimed 25 miles in 1970.⁵⁶ In the Yaoundé Declaration⁵⁷ of 1972 the African States declared that they have the right to determine the limits of their jurisdiction over the oceans adjacent to their coasts taking into account ‘their own geographical, geological, biological and national security factors.’ That the Territorial Sea should not extend beyond a limit of 12 nautical miles. And that they have the right to establish an Economic Zone, beyond their Territorial Sea, over which they have exclusive jurisdiction to control the ‘regulation and national exploitation of the living resources’ and ‘the prevention and control of pollution.’⁵⁸

As observed by the United Nations,

the tranquillity of the sea was slowly being disrupted by technological breakthroughs, accelerating and multiplying uses, and a super-Power rivalry that stood poised to enter man’s last preserve—the seabed. It was a time that held both dangers and promises, risks

⁵² Montevideo Declaration on the Law of the Sea adopted 8 May 1970.

⁵³ See 1972 Santo Domingo Declaration, www.oceanlaw.net/texts/domingo.htm viewed 16 May 2003.

⁵⁴ Text of the Declaration of Santo Domingo approved by the Meeting of Ministers on 7 June 1972.

⁵⁵ Rhodes University, ‘The Second United Nations Conference on the Law of the Sea’, *Legal Aspects of Contemporary Marine Fisheries*.

⁵⁶ *ibid.*

⁵⁷ See 1972 Yaoundé Declaration, www.oceanlaw.net/texts/yaounde.htm viewed 2 May 2003.

and hopes. The dangers were numerous: nuclear submarines charting deep waters never before explored; designs for antiballistic missile systems to be placed on the seabed; supertankers ferrying oil from the Middle east to European and other ports, passing through congested straits and leaving behind a trail of oil spills; and rising tensions between nations over conflicting claims to ocean space and resources. The oceans were generating a multitude of claims, counterclaims and sovereignty disputes.⁵⁹

The international political leverage by which the major maritime powers would finally step in and both arrest the creep of sovereignty into the high seas and the sovereignty disputes arising because of them, came when the prospects of global maritime anarchy grew too strong. In particular, the defining moment came about when the Third World nations were led to fear that new technologies would allow the mining of polymetallic nodules on and beneath the seabed, an activity in which they could not compete for lack of technological expertise, and which if successful would ruin land-based producers of the same metals, many of which are found in poor countries.⁶⁰

‘Extravagant territorial claims projecting outward from the shoreline could not protect against this threat. In the late 1960s, something between a gold rush and an arms race seemed to impend ...’⁶¹ as envisioned most candidly by Malta’s ambassador to the United Nations, Dr Arvid Pardo⁶² (1914-1999). In an August 1967 speech delivered before the United Nations Ad Hoc Committee to Study the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction, Dr Pardo prophesised that as the seabed became ‘progressively and competitively subject to national appropriation and use’ rapid militarisation and resource depletion would follow, through which ‘the common heritage of mankind’ would be siphoned off ‘for the national

⁵⁸ Conclusions in the General Report of the African States Regional Seminar on the Law of the Sea held in Yaoundé from 20-30 June 1972.

⁵⁹ The United Nations, ‘A Historical Perspective’, *Oceans and Law of the Sea, Division for Ocean Affairs and the Law of the Sea*, http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.html viewed 19 August 2003.

⁶⁰ Rhodes University, *Legal Aspects of Contemporary Marine Fisheries*.

⁶¹ Daniel Moran, ‘The International Law of the Sea in a Globalised World’, *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

⁶² See Victor Ragonesia ‘Tribute to Arvid Pardo’, *International Ocean Institute: Regional Operational Centre to the Caribbean*, <http://www.una.ac.cr/ioi/ambassadoreng.html> viewed 9 September 2003 and ‘Arvid Pardo’ in the American Political Science Association’s journal *PS online*, at <http://www.apsanet.org/PS/dec99/pardo.cfm> viewed 9 September 2003.

advantage of technologically developed countries.’⁶³ He called for ‘an effective international regime over the seabed and ocean floor beyond a clearly defined national jurisdiction ... It is the only alternative by which we can hope to avoid the escalating tension that will be inevitable if the present situation is allowed to continue.’⁶⁴ His Excellency Professor Guido de Marco, the President of Malta, during the first Arvid Pardo Memorial Lecture Stated that Arvid Pardo ‘contributed two seminal ideas to our world: first the resources of the deep seabed constitute the common heritage of mankind; and secondly, that all aspects of ocean space are inter-related and should be treated as an integral whole.’⁶⁵

His elaboration of the principle of the Common Heritage of Mankind was adopted as a basis for the United Nations General Assembly Resolution 2749 (XXV) of 17 December 1970 containing the Declaration of Principles ‘governing the sea-bed and the ocean floor beyond the limits of national jurisdiction’⁶⁶ and the Resolution 2750 (XXV) of the same date wherein the General Assembly decided to convene in 1973, the third United Nations Conference of the Law of the Sea. Pardo’s phrase, ‘the common heritage of mankind’ echoes the original Roman view proposed by Marcianus in the 2nd Century AD, that the high seas are *res communis*—the property of everyone. It would become the watchword of contemporary ocean law and dawn the modern concept of oceans governance.⁶⁷

⁶³ Excerpted in George V. Galdorisi and Kevin R. Vienna, *Beyond the law of the Sea: New Directions of U.S. Oceans Policy*, Westport, CT: Praeger, 1997, 25.

⁶⁴ The United Nations, ‘A Historical Perspective’, *Oceans and Law of the Sea, Division for Ocean Affairs and the Law of the Sea*, http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.html viewed 19 August 2003.

See also ‘The UN Convention on the Law of the Sea – A Historical Background’, *Oceans: The Source of Life*, http://www.un.org/Dept/los/convention_agreements/convention_20years/oceansourceoflife.pdf viewed 11 January 2005.

⁶⁵ <http://www.foreign.gov.mt/stockholm/doc/CommonHeritageOfMankind.htm> viewed 9 September 2003.

⁶⁶ See 1970 UN General Assembly Resolution 2749 (XXV), *United Nations Treaty Collection*, <http://nrs.harvard.edu/urn-3:hul.eresource:untreaty> viewed 24 November 2003.

⁶⁷ In the text proclaiming the international Arvid Pardo Award ‘to promote research, studies and wider dissemination of the concept of the Common Heritage... “a new and equitable global partnership”, “respect for the interests of all and protection of the integrity of the global environment” and that “peace, development and environmental protection are independent and indivisible.”’ <http://www.coi.gov.cn/bbs/ioi.htm> viewed 9 September 2003.

1982 United Nations Convention on the Law of the Sea

The modern and escalating concerns driving ocean regulation includes the growing want for fish protein, the demand for energy, the effects of globalisation, the quest for security and the unregulated flow of displaced persons. Unregulated exploitation has seen the steady depletion of coastal fisheries, the destruction of fish habitats by human development and pollution, and the growth of deep water fishing fleets, all of which endangered the long-term future of the coastal State's well-being.⁶⁸ Projections suggest that in 2010 world fishery consumption will be between 107-144 million tons, of which only 74-114 million tons will be available to be caught.⁶⁹ Assessments by the Food and Agriculture Organization of the United Nations indicate that yields of over 35-45 per cent of the world's major fisheries are in decline⁷⁰ and another 25-30 per cent have already reached their ultimate exploitation level.⁷¹ In addition, illegal, unregulated and unreported fishing, especially in contravention of current conservation and management measures, is now a growing and significant issue.⁷² Michael Parfit attests:

⁶⁸ The United Nations reports: 'Oceans cover 70% of the world's surface and more than 90% of the world's living biomass. More than 3.5 billion people, more than half the world's 6 billion population, depend on the seas for their primary source of food. The numbers could double to 7 billion in 20 years.' As reported in *Canberra Sunday Times*, 6 June 2004, 12.

Elsewhere the United Nations reports:

'Oceans cover almost three-quarters of the Earth's surface, comprise nine-tenths of its water resources and are home to over 97 per cent of all life. ... Every year, almost 90 million tons of fish are captured globally, providing by far the largest source of wild protein for human consumption. Source 'Facts and Figures about the Oceans, Did you know?', *Oceans: The Source of Life*.

⁶⁹ Oceans and the Law of the Sea: Report of the Secretary General 1998, UN Document A/53/456, para. 146.

⁷⁰ The United Nations reports: 'More than 70% of the world's marine fisheries are fished up to or beyond their sustainable limit. Stocks of fish such as tuna, cod, swordfish and marlin have declined by up to 90% in the past century.' As reported in *Canberra Sunday Times*, 6 June 2004, 12.

⁷¹ Statement by M. Hayashi, assistant Director-General, Fisheries Department, FAO, 'Conservation of coastal and marine environment through sustainable resource management in fisheries', World Environment Day, FAO, 5 June 1998.

Also the United Nations report 'About 50 per cent of fish stock are fully utilised and another 25 per cent are over fished, leaving only 25 per cent with some potential for increased fish harvests.' Source 'Facts and Figures about the Oceans, Did you know?', *Oceans: The Source of Life*.

⁷² As an example: The Patagonian Toothfish—*Dissostichus eleginoides* a large, bottom dwelling, predatory fish that grows to over two metres in length and lives for approximately 50 years, reaches reproductive maturity at the age of 6 to 9 years and has a low fecundity—is an excellent tablefish that lives in the deep waters of the Southern Ocean. Large scale fishing for the Toothfish began in the early 1990s, and by the mid 1990s it was a highly prized catch branded as 'white gold' by industrial long line fishing fleets, fetching up to \$A 2,000 each fish landed in Japan. As it is long lived, sedentary, slow growing, and has a fairly long reproductive cycle it is highly vulnerable to over fishing. The sustainability of the Toothfish is therefore at extreme risk due to the impact of excessive IUU fishing. The very remote area in which it lives also makes it very difficult for responsible coastal States to deploy surveillance and enforcement resources to the region. In 1997/1998 CCAMLR estimated that Toothfish catches from IUU operations were about 33,583 tonnes—in excess of 50 per cent of the global catch. Sources: M. Lack and G. Sant, 'The Patagonian Toothfish: Are Conservation and Trade Measures Working?' in *Traffic Bulletin Offprint*, Vol. 19, Number 1, 2001, 1 and Chris Masters 'The Toothfish Pirates' *Four Corners*, Australian Broadcasting Commission, Monday 30 September 2002,

The unthinkable has come to pass. The wealth of oceans, once deemed inexhaustible, has proven finite, and fish, once dubbed ‘the poor man’s protein,’ have become a resource coveted—and fought over—by nations. Although technology has helped quadruple the world’s catch of seafood since 1950, a nearly empty basket is all a fisherman in Cochin, India, has to show for several hours’ toil—a complaint heard around the world. “*We’ve come to our reckoning,*” says one marine scientist. “*The next ten years are going to be very painful, full of upheaval for everyone connected to the sea.*”⁷³

Also, of continuing importance is the demand for energy—offshore oil production worldwide grew from about 13,500 million barrels per day in the early 1980s to about 18,600 million barrels per day in the mid-1990s, an increase of 37 per cent. In the same period, offshore gas production worldwide grew from about 28,300 to 35,900 million cubic feet per day, an increase of 27 per cent.⁷⁴ This initiated the expansion of exploration and exploitation for offshore oil and gas reserves within the immediate jurisdiction of the coastal State, and now continues to expand seaward to the limits of the continental shelf, including those areas that lie in disputed waters. Likewise globalisation, with its promotion of trade liberalisation, has facilitated economic activity in many parts of the developing world and has led to large increases in both the number and size of commercial vessels, with corresponding increases in pollution and other environmental hazards.⁷⁵

As a global collective, the sovereignty claims of the coastal State grew ‘spatially extensive, functionally inclusive, and jurisdictionally exclusive, setting the stage for natural tension between two competing interests; the exclusive interests of the coastal

<http://www.abc.net.au/4corners/stories/s689740.html> provides good summaries of the pirate fishing fleet and tactics employed to evade apprehension. See also <http://www.traffic.org/toothfish/tooth2.html>, 1.

⁷³ Michael Parfit, ‘Diminishing Returns: Exploiting the Ocean’s Bounty’, *National Geographic*, November 1995, 2.

⁷⁴ ‘Facts and Figures about the Oceans, Did you know?’, *Oceans: The Source of Life*.

⁷⁵ The United Nations reports: ‘80% of all pollution in the seas comes from land-based activities. Plastic waste, like supermarket bags, kills up to one million seabirds, 100,000 sea mammals and countless fish yearly. An estimated 21 million barrels of oil run into the oceans every year. In the past decade, an average of 600,000 barrels of oil a year have been accidentally spilled from ships – the equivalent of 12 disasters the size of the sinking of the Prestige tanker off Spain in 2002.’ As reported in *Canberra Sunday Times*, 6 June 2004, 12.

States and the inclusive interests of the user States.’⁷⁶ This in turn created the compelling need for a universal international regime of ocean governance.⁷⁷

The classical maritime strategists, such as Mahan and Corbett, were able to view the ocean as a great international common, a ‘great highway’ over which men ‘may pass in all directions’, and the vital means by which the imperial powers were able to exercise their strategic domination and extend their influence around the world. Today, this situation is dramatically different. The seas are no longer free. Through a proliferation of international treaties dealing with marine issues, particularly the preservation and protection of the marine environment, the seas have progressively been regulated. Today there is an increasingly complex array of rules and guidelines dealing with what States can and cannot do in ocean areas, how they can exercise their rights, duties and obligations at sea, and what the ships and fishing vessels flying their national flags can and cannot do.

The foremost international treaty contributing to the growing regulation of the seas is the United Nations Convention on the Law of the Sea (LOSC) that was signed in Jamaica 10 December 1982.

The Convention sets forth a comprehensive legal framework and basic obligation for protecting the marine environment from all sources of pollution, including pollution from vessels, from dumping, from seabed activities and from land based activities. It creates a positive and unrepresented regime for marine environmental protection that will compel parties to come together to address issues of common and pressing concern. As such, the Convention is the strongest comprehensive environmental treaty now in existence or likely to emerge for quite some time.⁷⁸

The LOSC codifies a universal and balanced set of rights and responsibilities for the users of the world’s oceans. It provides the foundation for subsequent international treaties and ‘soft law’ instruments dealing with the oceans and activities at sea.⁷⁹ And it

⁷⁶ George V. Galdorisi and Kevin R. Vienna, *Beyond the Law of the Sea: New Directions for US Oceans Policy*, Praeger, Westport, 1997, 23.

⁷⁷ ‘The UN Convention on the Law of the Sea – A historical Background’, *Oceans: The Source of Life*.

⁷⁸ United States President Clinton’s transmittal letter to the United States Senate dated 7 October 1994, United States Department of State Dispatch, Vol.6, Supp.1, February 1995.

⁷⁹ Gerald Sutton, ‘Introduction’ in D. Wilson and R. Sherwood (eds), *Ocean Governance and Maritime Strategy*, Allen & Unwin, St Leonards, NSW, 2000, 2.

serves as the hub of the contemporary law of the sea regime, around which, a corpus of international law for protecting and managing the world's oceans has evolved.⁸⁰

As at 31 January 2005, following ratification by Denmark on 16 November 2004, accession by Latvia on 23 December 2004 and ratification by Burkina Faso on 25 January 2005, the number of States parties to the LOSC, including the European Community, stands at 148 (129 coastal States from among the total of 153 and 18 landlocked States from among the total of 42).⁸¹ Burkina Faso, Denmark and Latvia have also expressed their consent to be bound by the Agreement relating to the implementation of Part XI. Botswana acceded to this Agreement on 31 January 2005, bringing the number of parties to 121.⁸² While the United States is not yet party, it does accept the Convention as reflecting, in the most part, customary international law.⁸³ While over 144 coastal States now claim a territorial sea of 12 nautical miles or less,⁸⁴ some others are still adopting onerous conditions of transit or extensive claims: El Salvador, Liberia, Sierra Leone and Somalia all claim a 200 nautical mile territorial sea; Syria claims a 35 nautical mile territorial sea; Bangladesh, Burma, Saudi Arabia, Sudan, Vietnam and Yemen claim various types of Security Zones; Albania, Algeria, Croatia, Maldives, Malta, Seychelles, Sudan, United Arab Emirates, Iran and Yemen all require prior permission for a warship to take passage through their claimed waters; Malaysia and Pakistan place excessive restrictions on military activities in their EEZs; and many claim excessive straight baselines.⁸⁵

⁸⁰ Christopher C. Joyner, 'The international ocean regime at the new millennium: a survey of contemporary legal order', *Ocean & Coastal Management*, No. 43, 2000, 200.

⁸¹ Report of the Secretary-General, *Oceans and the law of the sea*, United Nations, 4 March 2005.

⁸² *ibid.*

⁸³ 'Status of the United Nations Convention on the Law of the Sea', *Oceans: The Source of Life*, United Nations Convention on the Law of the Sea 20th Anniversary (1982-2002), United Nations, 15.

⁸⁴ *ibid.*

⁸⁵ See http://www.defenselink.mil/execsec/adr1999/apdx_i.html viewed 10 December 2003.

Figure 8 Maritime Zones of Jurisdiction

Exclusive Economic Zone

The LOSC legislates for an Exclusive Economic Zone (EEZ)⁸⁶ to separate the high seas (the remains of the global oceanic common) from those waters under the exclusive jurisdiction of the coastal State (the territorial sea): ‘sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil...’⁸⁷

The EEZ ‘is an area beyond and adjacent to the territorial sea’⁸⁸ and ‘shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.’⁸⁹ By supplementation to the LOSC, the coastal State’s jurisdiction has since been further extended, for seabed resources—to the extent of the continental shelf out to a maximum of 350-nautical miles, and also for highly migratory fish stocks.⁹⁰ The LOSC came into effect on 16 November 1994; one year after the last of the requisite 60 signatories ratified it. Regardless of whether or not a State has ratified the LOSC, many of its provisions, arguably, are already customary international law.⁹¹

Perhaps no-where more dramatic, the introduction of the 200-mile⁹² resource zones has had a significant impact in the South Pacific where virtually overnight the small nations acquired the legal right to resources within and underlying vast areas of surrounding ocean. The establishment of EEZs by the 22 self-governing South Pacific Island territories created an adjoining resource zones that now almost completely fill an ocean area spanning more than four time zones and 25 degrees of latitude.⁹³

⁸⁶ See Figure 8: Maritime Zones of Jurisdiction.

⁸⁷ Article 56 Part V LOSC, 1982, http://www.un.org/Dept/los/convention_agreements/convention...

⁸⁸ Article 55 Part V LOSC, 1982.

⁸⁹ Article 57 Part V LOSC, 1982.

⁹⁰ See: the 1992 Agenda 21, Chapter 17; 1994 Agreement to implement Part 11 of the LOSC; 1993 Food & Agriculture Organisation Compliance Agreement; 1995 Code of Conduct for Responsible Fisheries; 1995 Straddling/Highly Migratory Stocks Agreement; and 2001 Food & Agriculture Organisation’s Plan of Action on Illegal, Unregulated and Unreported Fishing.

⁹¹ Martin Tsamenyi, CMP 902 *Law of the Sea* Course Notes, University of Wollongong, 2001.

Also the United Nations reports ‘Since the adoption of the Convention in 1982, the legal regime it established has reached practical universal acceptance. Today, the international community is only a small step away from reaching the goal of universal participation.’ Source ‘Status of the United Nations Convention on the Law of the Sea’, *Oceans: The Source of Life*.

⁹² The EEZ is actually 188 miles in width, the other 12 miles loosely referred to here is the Territorial Sea.

⁹³ See Figure 9: Effect of the 200nm Coastal State Jurisdiction.

Figure 9 Effect of the 200nm Coastal State Jurisdiction

Virtually all resources and economic uses in this vast area of more than 30 million square kilometres are now under the control of island States. Kiribati, for example, with 690 square kilometres of land area, now controls 3.5 million square kilometres of sea area. The Marshall Islands has a land area of 181 square kilometres and a fishing zone of 2.1 million square kilometres. When the largest country, Papua New Guinea, is excluded, the sea area of EEZs of the South Pacific islands is a staggering 296 times the land area. In contrast, the United States, with one of the largest EEZs in the world, has an EEZ:land ratio of less than 2:1.⁹⁴

However, notably, the coastal State's new sovereign rights is not without its costs as the LOSC represents a balance of both rights and responsibilities. Article 55 recognises the EEZ as an area in which there are both coastal State rights and jurisdiction, and user State rights and freedoms. Article 56 provides that, in the EEZ, the coastal State has 'sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources...' There is the right to explore and exploit, and the responsibility to conserve and manage. Indeed, Article 62 qualifies the right of exploitation with an obligation to 'promote the objective of optimum utilisation of the living resources in the exclusive economic zone' and Article 61 enjoins coastal States to 'ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation'. '...the coastal State is duty bound to ensure through proper conservation and management measures that the living resources of the EEZ are not endangered by overexploitation [and] ...obligated to maintain or restore populations of harvested fisheries at levels that produce a "maximum sustainable yield." The second chief responsibility ...is to promote the objective of "optimum utilisation" of living resources within the zone.'⁹⁵

In support of these endeavours, States whose vessels fish on the high seas are expected to take steps necessary to ensure that their vessels comply with conservation and management measures taken by United Nations sponsored regional organisations, and they are to avoid activities that undermine the efficacy of those measures. For example

⁹⁴ Anthony Bergin, 'New Developments in the Law of the Sea', paper presented to Naval Power in the Pacific Towards the Year 2000, Australian Defence Force Academy, 13-14 May 1991.

⁹⁵ Christopher C. Joyner, 'The international ocean regime at the new millennium: a survey of contemporary legal order', *Ocean & Coastal Management*, Number 43, 2000, 171.

the Straddling Stocks Agreement,⁹⁶ which sets out the principles for managing fish stocks in contentious and straddling areas with the objective of ensuring the ‘long-term conservation and sustainable use’ of these marine living resources.⁹⁷ Similar responsibilities extend to maritime transport, marine pollution, ocean dumping and the protection of the maritime environment, coastal zone management, ocean engineering, oceanographic research, etc.

Nevertheless, the enormous size of the EEZ is sufficient in itself to give pause. Together with the territorial seas, it comprises well over two-thirds of the world’s oceans and 99 per cent of the world fish catch.⁹⁸ Its extent ensures that the zones of neighbouring States often overlap, and drawing the lines necessary to separate them is by no means a purely mechanical process.⁹⁹ From such intricacies, friction has surely, and will continue to, come.¹⁰⁰ As Dick Sherwood argues: ‘...perhaps the single most important maritime issue ...is to do with maritime boundaries. [The LOSC] does not address the delimitation of EEZs and continental shelves in a conclusive manner.’¹⁰¹ Or if it does, individual State interpretation leaves a lot to be desired. Within the broader Australian region, ‘jurisdictionally, the [South China] Sea contains numerous problems with potential for conflicts. There are a lot of bilateral disputes, either over the ownership of various islands or over the boundary delimitation’¹⁰² separating them. The Spratly Island issue is but one case in point. Technically speaking it is an archipelago of more than 230 barren islets, reefs, sandbars and atolls (of which only about 180 have been named) covering a sea area of more than 250,000 square kilometres. Only about 20 of the land outcrops are truly islands, and even fewer have freshwater to sustain human

⁹⁶ The 1995 United Nations Agreement on Straddling and Highly Migratory Fish Stocks, Article 18, paragraph 3.

⁹⁷ These measures are consistent with duties contained in the 1993 FAO Compliance Agreement and are intended to promote compliance with rules adopted by FAO’s seven regional fisheries organisations, under Article VI of the FAO Constitution.

⁹⁸ Lung-Chu Chen, *An Introduction to Contemporary International Law: A Policy-Orientated Perspective*, 2nd ed., Yale University Press, New Haven, 2000, 137.

⁹⁹ See the map in Ken Booth, *Law, Force, and Diplomacy at Sea*, Allen & Unwin, Boston, 1985, following page 220.

¹⁰⁰ Sam Bateman comments ‘If anything, a stable maritime regime may be becoming more difficult to achieve unless regional countries are more prepared to eschew sovereignty and independence in managing their maritime affairs and addressing maritime regimes.’ Sam Bateman, ‘Strategic and Political Aspects of the Law of the Sea in East Asian Seas’, PhD Thesis, University of New South Wales, Australian Defence Force Academy, Canberra, 2001, 356.

¹⁰¹ Dick Sherwood, ‘Maritime Developments in the Asia/Pacific Region’ in Greg A. Cox (ed), *Issues in Maritime Strategy*, Commonwealth of Australia, 1994, 60-61.

¹⁰² Hasjim Djalal, ‘Potential Conflicts in the South China Sea’, *The Indonesian Quarterly*, 2nd Quarter, 1990, Volume XVIII, Number 2, 128.

life.¹⁰³ Six regional nations lay claim to all or part of the archipelago. China and Taiwan (the entire area) Vietnam (whose claim overlays with that of Indonesia), Malaysia (whose claim overlays with that of the Philippines) and Brunei. Of these, only Brunei does not have a military presence in the area.¹⁰⁴ The famed blue crab conflict is another case in point. Disputed fishing jurisdiction in the Yellow Sea between North and South Korea led to bloody clashes in 1999 and 2002 in which warships were sunk and sailors killed.¹⁰⁵

Also, today, it is difficult to recapture the intensity of feeling that was once attached to the LOSC seabed mining provisions (the celebrated polymetallic nodules have proven to be among nature's more elusive creations¹⁰⁶) and the industrialised world's anxiety about 'strategic metals' appears to have faded with the ending of the Cold War. Yet some writers still portray the LOSC as a document that is fatally flawed by its centralised international regulatory scheme for High Seas seabed mining. Doug Bandow, for example, asserts that the LOSC's approach is biased against production and designed to restrict rather than promote mineral development. He then goes on by stating that much of the world community has now rejected the socialistic approach to decision-making reflected in the LOSC, promoting a more Lockean philosophy to the ownership of resources currently outside the jurisdiction of any nation-State—develop them with your own labour and resources, and they become yours.¹⁰⁷

Since the LOSC's signature, the world economy has more than doubled in size and developed wholly unanticipated new forms of dynamism, integration, and growth—forms in which activities like undersea mining, however esoteric, play a far less prominent role than anyone imagined a generation ago.¹⁰⁸ However, at that time, its

¹⁰³ Chang, Pao-Min, 'A New Scramble for South China Sea Islands', *Contemporary Southeast Asia*, Volume 12, Number 1, June 1990, 20.

¹⁰⁴ Seamus McElroy and Landell Mills, 'Failure to resolve marine boundary disputes raises tensions in SE Asia', *Marine Policy*, November 1992, 488.

¹⁰⁵ *Economist*, 19 June 1999; *Guardian Weekly*, 6 July 2002.

¹⁰⁶ Lung-Chu Chen, *An Introduction to Contemporary International Law: A Policy-Orientated Perspective*, 141.

¹⁰⁷ George Galdorisi, Doug Bandow & M. Casey Jarman, 'The United States and the 1982 Law of the Sea Convention: The Cases Pro & Con', *The Law of the Sea Institute Occasional Paper Number 38*, University of Hawaii, USA, 1994.

¹⁰⁸ Daniel Moran, 'The International Law of the Sea in a Globalised World', *Globalisation and Maritime Power*, http://www.ndu.edu/inss/books/Books_2002/Globalization_and_Maritime_Power/13_ch12.html viewed 12 December 2003.

proponents imagined that the LOSC would ‘launch a new international order’. Elisabeth Mann Borgese argues that the concept is one of

a public international institution that is operational, capable of generating revenue, imposing international taxation, bringing multinational companies into a structured relationship; responsible for resource planning on a global scale, as well as for the protection and conservation of the marine environment and scientific research. An institution linking politics, economics and science in new ways—a model, potentially, for international organisations in the 21st Century.¹⁰⁹

It is a big ask, and one that has yet to be realised.

Notwithstanding, law has a tendency to breed more law and there is little doubt that the legal dimension will continue to develop. Pressure for more law is currently focused on environmental concerns,¹¹⁰ which may further restrict ship movements and undermine flag-State rights.¹¹¹ The central issue is whether the hierarchy of zones established by the LOSC checks the drift towards extended sovereignty that began with the Truman Declaration in 1945 or ‘simply applies an additional layer of grease to an already slippery slope.’¹¹² History, it has been proposed, shows that claims to jurisdiction have always tended to harden into claims to sovereignty.¹¹³ This is a proposition that should not be taken only at face value. If history shows anything in the matter, it is that, in international law, practice trumps theory. The question, for instance, whether the EEZ is high seas, over which coastal States exercise a few special rights, or alternatively an

¹⁰⁹ Elisabeth Mann Borgese, ‘Law of the Sea: The Next Phase’, *Third World Quarterly*, October 1982, 708.

¹¹⁰ For example: US District Judge Elizabeth Laporte in San Francisco banned the USN from testing a high-powered low-frequency sonar system on the basis that it had failed to consider alternatives that could shield whales and other marine life from these loud sounds. ‘Today’s ruling is a reprieve not just for whales, porpoises and fish, but ultimately for all of us who depend for our survival on healthy oceans’ said Joel Reynolds, senior lawyer for the Natural Resources Defence Council. Reported in the *Los Angeles Times*, the *Washington Post* and *Sydney Morning Herald* <http://www.smh.com.au/articles/2003/08/27/1061663853625.html?from=storyrhs> viewed 18 August 2003.

¹¹¹ *BR 1806: British Maritime Doctrine*, Second edition, MOD, DSDA (Print Centre), Keynsham, 1999, Chapter 2, 18.

¹¹² Daniel Moran, ‘The International Law of the Sea in a Globalised World’, *Globalisation and Maritime Power*.

¹¹³ Ian Brownlie, *Principles of Public International Law*, 5th ed., rev., Oxford, New York, 1998, 180.

extension of the territorial sea, in which outsiders are accorded a few special privileges, is left unsettled by the LOSC, and remains fair game for contestation.¹¹⁴

However, the LOSC is but the first of many, and a growing number of, legal instruments. While the regime for the oceans is commonly viewed within the context of a general, universal convention, the contemporary scope of global oceans law extends far beyond that single instrument. The law of the sea is broad, far-reaching and reflective of the increasingly complex, interdependent nature of contemporary international relations. In this regard, by the end of the 20th Century there has emerged a pronounced trend towards worldwide participation in and adherence to the multifaceted legal regime established to manage the oceans. Viewed as an integrated whole, these agreements comprise, at the beginning of the 21st Century, an intertwined, sophisticated international legal regime for managing ocean activities.¹¹⁵

Conclusion

The growing importance to the well-being of the State of resource management, environmental protection, immigration regulation, quarantine inspection and trans-national crime enforcement is one thing, but the expanded coastal State jurisdiction poses a requirement that those States be able to enforce their national regimes. In the Asia-Pacific, a combination of territorial disputes and overlapping maritime jurisdictions have enhanced the importance of using the sea for national security purposes, and rising powers such as China and India increasingly appear to use the sea for the projection of political influence. The fundamental deduction of the highly critical review undertaken by the Independent World Commission on the Oceans, 1998, *The Ocean Our Future*,¹¹⁶ was that the oceans are the setting for the major problems of the future.¹¹⁷ The report concludes that there is no effective system of international oceans governance and that managing the 70 per cent of the earth's surface covered by water is

¹¹⁴ Daniel Moran, 'The International Law of the Sea in a Globalised World', *Globalisation and Maritime Power*.

¹¹⁵ Christopher C. Joyner, 'The international ocean regime at the new millennium: a survey of contemporary legal order', *Ocean & Coastal Management*, Number 43, 2000.

¹¹⁶ *The Ocean our Future- The Report of the Independent World Commission on the Oceans*, Cambridge, Cambridge University Press, 1998.

¹¹⁷ 'Territorial disputes that threaten peace and security, global climate change, illegal fishing, habitat destruction, species extinction, pollution, drug smuggling, congested shipping lanes, sub-standard ships, illegal migration, piracy and the disruption of coastal communities are among these problems.'

one of the greatest challenges facing the international community in the 21st Century.¹¹⁸ The *World Summit on Sustainable Development* held in Johannesburg in 2002 also pointed to the crisis in international management of the oceans.¹¹⁹ These factors have led to an understanding that coastal States, and their neighbours, must manage and coordinate in a more integrated and holistic fashion all of the competing interests that seek to use the sea, and the environmental implications of those various uses—‘...global governance requiring a high level of international and regional cooperation that subordinates national interests to a greater common good.’¹²⁰

The coastal States’ maritime strategic policies and regulatory plans need to adapt to these changes in ocean governance. National understanding of the strategic implications of Law of the Sea Convention need to lead to an increase in national awareness of the maritime and economic issues that are involved. These issues may have served to promote national Oceans Policies and border protection regime amongst a few, but a comprehensive maritime strategy also needs to highlight the future importance of security to all coastal States’ maritime claims. They need to recognise that the management, protection and policing of Exclusive Economic Zones are major elements of what are increasingly known as ‘constabulary tasks’—tasks that should not be undertaken by confrontationally focused ships-of-war. The modern practice of State sovereignty expansion and ocean governance is a fundamental change in the evolution of the ocean governance paradigm that needs to be recognised and responded to. It needs to be reflected in a growing demand for the ship-of-law, where ‘numbers’ are needed for the exercise of ‘control’—with a ‘governance’ rather than a ‘contest’ focus.

¹¹⁸ Sam Bateman, ‘Developing a Pacific Island Ocean Guard: The Need, The Possibility and The Concept’ in Ivan Molloy, ed., *The Eye of the Cyclone: Issues in Pacific Security*, RSPAS Publishing, Research School of Pacific and Asian Studies, The Australian National University, ACT, 2004, 208.

¹¹⁹ *ibid.*, 222.

¹²⁰ *ibid.*, 208.

CHAPTER EIGHT

AUSTRALIA'S MARITIME STRATEGIC IMPERATIVES

The superior man, when resting in safety, does not forget that danger may come. When in a state of security he does not forget the possibility of ruin. When all is orderly, he does not forget that disorder may come. Thus his person is not endangered, and his States and all their clans are preserved.

Confucius¹

To attach a tangible conclusion to the three contemporary hypotheses (the United States' geopolitical dominance, the changing character of warfare, and the onset of oceans governance) this thesis uses Australia as a case study. Australia has been chosen as it is allied to the United States under the ANZUS Treaty, and is therefore readily influenced by the security umbrella offered by *Pax Americana*. Secondly, Australia, as a regional power, has a Western, developed, first world order national infrastructure and outlook, a sophisticated human resource culture and base, and is rich in raw resources. Australia's armed forces, being small in number, are technologically advanced, well funded, and seek to retain a 'knowledge edge' over regional neighbours. Australia is therefore responsive to the attributes and transformations that come about with technological change. Thirdly, Australia is fundamentally maritime. As an island continent, Australia is surrounded by vast tracts of oceans, and is totally reliant on the maintenance of navigational freedom for trade, resource harvesting, and national well-being. Australia also has constabulary responsibilities over the world's third largest Exclusive Economic Zone. The three contemporary pressures identified therefore should dominate Australia's perception of naval force 'relevance' and they should inform both the course of Australia's maritime strategy and Australia's naval force structure.

In the framework of this thesis, the context of Australia's maritime strategy will also be linked to Australia's status as a 'medium power'—where medium powers 'lie between the self sufficient and the insufficient'² of political and military power. In doing this, the determination of where the limited resources of the State are allocated should draw the veracity out of the contemporary pressures argued in this thesis. Simply, the 'medium power' context suggests that considerable thought must go into defining Australia's vital interests, for it is these vital interests that should determine the Australian Defence

¹ Chinese philosopher & reformer (551 BC - 479 BC).

² J.R. Hill, *Maritime Strategy for Medium Powers*, Croom Helm, London, 1986, 20.

Forces' force structural requirements. A medium power, by definition, must be sufficiently strong to look after its own destiny, usually in a framework of alliances, but in any event, maintain enough power and capability to ensure preservation of its vital interests.³ Australia fits this definition: Australia must maintain the capabilities necessary to ensure the preservation of her vital interests. As it is with all medium powers, it is the balance between the desirable force structure and available resources that play such a large part in force structure planning.

These next two Chapters will draw together the threads and historical emphasis of this thesis by extrapolating Australia's national maritime interests and linking them to her naval force structural development. Chapter Eight will look at Australia's strategic expeditionary and constabulary imperatives. Chapter Nine will look at the naval force structural implications of these imperatives.

In determining Australia's expeditionary and constabulary imperatives, this Chapter will research the military and political 'watershed' of the East Timor commitment and then use this to further expand the expeditionary requirement. From a constabulary perspective, it will follow the reluctant, although inevitable, transition of political thinking regarding the military's evolution in 'peace-time' surveillance and response operations, and the party-political positions that now exist. It will stress the necessity of recognising that the modern naval force structure paradigm has changed; the international institutions underwritten by *Pax Americana* now offer a global umbrella for regional security and regional cooperation—a change in application from 'contest and conflict' to 'regulatory and constabulary'. The Chapter will argue that with growing confidence in regional engagement and humanitarian intervention, and the expansion of State sovereignty and a new awareness of maritime governance, Australia's vital interests have fundamentally changed.

But first it is necessary to outline Australia's current force structure planning criteria and its existing maritime strategic outlook—and challenge their contemporary relevancy. This challenge will emphasise the necessity to recognise that *Pax Americana*'s military supremacy and the broader aeon of economic globalisation has

³ *ibid.*

initiated an epochal period of discontinuity in traditional global geo-politics that has radically altered the means, location and character, if not the logic, of war. The global sharing of an increasingly common international destiny, including an inter-society transparency has undermined the autonomy of the State. It has also eroded the State's monopoly on international and fiscal policy and also its monopoly on the means of strategic violence. At the same time, it has empowered non-State actors. To secure Australia's maritime interests against the non-State, unconventional adversary and to engage with the region's prosperity and security, there is now more need for regulatory forces that are intending to use the sea control guaranteed to them by American military power. These next two Chapters will demonstrate that Australia's changing emphasis in national interest should be replicated towards expeditionary and constabulary capabilities in naval force structure.

The Island Fortress

Australia's strategic environment is dominated by its geography. An island continent located in the Southern Hemisphere and surrounded by three major oceans, Australia is naturally protected by vast sea surrounds that include extensive areas of relatively shallow water. With a small population of only 20 million people, grouped primarily around the eastern, southeastern and southwestern coastlines, Australia's threat perceptions have historically focussed to the north and have concentrated on the fear of a conventional military invasion through the Indonesian archipelago into the empty north and northwestern territories—a threat that is rooted with a World War II Japanese invasion perception.

With a continental landmass of 7.5 million square kilometres and a coastline of almost 37,000 kilometres, Australia is very large and potentially difficult to defend. The Australian Defence Force would be stretched very thinly if there were a requirement to conduct concurrent military operations over wide areas of the country and its maritime approaches.⁴ On the other hand, Australia would also be very difficult to attack. Long range surveillance would almost certainly detect any large scale sea or airborne troop movements and the Kimberley territory in the northwest and Arnhem Land and Cape York Peninsula in the north are remote, largely uninhabited and challenging places. It

⁴ Commonwealth of Australia, *The Australian Approach to Warfare*, Department of Defence, Canberra, 2002, 11.

is simply wrong to describe the ‘north of Australia as one unbroken and tempting target for an attacker.’⁵ The north of Australia should ‘be perceived as a long and physically hazardous coastline, with a forbidding hinterland that has very few assets capable of supporting military operations.’⁶ As noted in the Australian Department of Defence’s publication *The Australian Approach to Warfare*: ‘Collectively, these physical characteristics contribute to our defence against armed attack using conventional means; they pose enormous problems for a would-be aggressor.’⁷

The Invasion Planning Paradigm

Nevertheless, over the last 20 years, the Australian defence strategy and its naval force drivers have been firmly entrenched in the world of inter-State conflict, having remained essentially unchanged since Paul Dibb’s *Review of Australia’s Defence Capabilities* (the *Dibb Review*) of March 1986; a review that was conducted during the Cold War. The *Dibb Review*’s central premise, encapsulated by the Defence of Australia doctrine, is that protecting Australia against conventional military attack from a hostile State should determine the structure and capability of the Australian Defence Force. It avers that ‘forces structured for the defence of Australia and its approaches can meet all the tasks asked of it by the government.’ The underlying assumption is that geostrategic imperatives should shape strategy as well as force structure.⁸ This in itself is based on the idea that finds visual expression in a map of Australia with radiating concentric circles centred on Darwin,⁹ as if distance is the dominating influence in geopolitical relationships. And this in itself has since been publicly discredited by the former Defence Minister, Senator Robert Hill: ‘It probably never made sense to conceptualise

⁵ Paul Dibb, *Review of Australia’s Defence Capabilities*, Report to the Minister of Defence, Australian Government Publishing Service, March 1986, 39.

⁶ *ibid.*

⁷ Commonwealth of Australia, *The Australian Approach to Warfare*. Also, there are sound military and logistical reasons why the Battle of the Coral Sea was fought in the Coral Sea, and not for example the Timor Sea, Arafura Sea, or the Gulf of Carpentaria.

⁸ Alan Dupont, ‘Transformation or Stagnation? Rethinking Australia’s Defence’, inaugural presentation of the Australian Security in the 21st Century lecture co-hosted by the Menzies Centre and Australian Defence Industries, Parliament House, Canberra, 13 November 2002.

⁹ ‘Australia’s Regional Security Interests’, the 1:50 000 000 azimuthal equidistant projection that appears as the last page to Paul Dibb, *Review of Australia’s Defence Capabilities*.

our security interests as a series of diminishing concentric circles around our coastline, but it certainly does not do so now.’¹⁰

However, the Royal Australian Navy doctrine still states that ‘Australia’s maritime strategic requirements are closely tied up with the concepts ...centred on “defence of the sea air gap” to the north of Australia ...[and] are based on denial of the maritime approaches to any would-be aggressor.’¹¹ Yet defence of the so-called sea-air gap presupposes that any threat to Australia will manifest itself to the north or northwest as a precursor to invasion of the continent, ‘... a most unlikely event.’¹² This is an approach that Alan Dupont calls a ‘one dimensional view that has more in keeping with the pre-modern world of Halford Mackinder^[13] than the post-modern era of Osama bin Laden...’¹⁴ Paul Monk summarises this as:

... the contingency placed front and centre in the *Dibb [Review]* – having to engage in a serious battle against an assault on Australia itself coming from the archipelagic screen to the north – was always vanishingly remote and has become more so, not less, with the passing of the intervening years. The consequence has been the accumulation of a defence force not adequately equipped for the war it is designed to fight and barely equipped at all for the contingencies it has actually faced.¹⁵

Alan Robertson implies that the *Dibb Review* played on the popularist’s preoccupation of the very tenuous ‘conventional invasion’ imperative:

It is unfortunate that Australians have long held and totally unfounded fears of invasion ...
[and this] leads to the emphasis placed on defence of the sea-air gap between the Australian

¹⁰ Senator Robert Hill, Minister for Defence, ‘Beyond the White Paper: Strategic Directions for Defence’, Address to the Australian Defence College, Canberra, 18 June 2002. Hill’s remark was a transparent allusion to the map featured in the 1987 Dibb Report, depicting a series of concentric circles radiating outwards from Australia, indicating the radii of potential threats to the continental heartland.

¹¹ *Australian Maritime Doctrine*, RAN Doctrine 1, Commonwealth of Australia, Canberra, Chapter 5.

¹² The Australian Centre for Maritime Studies submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into Australia’s Maritime Strategy dated 4 November 2002 http://www.acmarst.com/parl_sub/sub_2002.htm viewed 5 July 2003.

¹³ In 1904, Halford Mackinder delivered a seminal paper to the Royal Geographic Society in London arguing that European civilisation had been shaped by the struggle to repel a succession of Asiatic invasions. His conceptualisation of a pivot area, comprising central Asia ‘the heartland’, adjacent to an ‘inner crescent’ of nations accessible by sea power privileged geography as the determining factor in world politics.

¹⁴ Alan Dupont, ‘Transformation or Stagnation? Rethinking Australia’s Defence’, inaugural presentation of the Australian Security in the 21st Century lecture co-hosted by the Menzies Centre and Australian Defence Industries, Parliament House, Canberra, 13 November 2002.

mainland and the Indonesian archipelago. And, as a consequence of that, we get an undue emphasis placed on sea denial weapon systems ... If Australia is ever to develop an appropriate strategy it will need to get rid of its unwarranted fears of a bogus invasion, and come to terms with its maritime geography.¹⁶

The great conceptual weakness of the Defence of Australia doctrine and its associated version of maritime strategy is that it is based on the notion of threat that takes little account of the declining strategic relevance of both distance and geography, and the rise of the modern asymmetric antagonist and Third World adversaries. It also takes no consideration of the proliferation of non-military, non-State challenges to security—the religious fundamentalist fanaticism, the terrorist, regional social and ethnic tensions, ethnic “cleansing” and the increasing activities of criminal organisations. And it blindly asserts that the most dangerous threat to Australia is a conventional military attack on Australian soil from a hostile, well-armed State, although as Dupont notes, nowhere does it suggest what or who that hostile State could be:

The alleged “arc of crisis” to Australia’s north ... bears little or no relationship to the region’s underlying problems which are overwhelmingly economic, social and environmental rather than military. ... Weak states, like Indonesia, do not have the resources to mount invasions or cut trade routes. They pose security problems of an altogether different kind in the form of internal instability and the proliferation of low-intensity conflicts that could spill over and draw in Australians as peacemakers and peacekeepers. They also provide fertile soil for terrorist and criminal activities that may necessitate an ADF response, but of a far different kind to that envisaged by the architects of our defence strategy.¹⁷

It is also hard to see the traditional inter-State invasion paradigm as being relevant within a modern world dominated by the global institutions underwritten by *Pax Americana*. Geopolitically there is just no prospect of Australia being invaded while the United States ‘rules the waves’. As an alternate perspective, in launching the United Kingdom’s 2003 White Paper entitled ‘*Delivering Security in a Changing World*’, UK Defence Secretary Geoff Hoon stated:

¹⁵ Paul Monk, ‘Rethinking the Defence of Australia’, <http://www.austhink.org/monk/dibb.htm>, viewed 7 June 2005

¹⁶ Alan Robertson, *Centre of the Ocean World, Australia and Maritime Strategy*, Seaview Press, South Australia, 2001.

The shadow of the Cold War—which has shaped our Armed Forces for two generations—may have receded, and the threat of a large-scale conventional military attack on Europe may seem remote as a result. But new threats are emerging. We must respond to today’s strategic environment and prepare for tomorrow’s... We must invest in the battle-winning equipment they will need and continue to modernise the rest of Defence to effectively support expeditionary operations.¹⁸

Likewise, Alan Dupont argues that the fundamental failing of the Defence of Australia doctrine is that the Australian Defence Force

is structured for the wrong wars. ...In committing so much of the Defence budget to expensive ships and aircraft the “gate keepers of strategic doctrine” have pursued a misguided policy that has severely weakened our capacity to deal with a range of problems in our backyard, not to mention further afield... Traditionalists also seem to have great difficulty in accepting the legitimacy of the human security, border protection and constabulary tasks that have been levied on the ADF in recent years and which now account for much of its operational activity... Transnational issues like terrorism, organised crime, illegal fishing and people smuggling have moved along the threat continuum towards the customary concerns of the military... A force designed for State-on-State conflict will struggle to manage the multifarious security challenges posed by neo-nationalist guerrilla movements, terrorists, new age mercenaries, pirates, people smugglers and global crime syndicates.¹⁹

In the 2003 Defence Review update,²⁰ Defence Minister Robert Hill admitted that the prospect of a conventional military attack on Australian territory had diminished and while there is now less likely to be a need for ADF operations in defence of Australia, there may be increased calls on the ADF for operations in

Australia’s immediate neighbourhood ... [and] ADF involvement in coalition operations further afield is somewhat more likely than in the recent past. These new circumstances indicate a need for some rebalancing of capabilities ... changes which will ensure a more flexible and mobile force, with sufficient levels of readiness and sustainability ...²¹

¹⁷ Alan Dupont, ‘Transformation or Stagnation? Rethinking Australia’s Defence’.

¹⁸ Defence Secretary Geoff Hoon, as reported in the United Kingdom’s journal of the Defence Procurement Agency, *Preview*, December 2003, 1.

¹⁹ Alan Dupont, ‘Transformation or Stagnation? Rethinking Australia’s Defence’.

²⁰ Senator the Honourable Robert Hill, *Australia’s National Security: A Defence Update 2003*, <http://www.defence.gov.au/ans2003/section1.htm>.

²¹ *ibid.*

In 2004, an Australian Parliamentary committee endorsed Australia's need for a genuine maritime strategy, adding that such a strategy must extend further than a sea denial capability in the maritime approaches.²² In 2005 Robert Hill added: 'For the foreseeable future, it remains unlikely that Australia will face conventional military threats...' ²³ and 'Australia ...will continue to build a force that is joint, balanced, networked and deployable. Such a force provides options for a credible response wherever Australia's security interests are engaged.'²⁴ Both the committee (implicitly) and Senator Robert Hill (explicitly) were referring to the ability to expeditiously move combat power overseas, to deliver that combat power ashore to the point where it is needed, and to sustain that combat power for as long as it is necessary to achieve the mission—the requirement for expeditionary warfare capabilities. Notwithstanding, the force structure determinants driving the ADF remain based on a misplaced geographical determinism that ignores the diverse and globalised nature of modern conflict and gives insufficient weight to the transnational threats that confront Australia. Fundamentally, Australia's doctrine fails to recognize that modern defence forces must win the peace as well as the war.

Australia's Regional Maritime Environment

In the globalised 21st Century, Australia faces a series of unique geopolitical circumstances atypical of most other similar 'Western' nations. It is one of only two 'developed' nations in south and east Asia with a cultural attitude that is not shared (with the exception of New Zealand) by any of its neighbours. It is one of only two regional stable democracies with entrenched Westminster institutions who enjoy a long history of political stability and political legitimacy. It is one of only a few nations in the region that enjoy a stable and established legal system (common Law Precepts) and thus governance via the rule of law and it is one of only three (Australia, New Zealand, Singapore) nations in the region with GDP per capita above \$US 19,000.

²² *The Navy Contribution to Australian Maritime Operations*, Sea Power Centre Australia, Department of Defence, Canberra, 2005, 6.

²³ Senator the Honourable Robert Hill, *Australia's National Security: A Defence Update 2005*, Commonwealth of Australia, Canberra, 2005, 2. Lieutenant General Peter Leahy has since added: 'It is more likely that our adversaries will be non-state and unconventional actors than was the case in the past. This is the official view of the Australian Government, informed by the best estimates available through our intelligence community. ... a direct attack on Australia by a conventional state entity appears a remote possibility for the foreseeable future.' Speech by the Chief of the Army, Lieutenant General P.F. Leahy AO, at the ADI – Thales, Dinner with the Chiefs series Brisbane 22 March 2006

²⁴ *ibid.*, 12.

Australia therefore faces a complex regional mixture of security dilemmas, including regime transition and instability, particularly in the wake of the Asian Financial Crisis. Most Asian states have recently gone through, transition from authoritarian systems to representative systems employing various models of democracy—some have the potential to falter.²⁵ As such, there are birthing pains associated with regime changes: regime fragility, in many cases only partial regime legitimacy, disputation over forms of representation, and weak forms of governance often leading to recurrent political crises (for example in Indonesia, Philippines, and Burma).²⁶ Instability or fragile governmental institutions have the potential to spill over (contagion effect—not necessarily military) into regional affairs, creating recurrent concerns about regional stability, regional alliances, and the stability of trade and economic relationships.²⁷ More obviously, in terms of Australia's economic security, regime transition has given rise to a number of States throughout the Asia-Pacific whose regulatory structures, financial prudential systems, and market structures are non-formalised and prone to poor transparency and on-going corruption with the potential for future political instability and regime failure.

The *Defence Update 2003* outlines the underlying strategic realities of Australia's "patch":

Given the South Pacific's economic and social decline, Papua New Guinea and the Pacific Island Countries will continue to face serious transnational threats, such as crime and unauthorised people movements. Political, economic, and social crises that directly affect Australia, or in which Pacific countries seek Australian assistance, are likely to arise at short notice, and might require involvement, including swift deployment of the ADF.²⁸

The *Defence Update 2005* adds:

²⁵ Dr. Darryl S.L. Jarvis, *The Arc of Instability: Regional Security Challenges for Australia and the Asia Pacific*, The CEO Circle Presentation: 9 October 2004, The Shangri-La Hotel, The Rocks, Sydney.

²⁶ *ibid.*

²⁷ The absolute and rapid decline in foreign investment in Southeast Asia between 1985 and 2000, occasioning considerable economic dislocation, in some instances derailing economic growth trajectories essential to regime legitimacy, and occurring simultaneously with the Asian Financial Crisis and the Tech Sector Meltdown and a precipitous fall in exports. Southeast Asia previously accounted for fully 50% of total foreign investment into the region in 1990; by 2003 that figure had fallen to 17% with the vast bulk of foreign investment into Asia invested in China (50%). This has created a prognosis for deeper economic competition and for increasingly limited capital flows. And in turn the potential to stall deeper structural alliances and to cool inter-state political collaboration.

²⁸ *Australia's National Security – A Defence Update 2003*.

Many countries in the South west Pacific remain challenged by internal conflict, the need for stable government, and the need to develop sustainable economies... The security needs of Papua New Guinea are of particular concern.²⁹

In terms of demography, military capability and economic influence, Papua New Guinea, East Timor and the islands States of the South Pacific 'are for all practical purposes inconsequential and geopolitically near invisible.'³⁰ Nevertheless, the prospect of a succession of failing Pacific Island States, allegedly on the verge of economic collapse and dependent on foreign aid, and fragile Asian institutional regimes and other forms of weak internal governance, has prompted use of the term an 'arc of instability'.³¹ Some commentators even warn of the '*Africanisation*'³² of the South Pacific. But for all their structural weaknesses, most Asian-Pacific States are far from becoming the next Somalia, or even the next Solomon Islands. Nevertheless, significant internal security concerns exist and the scope and scale of the problems facing these States are very real. In particular, the South Pacific Island States are vulnerable to external power-play influences,³³ transnational criminal activities,³⁴ internal corruption, cronyism, nepotism and the politics of patronage, misadministration, a breakdown in law and order and, potentially, havens for international terrorism.³⁵

Unbridled by the constraints of the Cold War, the United States, in achieving its unchallenged maritime supremacy, has offered the umbrella for like-minded States to

²⁹ *Australia's National Security – A Defence Update 2005*, 9.

³⁰ Clive Schofield, 'Australian interventionism grows in South Pacific', *Jane's Intelligence Review*, May 2005, 40.

³¹ Arc of Instability is probably an American term that has been picked up by a number of commentators. See 'Arc of Instability' at http://www.weforum.org/site/knowledgenavigator.nsf/Content/_S7661?open, 'Arc of Instability' at http://www.sourcewatch.org/index.php?title=Arc_of_instability, Kim C. Beazley, 'Arc of Instability', *National Observer – Australia & World Affairs*, January 2003, and Ron Duncan & Satish Chand, 'The Economics of the Arc of Instability', *Asian-Pacific Economic Literature*, Volume 16, 2004, 1-9.

³² Robert Barwick, 'Arc of Instability', <http://www.cecaust.com.au/main.asp?act=dos&sub=publications> ... viewed 24 May 2005.

³³ Taiwanese President Chen Shui-bian visit bearing attractive offers of long-term aid projects to Guam, Palau and the Solomon Islands in March 2005 to secure foreign State recognition. China's aid program is viewed by some as a sinister bid to secure access to South Pacific resources and assert regional influence. The Tokelau's and Kiribati joining the International Whaling Commission (2004 & 2005) to tip the balance of power within the Commission to support Japan's proposal to abolish the Southern Ocean Whale sanctuary, for access to generous foreign aid programs. Even Australia's 'Pacific Solution' to its refugee problems was linked to the provision of aid.

³⁴ '...lack of law enforcement resources as a consequence of economic constraints allied to poor governance has led to transnational criminal activities such as gun and people smuggling, money laundering and drug trafficking in the context of loose border controls.' Source: Clive Schofield, 'Australian interventionism grows in South Pacific', 42.

share a common density in stability and prosperity, and for regional inter-State security. For Australia, as a medium power with considerable regional influence within this so-called 'arc of instability', and with a special relationship with the United States,³⁶ this has dawned a new era of diplomatic confidence. Certainly Australia's benevolent ambitions have been extended with the assumption of such regional administrative burdens as in Bougainville, the Solomon Islands and Papua New Guinea, as well as its large East Timor commitment. This new confidence may have unfairly credited Prime Minister John Howard with the expression 'deputy sheriff to the United States in the Asian region',³⁷ but as a measure of Australian self-assurance and self-belief this label has a certain objective truth about it. Regardless, as a benefactor of good international order, it is in Australia's own interests to enhance, even augment, the permanence and constancy of regional State institutions, and internal political and resource governance measures.

One example of such a regional augmentation program is the successful Pacific Patrol Boat Project. The advent of the Law of the Sea's implied regulatory, surveillance and patrol requirements resulted in a number of the Pacific Island nations expressing concern about the need for a suitable maritime patrol force. In response, the Australian government released, in August 1984, a request for tender for the construction of patrol craft suitable for Pacific Ocean surveillance and maritime patrol operations.³⁸ Australian Shipbuilding Industries Pty Ltd³⁹ was awarded the contract for the design and construction of the patrol boats in September 1985.⁴⁰ The resulting Pacific Patrol Boat is a light, but robust, vessel designed for surveillance and interdiction patrols, search and rescue, and fisheries protection.⁴¹ The first vessel, HMPNGS *Tarangau*, was

³⁵ Clive Schofield, 'Australian interventionism grows in South Pacific', 40.

³⁶ 'Australia and the US continue to share many values and interests, and we jointly benefit from, and contribute towards, global stability and prosperity. Australia's defence capability is enhanced through access to US information and technology. Our relationship with the United States remains a national asset. The United States' current political, economic, and military dominance adds further weight to the alliance relationship. The alliance increases Australia's ability to contribute effectively to coalition operations.' *Australia's National Security – A Defence Update 2003*, Department of Defence, Canberra.

³⁷ As coined by Fred Brenchley, *The Bulletin*, 29 September 1999. See Gerard Henderson's *Sydney Morning Herald* Column dated 3 June 2003 for a contemporary analysis of this so-called 'Howard Doctrine' at <http://www.thesydneyinstitute.com.au/030603.htm> viewed 2 June 2005.

³⁸ *Chief of Naval Staff Newsletter April 1985*, Department of Defence (Navy Office), Canberra, 1985, 16.

³⁹ Now Tenix Defence Pty. Ltd., Tenix Marine Division, Western Australia.

⁴⁰ *Chief of Naval Staff Newsletter November 1985*, Department of Defence (Navy Office), Canberra, 1985, 12.

⁴¹ The 31.5m Pacific Patrol Boat has a range of 2500 nautical miles at 12 knots, a sprint capability of 20 plus knots, and light armament. Source: Tenix Defence Pty. Ltd., Tenix Marine Division.

officially handed over to the Papua New Guinea Defence Force on 16 May 1987. The number of vessels planned for construction and the number of participating countries increased during the course of the project. The end-state of the construction phase of the project was a total of 22 boats delivered to 12 countries. States currently operating the Pacific Patrol Boat include Papua New Guinea (4), Fiji (3), Federated States of Micronesia (3), Tonga (3), Solomon Islands (2), Cook Islands (1), Kiribati (1), Marshall Islands (1), Palau (1), Western Samoa (1), Tuvalu (1) and Vanuatu (1).⁴² The final vessel to be constructed was delivered to the Federated States of Micronesia in June 1997. In total, the project cost for all 22 vessels and their associated support came to \$A 155.25 million.⁴³

Another example, at the military extreme of regional engagement, was the East Timor commitment. It presented for Australia a most compelling challenge—as the main force contributor and leader—more than Australia had previously experienced in other international peace support missions in Africa, Asia and Europe. Its results also contrast markedly with the widely criticised peace support operations of Somalia, Haiti, the Balkans, and elsewhere.⁴⁴

East Timor and INTERFET⁴⁵

The East Timor crisis presented the opportunity for Australia to take regional leadership and to be seen as the region's patron for democracy, stability and good order. It also provided for Australia an opportunity for atonement over its own sense of past national neglect—many felt obligated to the East Timorese who, at considerable personal sacrifice, had assisted the Australian forces against the Japanese occupation of East

⁴² Department of Defence, *Review of the Defence Annual Report 2002-03*, Defence Publishing Service, Canberra, 2003, 64-65, para. 6.5 .

⁴³ *ibid.*

⁴⁴ In Somalia, arguably only UNOSOM II 'failed', UNOSOM I (Humanitarian) and UNITAF having been relatively successful, but the overall outcome of the combined missions was a failure. The initial deployment to Haiti proceeded well, but today Haiti's problems reflect fundamental flaws in the original mission objectives. In the Balkans, UNPROFOR was a failure and even IFOR/SFOR have met with what can at best be described as limited success. The Kosovo air campaign could also be considered as less than successful, and KFOR faced vast challenges. See Gary T. Dempsey with Roger W. Fontaine, *Fool's Errands—America's Recent Encounters with Nation Building*, CATO Institute, Washington D.C., 2001.

⁴⁵ INTERFET - The United Nations authorised 'International Force for East Timor'. The actual operation became known as *Operation Stabilise*.

Timor 1942-3.⁴⁶ The move to commit Australian troops was also critical in enlisting the support of the Association of South-East Asian Nations (ASEAN) and other partners. Without Australia taking the lead, the others probably would not have participated. In turn, the wide support for Australia's lead role generated greater home-based enthusiasm for the operation as a whole. As did the spirit in which the coalition troops approached their task in giving the East Timorese 'a fair go'.⁴⁷ Equally, the commitment of troops to East Timor helped ensure crucial popular support in Australia for the utility and modern 'relevance' of its military forces, and it has come to underpin their 'operational requirement' at home.

Of equal if not greater significance to the outcome of Operation *Stabilise*⁴⁸ was the robust wording of the international mandate. This mandate authorised the use of lethal force and set down a series of tasks in which the 'end state' was clearly defined. This called for a militarily focused command-and-control arrangement, which in turn became pivotal to the success of the operation. Alan Ryan observed on the formation of INTERFET:

The Australian role as the dominant lead-nation flew in the face of the experience of most peace operations. UN peacekeeping missions generally follow a more bureaucratic and collegiate model of command, where national representation often has priority over operational effectiveness. This mode of command has proven to be the "Achilles heel" of high-intensity coalition peace operations time and again.⁴⁹

In contrast, the strong central command in East Timor allowed effective and comprehensive responses to issues as they arose, and in a timely manner that was suitable for the media and appropriate for specific audiences. It allowed for considerable

⁴⁶ John Blaxland, *Information-era Manoeuvre: The Australian-led Mission to East Timor*, Land Warfare Studies Centre, Working Paper 118, Department of Defence, Canberra, 15. Also, five Australian based newsmen were gunned down in the East Timorese border town of Balibo during the Indonesian invasion, 16 October 1975. They were Greg Shackleton, Gary Cunningham, Tony Stewart, Malcolm Rennie, and Brian Peters. Two Australian inquiries (1996 and 1999) have been conducted and both upheld the view that the men were killed in crossfire, but public scepticism has remained. The United Nations Temporary Administration for East Timor investigated the killings and concluded there was enough evidence to charge the former Indonesian Information Minister Yunus Yosfiah with their murder; he having issued the order to kill the newsmen after they had filmed the Indonesian attack on Balibo.

⁴⁷ Bob Breen, *East Timor, Mission Accomplished*, Allen & Unwin, Sydney, 2001, ix.

⁴⁸ The operational name for INTERFET operations in East Timor.

‘combat restraint’ while maintaining firm control of the overall direction of the mission. The INTERFET operation also has broader significance as an operation not led by the United States, demonstrating how medium-sized powers can play a leading role among forces from many contributing nations.⁵⁰ It is thus a relevant Australian case study for analysis.

Background to the East Timor Intervention

For more than 350 years East Timor was a colony of Portugal imbuing the enclave with a European language, Catholic belief, and a culture divergent from its Indonesian neighbour. In 1974, after a military *coup d'etat*, Portugal granted the East Timorese the right to form their own political parties and began preparations to withdraw. The colony was told to consider three options for its political future: independence, autonomy within Portugal, or amalgamation with Indonesia. The three dominant parties that arose were: the leftist Fretilin, which supported independence; the Timorese Democratic Union (União Democrática Timorense: UDT), which favoured autonomy; and the Popular Association for a Democratic Timor (Associação Popular Democrática de Timor: Apodeti), which advocated integration with Indonesia.⁵¹ Disagreements between the parties led to armed clashes predominantly between the independence movement (Fretilin and its armed wing Falintil) and those political parties backed by Indonesia. After a short civil war the Fretilin forces gained power and declared independence on 28 November 1975.⁵² Nine days later, Indonesia, fearing that a socialist power on its borders would encourage a communist insurgency, launched a full-scale invasion of the territory. Falintil initially resisted the Indonesian invasion, but it was soon apparent that the group was no match for the Indonesian armed forces.⁵³

By the late 1970s Falintil forces had withdrawn into the rugged interior mountains where they waged a guerrilla war against the occupying Indonesian forces. Over the

⁴⁹ Alan Ryan, *Primary Responsibilities and Primary Risks—Australian Defence Force Participation in the International Force East Timor*, Study Paper No. 304, Land Warfare Studies Centre, Duntroon, Canberra, ACT, November 2000, 83.

⁵⁰ Twenty-two nations contributed forces to INTERFET, whose peak strength was 11,500 personnel, of whom 5,500 were Australians. Source: Bob Breen, *East Timor, Mission Accomplished*, 5.

⁵¹ Ian Martin, *Self-Determination in East Timor: The United Nations, the Ballot, and International Intervention*, Lynne Rienner Publishers, Boulder, CO, 2001; and Damien Kingsbury (ed.), *Guns and Ballot Boxes: East Timor's vote for independence*, Monash Asia Institute, Clayton, Vic., 2000.

⁵² Don Greenlees and Robert Garran, *Deliverance: The Inside Story of East Timor's Fight for Freedom*, Allen and Unwin, Sydney, 2002.

⁵³ John Martinkus, *A Dirty Little War*, Random House, Sydney, 2001.

1980s, Falintil, now reduced to a tiny band of several hundred, transformed itself from a partisan pro-Fretilin force into a non-partisan force representing the wider issues of Timorese independence.⁵⁴ And during the late 1980s and early 1990s, a series of major human-rights abuses and atrocities kept international attention aware of their cause. The Santa Cruz Massacre at a Fretilin-organised funeral in November 1991 left more than 270 civilians dead and many more wounded, was especially noteworthy.⁵⁵

In January 1999, the newly installed Indonesian president, Bacharuddin Jusuf Habibie, proposed an expansive local autonomy package for East Timor. Tripartite talks between Indonesia, Portugal, and the United Nations provided the framework for a ballot on the proposal, to which President Habibie surprisingly added the promise of ‘separation’ should his proposal not be accepted.⁵⁶ On 30 August 1999, an astounding 98.5 per cent of registered voters went to the polls and voted by 78.5 per cent against autonomy, thus triggering the process toward eventual independence. A campaign of intimidation by pro-Indonesian militia groups prior to, and after, the 30 August ballot increased to the point where Indonesia was eventually forced to acquiesce to international pressure and allow a multinational force (INTERFET)⁵⁷ to restore domestic security.⁵⁸ The retreating pro-Indonesian militia forces, in many cases assisted by Indonesian military personnel,

⁵⁴ Damien Kingsbury (ed.), *Guns and Ballot Boxes: East Timor's vote for independence*.

⁵⁵ James Dunn, ‘Crimes Against Humanity in East Timor, January to October 1999: Their Nature and Causes’ 14 February 2001, <http://www.etan.org/news/2001a/dunn1.htm> viewed 8 July 2001 and H. MacDonald et al., *Masters of Terror: Indonesia's Military and Violence in East Timor in 1999*, Canberra Papers on Defence and Strategy No. 145, Strategic and Defence Studies Centre, Canberra, 2002.

⁵⁶ Damien Kingsbury (ed.), *Guns and Ballot Boxes: East Timor's vote for independence*.

⁵⁷ Initial (September 1999) contributions to INTERFET included: Australia: Up to 4,500 personnel including the force headquarters, the Australian Army's 1st Brigade and a naval task force. Air transport was provided by 12 Royal Australian Air Force (RAAF) C-130H Hercules transport aircraft and 12 army S-70A-9 Black Hawk helicopters on standby at RAAF Base Tindal, south of Darwin. Portugal: Up to 1,000 troops (including two infantry battalions), two frigates, a C-130 transport and four helicopters. United Kingdom: A 250-strong Royal Gurkha Rifles company group and the destroyer HMS *Glasgow*. New Zealand: A contingent of up to 1,000 personnel including the 1st Battalion Royal New Zealand Infantry Regiment, elements of the New Zealand Special Air Service Group, UH-1H utility helicopters, the frigate HMNZS *Te Kaha* and the tanker HMNZS *Endeavour*. Italy: A 600-strong force spearheaded by a company of the 187th Parachute Regiment. The bulk of the force was deployed by the *San Giusto* amphibious ship that also provided command and control and medical facilities, and allowed the deployment of naval support helicopters. France: Approximately 500 troops, the frigate *Vendemiaire*, three tactical transport aircraft and helicopters. Canada: About 600 personnel including a reinforced infantry company, four C-130 transports and a replenishment ship. Philippines: About 800, primarily engineering and medical personnel. Thailand: A 1,500-strong force including 1,000 infantry, three naval vessels and a C-130 transport. South Korea: One infantry battalion. Singapore: A 250-strong force including a medical detachment, observers and two amphibious vessels.

⁵⁸ Ian Bostock, ‘“By the Book”: East Timor—An Operational Evaluation’, *Jane's Defence Weekly*, 3 May 2000.

systematically damaged or destroyed up to 70 per cent of East Timor's physical infrastructure, leaving a lasting legacy.⁵⁹

Post-mission, once security had been restored towards the end of November 1999, INTERFET turned over control to the United Nations Transitional Administration for East Timor (UNTAET).⁶⁰ Peacekeeping forces in East Timor began coming under direct United Nations control from 1 February 2000.⁶¹ Since then the international peacekeeping force has slowly been withdrawn, and the newly created East Timor Defence Force has gradually assumed responsibility for larger sections of the country. In July 2002 they assumed control of the eastern-most district of Lautem, and in May 2004 ostensibly the whole country.⁶²

By any standards, the INTERFET peace-enforcement operation can be considered a success.⁶³ However, in fairness and in comparison with other peace support operations this was no Somalia or Bosnia: the nature of INTERFET's adversaries in East Timor were markedly different. Absent were the vehicle-mounted heavy machine guns of Somali 'technical's; the proliferation of semi-automatic assault rifles; RPG-type infantry assault weapons; and, of course, veteran militia fighters and warlords willing to die for their cause. Missing, too, were the main battle tanks, armoured fighting vehicles, air-defence systems and long-range sniper rifles employed in the conflict in the former Yugoslavia. The pro-Indonesian militia that had occupied Dili and townships throughout the hinterland in the early stages of Operation *Stabilise* mostly lacked the

⁵⁹ 'The 24 years of Indonesian occupation and resistance cost an estimated 250,000 lives while the orchestrated campaign of violence following the 1999 independence vote left 75 per cent of East Timor's population displaced' Clive Schofield, 'East Timor pressures Australia to rethink maritime boundaries', *Janes' Intelligence Review*, January 2005, 35.

⁶⁰ Initial UNTAET deployment positions were: Republic of Korea (Los Palos); Thailand (Baucau and Viqueque); Philippines (Manatuto); Portugal (Central Region); Kenya (Central Region); Pakistan (Western Region); Brazil (Western Region); Ireland (Western Region); New Zealand (Western Region); Australia (Western Region); Jordan (Oecussi).

⁶¹ For a detailed description of the foreign policy background to the events, see *East Timor in Transition 1998–2000: An Australian Policy Challenge*, Department of Foreign Affairs and Trade, Canberra, 2000. The economic and national interest dimensions are also explored in Nicholas J. Wheeler and Tim Dunne, 'East Timor and the new humanitarian interventionism', *International Affairs*, vol. 77, no. 4 (2001), 805–27.

⁶² <http://defweb.cbr.defence.gov.au/disgjanex/janes/seasu17/etims100.htm> viewed 1 June 2005.

⁶³ Bob Breen, *East Timor, Mission Accomplished*; Alan Ryan, *Primary Responsibilities and Primary Risks—Australian Defence Force Participation in the International Force East Timor*; David Horner, 'Testing the Australian Defence Force', in *Making the Australian Defence Force*, in the series 'The Australian Centenary History of Defence', Oxford University Press, Oxford, 2001, and Jeffrey Grey, 'The Australian Army', in the series *The Australian Centenary History of Defence*, Oxford University Press, Oxford, 2001.

command and control, discipline, firepower and mobility of an organised military force. Although a proportion of the militia had modern Indonesian-supplied semi-automatic assault rifles and hand grenades, most carried aging bolt-action rifles, shotguns, pistols, home-made pipeguns and edged weapons. The militia threats of a widespread and violent resistance to INTERFET's presence mercifully failed to materialise.

Operation *Stabilise*

For the Australian Army, which provided a large proportion of INTERFET's combat and combat support personnel, armoured vehicles, and mobility and logistics assets,⁶⁴ Operation *Stabilise* was a largely positive validation of doctrine, training and operational conduct.⁶⁵ Within several weeks of the start of operations in Dili on 20 September 1999 (D-Day), the Australian infantry-heavy forces had secured additional points of entry at Baucau, Balibo and Suai, allowing a concentration of forces towards the border with West Timor. From the provincial town of Memo, helicopter and amphibious landing craft inserted Australian forces, 16-17 November 1999, into the East Timorese enclave of Oecussi, which lies deep inside Indonesia's West Timor.⁶⁶ Operations were then based around the rural population centres with the aim of intercepting militia incursions across the border. 'The biggest challenge was their 'shoot-and-scoot' tactics' said Colonel Singh of 3rd Battalion, Royal Australian Regiment, 'the operational challenge was to actually block where they could come across and then intercept them when they did.' On occasions, the militia would infiltrate a village or town, set fire to a dwelling, fire shots in the air, then hide their weapons and remove their tell-tale bandannas/scarves and caps and act like locals.

⁶⁴ 'The contribution of 5500 personnel to the East Timor operation at its peak was the largest single deployment by Australian forces since the end of World War II. While the Vietnam War involved a larger overall commitment of Australian forces, that deployment was much more gradual.' Source: John Blaxland, *Information-era Manoeuvre: The Australian-led Mission to East Timor*, 11.

⁶⁵ 'The East Timor effort ... severely strained the limited resources of the Australian Defence Force. Despite these constraints and difficulties, observers of trends in military affairs may well have cause to mark the East Timor operation as a turning point in the conception of international security. Moreover, the success of the INTERFET coalition sheds some light on the processes that subsequent military coalitions will need to observe.' Alan Ryan, *Primary Responsibilities and Primary Risks—Australian Defence Force Participation in the International Force East Timor*, 30.

⁶⁶ See Figure 10: East Timor and INTERFET.

Figure 10 East Timor and INTERFET

The naval forces of Operation *Stabilise* underscored the importance to the Australian Defence Force of effective sealift and amphibious capabilities and reaffirmed the importance of high-level multinational interoperability as the lynchpin for the entire operation. The maritime component of INTERFET was deployed to East Timor in mid-September 1999. Multinational assets from a number of navies subsequently found themselves tasked in a multiplicity of roles. The importance of sealift was understood from the beginning and manifested until the end—effective movement of personnel, vehicles, equipment and supplies would be the element upon which the success of the operation stood or fell.

The charter and commissioning of the high-speed catamaran HMAS *Jervis Bay* was a timely measure that filled a key capability gap, but the whole operation would not have been possible without the presence of HMAS *Tobruk*, the RAN's heavy landing craft and the smaller mechanised landing craft of the Australian Royal Army Corps of Transport. ...While the processes for identifying and securing suitable merchant ships went smoothly and were completed in a timely fashion, this was an important reminder that effective sea lift in strategic terms, rests even more upon the ability to access commercial tonnage than it does upon military vessels such as amphibious craft.⁶⁷

With East Timor little more than 400 miles from Australia, the problem of transportation was far more straightforward than it would be in many other circumstances. Even so, the challenge could not have been met by airborne means alone. By historical standards, the East Timor operation was substantial, but by no means enormous. The dependence upon the sea of both the military and the relief effort was demonstrated by often no less than 18 merchant ships in Dili Harbour, with two to three shipping arrivals per day.⁶⁸ Over 90 per cent of military cargo and combat forces went into and out of East Timor by sea. Likewise the lack of roading infrastructure meant that sea transport was vital in-theatre as well.⁶⁹ Naval forces provided the only source of diesel and aviation fuel for the entire INTERFET force for the first three months of the operation.⁷⁰

⁶⁷ Captain James Goldrick, RAN, 'Maritime Lessons Learned *Operation Stabilise*', Centre of Army Lessons series http://lwdc.sor.defence.gov.au/cal/Publications/Command2003/COMD_P5.htm.

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ Alan Ryan, *Primary Responsibilities and Primary Risks—Australian Defence Force Participation in the International Force East Timor*.

The deployment of capable surface combatants operating in close cooperation with maritime patrol aircraft and other airborne forces was a clear signal of INTERFET's resolve and its capability to defend itself.

INTERFET maritime forces rapidly built up and maintained a comprehensive surveillance picture of the area of operations using their organic and remote sensors. They were able to locate and track contacts of interest and demonstrate that they would not be caught by surprise. Furthermore, this effort could obviously be - and was - sustained for as long as it would be needed. In all of this, maritime forces effectively created a protective umbrella, within which the land component could operate, confident that it could concentrate on the job to be done in East Timor itself, without the possibility of external interference.⁷¹

The RAN's FFG-7 *Adelaide* Class frigates and the Royal Navy's Type 42 destroyer HMS *Glasgow* '... provided an important measure of air-warfare surveillance and combat capability, the more useful because of their ability to remain poised on station.'⁷² The United States Navy's AEGIS cruiser USS *Mobile Bay* was also a vital enabler in the opening stages of the operation (*Pax Americana*'s observable contribution to strategic Sea Control). Her long-range air-warfare systems, both in sensors and weaponry, and her battle management and command capability meant that the force could contemplate any situation with a high degree of confidence, even without the continuous presence of friendly fighter aircraft. While the multinational units set up ashore and began to secure their positions in Dili and elsewhere around East Timor, the naval gunfire support capabilities of the frigates of the RAN, the Royal New Zealand Navy and the Royal Navy's HMS *Glasgow* provided the reassurance that effective firepower was immediately available, should the situation demand it. 'This was not only a confidence builder for the INTERFET forces themselves, it also sent a very clear message to those in East Timor who might have disputed the arrival of the force.'⁷³

For the Australian Army as a whole, indeed much of the ADF, there is wide agreement that Operation *Stabilise* stretched it to the limit. Hollow frontline combat units initially needed to be brought up to full war-strength levels; this came about by drawing personnel from other units not earmarked for deployment. Similarly, equipment and war stocks were found to be deficient in some units and were cannibalised from lower-

⁷¹ Captain James Goldrick, RAN, 'Maritime Lessons Learned *Operation Stabilise*'.

⁷² *ibid.*

priority units to reach allocation and provisioning targets.⁷⁴ The three regular battalion groups and follow-on rotation forces were essentially the maximum force levels that the Australian Army could sustain. Had the need arisen to conduct a concurrent operation in a different part of Australia's vast region of interest, the army would have been unable to cope, particularly from a manpower and materiel perspective,⁷⁵ and only about three per cent of Australian troops deployed to East Timor were reservists.⁷⁶

However, from both a national military strategy and force structure perspective East Timor was a watershed of global reality—‘dealing with messy third world conflicts involving peace keeping and nation building tasks is the real challenge ahead.’

...East Timor was not in the script of any white paper nor did it fit the preconceptions of our maritime strategy. East Timor showed up far more serious flaws in our force structure and strategy. Our Army lacked critical mass and the ability to sustain itself, our soldiers were deficient in basic equipment, and our navy and air force struggled to transport and resupply them. These deficiencies were directly attributable to an inflexible and dysfunctional strategy that privileges high-end warfare and pays insufficient attention to the force structure implications of intervening in internal conflicts, within our region and beyond ... the reality is that we did East Timor on a wing and a prayer.⁷⁷

East Timor demonstrated very clearly the progress that the ADF had made towards achieving joint capabilities; it also showed up the areas for which improvement was needed. Most importantly, it was a blinding glimpse of the obvious on the need to re-focus the Australian forces for expeditionary warfare. It also ably demonstrated the vital part played by maritime forces in protecting, supporting and sustaining any kind of expeditionary operation in a maritime-littoral region.⁷⁸

To provide an objective strategic balance, it needs to be understood that during the East Timor intervention, the United States’ maritime supremacy, and technological and

⁷³ *ibid.*

⁷⁴ John Blaxland, *Information-era Manoeuvre: The Australian-led Mission to East Timor*.

⁷⁵ Alan Ryan, *Primary Responsibilities and Primary Risks—Australian Defence Force Participation in the International Force East Timor*.

⁷⁶ *ibid.*

⁷⁷ Alan Dupont, ‘Transformation or Stagnation? Rethinking Australia’s Defence’.

⁷⁸ Captain Richard Menhinick, CSC, RAN, Director of the Sea power Centre Australia, ‘A Maritime Strategic Approach for Australia’, *Sea Power Centre Working Paper Number 17*, Commonwealth of Australia, 2003, 20.

military capability, dictated the terms of Sea Control and power projection, and also of the Corbettian concepts of ‘strategic deterrence’ and ‘geographic isolation’, thereby guaranteeing the security for the conduct of the operation. The United Nations had secured the United States’ acquiescence, even commitment, to allow the Australian led coalition of forces to enter into a Corbettian styled ‘limited war’. *Pax Americana* had provided the strategic security environment in which the international community could take the initiative to act, as noted:

[A]lthough the US presence was not obvious in terms of troops on the ground, it was critical to the success of the mission. Together with substantial logistical, communications and intelligence support to the [coalition] force, US strategic lift was responsible for moving many contingents to Timor... What is more, there can be no doubt that the political leverage provided by US support to the operation (backed up by the presence of the USS *Belleau Wood* with its contingent of Marines from the 31st Marine Expeditionary Unit), enabled INTERFET to ‘box above its weight’. The Marines were not deployed as ground forces in Timor, but their mere presence in the theatre of operations represented a potent symbol of US commitment.⁷⁹

The Australians, INTERFET, and the US Ships *Belleau Wood* and *Mobile Bay* were not alone, neither militarily nor politically.

In Summary

East Timor was not in the script of any white paper nor did it fit the preconceptions of Australia’s maritime strategy. Yet it reflected the strategic imperative of a medium power in the contemporary world. Although expeditionary operations to Afghanistan, Iraq and the Solomons were relatively trouble free, the much larger East Timor commitment, not surprisingly, showed up serious flaws in force structure—the Australian Defence Force lacked critical mass and the ability to sustain itself in mass over time—Alan Dupont’s comments that ‘we did East Timor on a wing and a prayer’ holds a certain objective truth.

⁷⁹ Alan Ryan, ‘The Strong Lead-nation Model in an ad hoc Coalition of the Willing: Operation Stabilise in East Timor’, *International Peacekeeping*, Vol.9, No.1, Spring 2002, Frank Cass, London, 28.

The Australian Government's Defence policy reviews for 2003 and 2005⁸⁰ have both recognised these lessons and the change in Australia's broader strategic environment. They have also initiated the needed 'rebalancing of capabilities' that 'will ensure a more flexible and mobile force, with sufficient levels of readiness and sustainability'.⁸¹ There is now an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the seas (the ship-of-war) and towards those naval forces that are going to use the sea control given to them (the ship-of-expedition over the shore).

Australia's Domestic Maritime Environment

Australia is an island continent surrounded by three major oceans—'girt by sea'. Vast sea surrounds provide Australia with both a natural moat for protection and a barrier that commerce needed to traverse. These surrounds also offer new sources of raw protein harvesting, energy extraction, mineral resource exploitation, and commercial development.⁸² Australia is the fifth largest user of shipping in the world (predominantly bulk carriers)⁸³ exporting \$A 93.4 billion of sea freight, and importing \$A 94.9 billion.⁸⁴ Offshore submarine fields supply 93 per cent of Australia's oil and 83 per cent of its gas production. The offshore oil and gas industry employs 14,000 people and in 2003/4 provided \$A 8.8 billion in export earnings.⁸⁵ And Australians have a strong recreational attachment to the maritime environment—commonly referred to as a beach culture.

Australia has the third largest Exclusive Economic Zone in the world and commercial fishing is the nation's fifth largest primary industry with an annual value of \$A 1.6

⁸⁰ *Australia's National Security: A Defence Update 2003* and *Australia's National Security: A Defence Update 2005*

⁸¹ *Australia's National Security: A Defence Update 2003*; 'The emergence of a class of failed and failing States has placed a premium on light, sustainable and effective forces able to deploy rapidly to enforce peace and stabilise conditions of security...' Senator the Honourable Robert Hill, keynote address to the Defence and Industry Conference in Canberra 22 June 2004; See also Ian Bostock, Scott Gourley and Kathryn Shaw, 'Advanced LHDs lead the way', *Jane's Navy International*, Vol. 110, No. 4, May 2005, 13-18.

⁸² See Richard Menhinick, 'Australia's Maritime Dependence' in Glenn Kerr (ed), *Australian Maritime Issues 2004*, Sea Power Centre Australia, Department of Defence, Canberra, 2004, 31.

⁸³ Commonwealth of Australia, *Australia's Ocean Policy, Oceans Facts and Figures*, Background Paper 1, Environment Australia, October 1997, 21.

⁸⁴ *Defence*, May 2005, 20.

⁸⁵ *ibid.*, 21.

billion.⁸⁶ Despite its size, Australia's 2,266 registered fishing vessels rank only 52nd in the world⁸⁷ (in fish volume caught) due primarily to the limited nutrients and a relatively small continental shelf. However, the low volume catch has a high unit value as much of the catch includes valuable products such as rock lobster, prawn, tuna, abalone, pearl and oysters. Offshore gas and oil exploration and commercial fisheries therefore constitute an important part of the national economic effort.⁸⁸

The Australian territorial sea and Exclusive Economic Zone covers 16 million square kilometres⁸⁹—an area more than twice the size of the landmass of continental Australia.⁹⁰ It ranges across 60 degrees of latitude and 100 degrees of longitude. It includes 37,000 kilometres of coastline, about 12,000 islands, and an incredibly rich and diverse fauna and flora through the range of tropical, sub-tropical, temperate, sub-polar and polar environments.⁹¹ 'The sheer extent of Australia's maritime interests and offshore sovereignty presents an exciting challenge which invites, and demands, a visionary and national response. There is a whole new frontier for marine science and technology and important opportunities for Australian marine industry.'⁹² All this has happened within the last twenty years—with the signing of the United Nations Convention on the Law of the Sea (LOSC), the Australian 'offshore estate' and the extent of its national jurisdiction has dramatically increased in size. 'It represents important new sources of food, energy and raw materials; it makes the sea more, not less, important than it use to be; it forces [Australia] to consider how best to manage [its] new estate.'⁹³

Australia has a strategic imperative to manage its maritime domain and offshore estate. Chapter Seven: *Ocean Exploitation and Enclosure* looked at the obligations under the LOSC that are imposed on Australia with respect to her new extensions of sovereignty.

⁸⁶ *ibid.*, 13.

⁸⁷ G. Rohan, 'Fisheries a Valuable Resource', in D. MacKinnon and Dick Sherwood (eds), *Policing Australia's Offshore Zones Problems and Prospects*, Centre for Maritime Policy, University of Wollongong, 1997, 36.

⁸⁸ *Australian Maritime Doctrine RAN Doctrine 1*, Department of Defence, Canberra, 2000, 15.

⁸⁹ *Australia's Ocean Policy*, Environmental Australia, Canberra, 1998, 7.

⁹⁰ See Figure 11: Australia's Maritime Jurisdiction (post 1982).

⁹¹ *Australia's Ocean Policy*.

⁹² Sam Bateman, 'Introduction' to Martin Tsamenyi, Sam Bateman and Jon Delaney (eds) *The United Nations Convention on the Law of the Sea: What it means to Australia and Australia's Marine Industries*, Wollongong Papers on Maritime Policy No.3, University of Wollongong, 1996, 1-5.

⁹³ Geoffrey Till, *Maritime Strategy and the Nuclear Age*, 2nd ed, Macmillan, Basingstoke, 1984, 203.

There is a right to explore and exploit, there is also a responsibility to conserve and manage.⁹⁴ Chapter Seven argued that as a coastal State, Australia's sovereign responsibilities have changed, her national interests have changed, her regularity management and constabulary enforcement obligations have changed and her maritime planning paradigm should also have changed.

To the international obligations under the LOSC, Australia has also inherited a number of 'good order at sea' issues and responsibilities. This section on Australia's Domestic Maritime Environment will outline the Australian 'issues' that have arisen from its maritime border delimitations and international obligations. As separate case studies, it will discuss:

- the Timor Sea Joint Petroleum Development Area;
- the Antarctic Treaty System;
- 'people' trafficking and the 1951 United Nations Convention Relating to the Status of Refugees; and
- the nature of Australia's illegal fishing industry.

⁹⁴ Article 56 of the Law of the Sea Convention.

Figure 11 Australia's Maritime Jurisdiction (post 1982)

Timor Sea Joint Petroleum Development Area

The 'well-being' and protection of the petroleum and gas reserves of the Bass Strait, the North West Shelf and the Timor Sea are of vital national interest to Australia. The security of these national assets is a maritime strategic imperative. Representative of the importance of these offshore resources, it is relevant to look at the most contentious of these areas—the Timor Sea Joint Petroleum Development Area—and the difficulties associated with its security. The Timor Sea Joint Petroleum Development Area was negotiated as an interim arrangement within the Timor Sea Treaty with Timor-Leste (East Timor), being signed on the 20 May 2002, the first day of East Timor's independence. It passed into effect in April 2003, after being ratified by East Timor in December 2002 and by Australia in March 2003.⁹⁵

However, throughout 2004-5 the Timor Sea Joint Petroleum Development Area attracted adverse media attention. Supported by written legal opinion⁹⁶ the company Petro Timor, who had been issued an oil concession by the Portuguese pre-1975, initially took the Commonwealth to the Federal Court of Australia suing for the deprivation of their assets. They contend that international law would have permitted a much more generous delimitation in favour of East Timor, and towards their oil concession.⁹⁷ In May 2004, the *Oxfam Report*⁹⁸ added fuel to the debate by accusing Australia of taking almost ten times as much in East Timor oil and gas revenues than it has provided in aid to East Timor since 1999, of negotiating in bad faith, of unilaterally exploiting resources in areas claimed by both sides, of wrongfully evading independent international dispute settlement procedures, and of gaining access to two-thirds of the Timor Sea's known hydrocarbon resources even though maritime delimitation according to international law 'could deliver most, if not all, these resources to East Timor.'⁹⁹

⁹⁵ See Stuart Kaye, 'East Timor and maritime boundary delimitation' in Rachael Heath & Barry Snushall (eds), *Protecting Maritime Resources: Boundary delimitation, resource conflicts and constabulary responsibilities*, Sea Power Centre Australia, Department of Defence, Canberra, 2003, 51-59.

⁹⁶ From 'Vaughn Lowe, the Professor of International Law at Oxford University, Christopher Carleton, perhaps the most distinguished hydrographer in the United Kingdom, and a Sydney barrister, Christopher Ward.' *ibid.*, 58.

⁹⁷ *ibid.*, 57-59.

⁹⁸ <http://www.oxfamgb.org/eastasia/etimor/>.

⁹⁹ As cited in Clive Schofield, 'East Timor pressures Australia to rethink maritime boundaries', *Jane's Intelligence Review*, January 2005, 34-37.

The area's contention arises because it is a compromise between Australia's continental shelf claim¹⁰⁰ and East Timor's Exclusive Economic Zone claim¹⁰¹—also being mixed with considerable historical reference to political, economic, and regional development issues, not the least being Australia's highly advantageous seabed boundary agreement with Indonesia in the 1970s—an agreement that the Indonesian Foreign Minister once decried as being 'taken to the cleaners'.¹⁰²

Physically, the East Timor/Australian Joint Petroleum Development Area encompasses the central part of the old Australian/Indonesian joint Zone of Cooperation¹⁰³ and includes the Jahal, Elang and Baya Undan gas fields. Straddling, or just outside, are the producing oil fields of Elang-Kakatua, Buffalo, Laminaria and Corralina as well as the currently undeveloped Kuda oil field. Gas fields include Hingkip, Chuditch and the Greater Sunrise area, which includes the Sunset, Sunrise, Loxton Shoals, Bard and Troubadour fields.¹⁰⁴ As a collective, the resources of the Joint Petroleum Development Area amount to 12 trillion cubic feet of gas and 900 million barrels of oil.¹⁰⁵ Matthew Flint identifies the importance of these resources to the Australian economy as \$A 2 billion in direct revenue from the Bayu-Undan gas field alone and at least 100 direct jobs and 300-500 indirect jobs over a period of 20 years with onshore LNG processing in the Northern Territory. The revenue from Greater Sunrise's eight trillion cubic feet of gas and 300 million barrels of condensate will provide a total of \$A 30 billion in export revenues and \$A 8 billion in taxes, of which Australia is entitled to \$A 3.8 billion. If this gas is also brought onshore to a processing plant near Darwin the estimated indirect financial benefit to Australia would be around \$A 22 billion, as well as generating

¹⁰⁰ Australia bases its claim on natural prolongation, a concept that suggests that the seabed is claimed as a continuation of land territory and that each State should have jurisdiction over its own continental shelf. The geophysical characteristics of the sea floor determine the boundary line. In its negotiations with Indonesia the existence of the Timor trench was taken to represent a clear break between the two countries' continental shelves. The Timor trench lies well to the Indonesian side of the equidistant line between the two countries.

¹⁰¹ East Timor bases its claim on the equidistant line between the two countries. She argues that substantial State practice coupled to relevant case law, notably the 1985 ICJ decision in the Libya/Malta case where it was stated that geophysical factors are 'completely immaterial' to delimitation with 200 nm of the coast, should determine the boundary.

¹⁰² As cited in Stuart Kaye, 'East Timor and maritime boundary delimitation', 54.

¹⁰³ Matthew Flint, 'Timor Sea Oil and Gas – Too Valuable to Ignore', in Glenn Kerr (ed), *Australian Maritime Issues 2004*, Sea Power Centre Australia, Department of Defence, Canberra, 2004, 13.

¹⁰⁴ See Table 1 for further detail in Matthew Flint, *The Timor Sea Joint Petroleum Development Area Oil and Gas Resources: The Defence Implications*, Sea Power Centre Australia Working Paper No. 13, 2003, Canberra.

¹⁰⁵ Matthew Flint, 'Timor Sea Oil and Gas – Too Valuable to Ignore', 13.

20,000 new jobs in the Darwin area.¹⁰⁶ The total annual economic benefits to Australia from Sunrise and Bayu Undan gas coming onshore are forecast to be worth 46 per cent of the Northern Territory's GDP and, for the whole of Australia, an increase of over \$A 4 billion in revenue.¹⁰⁷

East Timor has always recognised that a favourable outcome to the boundary delimitations would 'underpin its economic well-being'.¹⁰⁸ For East Timor this represented the difference between barely surviving—and perhaps becoming a “failed State”—and real sustained development.¹⁰⁹ However, the process of negotiation has been less than amenable. In March 2002, Australia withdrew from the compulsory jurisdiction of the International Court of Justice over future maritime boundaries dispute settlements. In May 2004 it cut back East Timor development aid by 8.4 per cent—an act that was interpreted as adding economic pressure to the negotiations. In August 2004 there were indications that a framework for 'a compromise deal had been mapped out' emerging from bilateral talks in Canberra. But these talks collapsed in late October in 'acrimonious fashion' over the size of compensation subsidies and 'downstream processing issues'.¹¹⁰

The current 'agreed' arrangements are a amalgamation of international law that include:

- the 2002 *Timor Sea Treaty*—still an interim agreement that is without prejudice to the position of either country on their maritime boundary claims;
- the 6 March 2003 *International Unitisation Agreement for Greater Sunrise* (IUA)—establishes a framework for the exploitation of the Greater Sunrise gas and oil resources and will see the equal sharing of upstream Government revenues flowing from the project; and
- the 12 January 2006 *Treaty on Certain Maritime Arrangements in the Timor Sea* (CMATS Treaty)—a further interim agreement that facilitates the exploitation of the Greater Sunrise gas reservoirs while suspending maritime boundary claims.

¹⁰⁶ Joint Standing Committee on Treaties, *Report 49: The Timor Sea Treaty*, Commonwealth of Australia, 2002, 27-29.

¹⁰⁷ Matthew Flint, *The Timor Sea Joint Petroleum Development Area Oil and Gas Resources: The Defence Implications*, 11.

¹⁰⁸ Commonwealth of Australia, *Senate Official Hansard*, 6 March 2003, 9378.

¹⁰⁹ Clive Schofield, 'East Timor pressures Australia to rethink maritime boundaries', 36.

¹¹⁰ *ibid.*

Both Australia and East Timor are bound by these Treaties to refrain from asserting or pursuing their claims to rights, jurisdiction or maritime boundaries, in relation to the other, for 50 years.

Consequential Security Prospects

It is not the intention of this thesis to offer a solution, or pass judgement, but only to emphasis the nature of Australia's maritime 'issues'—the money involved is huge. The political resolution to this issue, and the security of the petroleum and gas resource that lie in the middle, are vital national interests that need to be address through a coherent national maritime strategy. The prospect of a failed State, on the verge of economic collapse and dependent on foreign aid, has direct security concerns, both as a cause for mass refugee movement, as a source for criminal or terrorist recruitment, and as a burden for further Australian military intervention. Southeast Asia has experienced resurgence in terrorist activity, and some of these activities have directly affected Australia's interests. While most regional terrorist acts have involved relatively unsophisticated explosive devices, the potential for attacks with more sophisticated weapons has been foreshadowed in the foiled attempt to smuggle shoulder-launched surface-to-air missiles into the United States and the failed attempt in November 2002 to shoot down an airliner in Kenya.¹¹¹ There is certainly considerable evidence to suggest that international oil facilities are a top infrastructure target of terrorists.¹¹²

The Bracewell and Patterson report¹¹³ concludes that 'energy infrastructure is, as a whole, highly vulnerable to asymmetrical terrorist threats.' Their report goes on to say that, despite advances in safety, oil tankers are simply not designed to withstand even a rudimentary terrorist attack. A similar assault to the attack on USS *Cole*¹¹⁴ upon an oil tanker in a major port could have devastating consequences. A large oil tanker carries at full load upwards of 38 million gallons of crude oil. If such a vessel were to suffer a major terrorist attack sufficient to compromise the integrity of the ship and cause the

¹¹¹ Jack McCaffie, 'The New Maritime Security Environment', in Glenn Kerr (ed), *Australian Maritime Issues 2004*, 47.

¹¹² *Perspectives*, Summer 2004, at <http://www.icfconsulting.com/Publications/Perspectives-2004/oil-terrorist-target.asp>.

¹¹³ A report commissioned by the United States Office of Homeland Security in November 2004 from Bracewell and Patterson, a Houston-based law firm that specializes in counter-terrorism, public and corporate security.

¹¹⁴ The 12 October 2000 attack on USS *Cole* in the port of Yemen blew a 6 x 12-metre hole in the port side of the destroyer, killing 17 crewmembers and injuring another 39.

loss of the bulk of its cargo, the environmental impacts would be devastating.¹¹⁵ By way of comparison, the *Exxon-Valdez*¹¹⁶ spill is estimated at only 11 million gallons. Even smaller "shuttle" type tankers can carry 500,000 gallons of oil. While global tanker fleets servicing Australia and the region generally have implemented a wide range of safety and anti-pollution controls, these controls are, for the most part, not implemented as a response to intentional acts of terror.

A Bracewell and Patterson report also warns that 'there is potential for serious harm if an attack was made against a domestic oil rig.' Iraqi attacks in 1991 against offshore Kuwaiti rigs produced an oil spill of between 24 and 60 million gallons, stretching 125 kilometers long and up to 25 kilometers wide. '[N]o private sector company has the wherewithal to defeat a terrorist threat on the order of a hijacked airplane [or surface ship] turned missile... Moreover, the types of governmental assistance required to combat such threats go far beyond the current levels of support now being provided.'¹¹⁷ Another security consultant adds that oil 'platforms have many types of explosive mixtures on them and rigs aren't built with security in mind ... As targets, [oil platforms] would cause a lot of potential damage and pollution. The simplest way would be to take control of an offshore vessel and ram a platform.'¹¹⁸ In the post-September 11 era, any maritime conveyance close to an offshore oil or gas platform could transport or constitute a security risk.¹¹⁹ This is a risk that needs a constabulary response. The sensible approach seems to be for Australia to prepare quietly for such extreme events without feeding a self-fulfilling cycle of speculation, and structure its permanent protective forces to control the maritime approaches to its vital interests so that they can act as effective deterrents before an event—a constabulary environment where 'numbers' are needed for the exercise of governance control.

¹¹⁵ 'Beefing Up Security Offshore', at <http://www.marinelog.com/DOCS/PRINT/mmiidecsec1.html> - December 2004

¹¹⁶ On 24 March 1989, the *Exxon Valdez* grounded on Bligh Reef, and spilled nearly 11 million gallons of oil into the biologically rich waters of Prince William Sound, Alaska.

¹¹⁷ *ibid.*

¹¹⁸ Neal Adams, security and terrorism consultant, as cited in Steve Mckenzie, *Submarine Terror Fear For North Sea Oil Rigs*, http://www.sundaymail.co.uk/news/content_objectid=13274197...

¹¹⁹ Rear Admiral Russ Crane, RAN, presentation to the United Services Institute 4 May 2005.

The Antarctic Treaty System

In addition to the Law of the Sea Convention, another international legal instrument that affects Australia's maritime domain, as a vital national interest and as a strategic imperative, is the Antarctic Treaty System. The Antarctic Treaty System comprises a body of international law comprising the Antarctic Treaty proper and related agreements, in particular the 1980 Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), and the 1991 Madrid Protocol on Environmental Protection to the Antarctic Treaty.¹²⁰

Antarctica is a vast isolated continent surrounded by stormy seas and assailed by appalling weather. It has historically been a place of scientific exploration¹²¹ with its unspoiled environment and isolation presenting unique research opportunities. Australia and Australians have been involved since the very earliest phases of Antarctic exploration from the dawn of the 20th Century: Sir Douglas Mawson (1882-1958)¹²² being probably the most famous. Australia's claim to her Antarctic Territory followed the 1929-31 British, Australia and New Zealand Antarctic Research Expedition. The survey results of this expedition became the basis of the original British Empire claim in 1933 covering all land south of 60 degrees South between 45 and 160 degrees East, with the exception of Terra Ade'lie,¹²³ which is claimed by the French. For the Australian Antarctic Territory, this claim came into effect in 1936.¹²⁴

Antarctic Treaty negotiations commenced in 1959¹²⁵ following general concern among the involved Antarctic nations with respect to competing and overlapping sovereignty

¹²⁰ This section is based predominately on the research of Peter Law's strategic assessment '*Border Control: A Matter of Degree*' and Drew McKinnie's strategic assessment '*Security issues arising from challenges and changes to Australian sovereignty, jurisdiction and marine living source protection in Antarctica and the Southern Ocean*' both dated 4 October 2002 for Defence & Strategic Studies Centre, Canberra 2002 course work.

¹²¹ Richard Natkiel & Antony Preston *The Weidenfeld Atlas of Maritime History*, Weidenfeld and Nicolson, London, 1986, 104.

¹²² See <http://www.abc.net.au/btn/australians/mawson.htm>.

¹²³ Gregory French, 'Antarctica', in Rachael Heath & Barry Snushall (eds), *Protecting Maritime Resources: Boundary delimitation, resource conflicts and constabulary responsibilities*, Sea Power Centre Australia, Department of Defence, Canberra, 2003, 15.

¹²⁴ The Australian Antarctic Territory Acceptance Act 1933 heralded Australia's assertion of territory, which took effect in 1936. The Australian Antarctic Territory continental shelf was first proclaimed in 1953, before the Antarctic Treaty was negotiated.

¹²⁵ Julia Green, 'Australian Maritime Boundaries: the Australian Antarctic Territory', *Marine Policy*, 25, 2001, 4.

claims and the potential impact of militarisation of the continent.¹²⁶ The *Antarctic Treaty* was signed by the twelve nations¹²⁷ that were active in Antarctica when the Treaty came into force 23 June 1961.¹²⁸ The Treaty states inter alia that ‘Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord.’¹²⁹ The Antarctic Treaty Area applies to the continental landmass, islands, iceshelf, and waters of the Southern Ocean south of 60 degrees south latitude.¹³⁰ Figure 10 shows the Treaty Area and the extent of territorial claims.

The *Antarctic Treaty* prohibits signatory parties from establishing military bases and fortifications, conducting military exercises, testing weapons, detonating nuclear explosions and disposing of radioactive waste within the Treaty Area. It encourages freedom of scientific investigation, exchange of scientific personnel, the sharing of observations and results, and allows observers from any signatory State access at all times to conduct inspections to verify Treaty compliance.¹³¹ At the time of signature, seven of the member States had already laid territorial claims in Antarctica and as noted above several of these claims overlapped. Consequently, to avoid ‘international discord’, the parties agreed to effectively ‘freeze’ all Antarctic claims for the duration of the Treaty. The Treaty does not erase any existing claim, but it prohibits their assertion and the establishment of any new claims.¹³² Also, it does not specifically address environmental protection.¹³³ While the Treaty contains enforcement provisions there is no international regime established to prosecute or implement them. Instead, each signatory nation is held responsible for enacting and enforcing their own appropriate legislation.¹³⁴

¹²⁶ Commonwealth of Australia, *Antarctica Looking South 2001*, Australian Antarctic Division, 2001, 10.

¹²⁷ Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, United Kingdom, United States and USSR.

¹²⁸ Commonwealth of Australia, *Introducing the Antarctic Treaty*, <http://www.antdiv.gov.au/information/treaty/treaty.asp>, 1.

¹²⁹ Antarctic Treaty (1959) Preamble.

¹³⁰ Commonwealth of Australia, *Antarctica Looking South 2001*, Australian Antarctic Division, 2001, 11.

¹³¹ Commonwealth of Australia, *Australia's Ocean Policy, International Agreements*, Background Paper 2, Environment Australia, October 1997, Part 7, 1.

¹³² Fact Sheet: *The Antarctic Treaty System*, <http://www.asoc.org/general/ats.htm>, 2.

¹³³ Commonwealth of Australia, *Australia's Ocean Policy, International Agreements*.

¹³⁴ Fact Sheet: *The Antarctic Treaty System*, 1.

Figure 12 The Antarctic Treaty and the Convention for the Conservation of Antarctic Marine Living Resources Areas

Any member of the United Nations may accede to the *Antarctic Treaty* and currently there are 44 signatories, 27 of which are Consultative Parties on the basis of either being original signatories or by subsequently conducting substantial Antarctic research.¹³⁵ The Treaty was reaffirmed by all members in 1991 and is heralded as one of the most successful international agreements, demonstrating commitment to the preservation of the Antarctic continent.¹³⁶ However, not all States support the Treaty's exclusivity with ongoing debate being initiated by some developing States¹³⁷ in an attempt to bring the Treaty under the United Nations' umbrella and to declare the Antarctic as humanity's common heritage, thereby removing the favoured status of the 'Consultative Parties'.¹³⁸ Naturally, the proposal is strenuously opposed by the Treaty members who point out that every United Nations member State is free to accede to the *Antarctic Treaty* should they so wish.

Regardless of the Treaty's claimed success, the familiar misuse of Antarctic living resources has followed the normal global pattern of resource discovery, exploitation, depletion, regulatory reaction and then a very slow period of recovery. Whales, seals, penguins and mutton-birds have all suffered due to over harvesting. Following two decades of unregulated Antarctic krill fishing by Japan and the USSR, and fearing potential irreversible damage to the sensitive Antarctic environment, the Antarctic Treaty Consultative Parties agreed, in 1980, to the *Convention for the Conservation of Antarctic Marine Living Resources* (CCAMLR).¹³⁹ The Convention adopted an integrated 'ecosystem' approach to the Antarctic environment where all effects on predator, prey and related species must be considered, and any sustainable harvesting decisions must be based on firm scientific advice.¹⁴⁰ The Convention applies to all

¹³⁵ *ibid.*, 2.

¹³⁶ Commonwealth of Australia, *Introducing the Antarctic Treaty*, <http://www.antdiv.gov.au/information/treaty/treaty.asp>, 2.

¹³⁷ Malaysia, et al (1983).

¹³⁸ German Government, *Antarctica: the Antarctic Treaty System*, http://www.auswaertiges-amt.de/www/en/aussenpolitik/vn/antarktis_html#2, 2.

¹³⁹ The act is implemented in Australia by the *Antarctic Marine Living Resources Conservation Act 1981*. Donald Rothwell, 'The Antarctic Treaty System and the Southern Ocean', in Sam Bateman and Donald R. Rothwell, (eds) *Southern Ocean Fishing Policy Challenges for Australia*, Centre for Maritime Policy University of Wollongong, 1998, 16.

See also Gregory French, 'Antarctica', in Rachael Heath & Barry Snushall (eds), *Protecting Maritime Resources: Boundary delimitation, resource conflicts and constabulary responsibilities*, 11-20.

¹⁴⁰ Commonwealth of Australia, *Introducing the Antarctic Treaty*, <http://www.antdiv.gov.au/information/treaty/treaty.asp>, 3 viewed 25 August 2002.

marine living resources south of the Antarctic convergence.¹⁴¹ The conservation measures under CCAMLR determine protected species, set catch limits, identify fishing regions, regulate fishing and establish inspection procedures. The total sea area within the CCAMLR area makes up one tenth of all the world's oceans and contains the coolest and densest water found anywhere on Earth.¹⁴²

CCAMLR mandates a strict regime of observation and inspection on any vessels engaged in scientific research or harvesting of marine living resources. The regime is directed specifically at enforcing compliance with CCAMLR measures and is the most developed system for compliance in international fisheries management.¹⁴³ The system allows for High Seas boarding and inspection by other CCAMLR members and provision is made for flag-State prosecution of member State violations. However the situation with respect to breaches committed by non-member States is not as lucid. The High Seas freedoms granted to all States under LOSC means that non-member States are not subject to the CCAMLR's regulatory regime and unreported and unregulated fishing can proceed, effectively unhindered.

The preamble to the *1991 Madrid Protocol on Environmental Protection to the Antarctic Treaty* declares that the protection of the Antarctic environment and ecosystems is in the interest of the whole of humanity.¹⁴⁴ The Protocol:¹⁴⁵ designates the Antarctica as a natural reserve devoted to peace and science; establishes environmental principles to govern all activities; prohibits mining of the seabed and subsoil; subjects all activities to prior environmental impact assessment; requires the development of contingency plans to respond to environmental emergencies; and provides for the elaboration of rules relating to liability for environmental damage. The Protocol places specific obligations on the member States to adopt laws, regulations, administrative actions and enforcement measures to ensure compliance and to report annually on

¹⁴¹ The 'Antarctic Convergence Zone' is the water boundary where the cold Southern Ocean currents meet and merge with the warmer southward flowing waters of the Atlantic, Pacific and Indian Oceans. Donald Rothwell, 'The Antarctic Treaty System and the Southern Ocean', in Sam Bateman and Donald R. Rothwell, (eds) *Southern Ocean Fishing Policy Challenges for Australia*, Centre for Maritime Policy University of Wollongong, 1998, 17; Refer Figure 8 'Antarctica Treaty area and the Convention for the Conservation of Antarctic Marine Living Resources'.

¹⁴² Virtual Antarctica Science: Geography, <http://www.terraquest.com/va/science/geography/geography.html>, 2.

¹⁴³ Commonwealth of Australia, *Australia's Ocean Policy, International Agreements*, Background Paper 2, Environment Australia, October 1997, Part 7, 5.

¹⁴⁴ Commonwealth of Australia, *Antarctica Looking South 2001*, Australian Antarctic Division, 2001, 13.

implementation progress. However, again, such obligations are not enforceable on non-member States.

While LOSC is the global convention applying to the entire world's oceans and, as customary international law, is binding on all States, the Antarctic Treaty System deals specifically with designated geographical areas and is only binding on the signatory States. By definition, there is a significant overlap between the two regimes, and because of the nature of both conventions, it is not surprising that there are areas of contention with respect to fisheries, resource management and ecosystem protection.¹⁴⁶ LOSC confirms sovereignty or sovereign rights to coastal States in territorial and ocean waters out to the limit of the claimed Continental Shelf. These rights also apply to islands claimed by coastal States as part of their sovereign territory. There are several sub-Antarctic islands in the Southern Ocean that are subject to the undisputed sovereignty of coastal States and in some cases these States have claimed EEZs and enacted domestic legislation. These include the Australian territorial islands of Heard, McDonald and Macquarie Islands. The designated CCAMLR area overlaps these zones. However, this situation existed prior to signature of the Convention and to prevent misinterpretation it directs that those States, which possess uncontested territorial sovereignty over those off-shore islands, do not concede their sovereign rights by becoming parties to the Convention.¹⁴⁷ The claimed islands lying within the CCAMLR area are therefore subject to State sovereignty and the LOSC has precedence in international law.

The situation with respect to the Antarctic continent is not as straightforward. Although several States had claimed areas in Antarctica prior to the ratification of the Antarctic Treaty, these claims are not universally recognised in international law.¹⁴⁸ On 15 November 2004, Australia delivered its submission in respect to its claim to the outer limits of the Australian continental shelf and the relevant territorial sea baselines, including its claimed area of the Antarctic continent, in accordance with Annex II,

¹⁴⁵ Commonwealth of Australia, *Introducing the Antarctic Treaty*.

¹⁴⁶ A. Zinchenko, 'Relationship between UNCLOS and the Antarctic Treaty System' at <http://www.geocities.com/enriquearamburo/DERANT/ARTS/artic2.html>, 1 viewed 18 September 2002.

¹⁴⁷ Donald Rothwell, 'The Antarctic Treaty System and the Southern Ocean', in Sam Bateman and Donald R. Rothwell, (eds) *Southern Ocean Fishing Policy Challenges for Australia*, Centre for Maritime Policy University of Wollongong, 1998, 17.

¹⁴⁸ John Green, 'Australian maritime boundaries: the Australian Antarctic Territory', in *Marine Policy*, Vol. 25, Number 1., January 2001, Pergamon Press, 2; See also Gregory French, 'Antarctica', 11-20.

Article 4, and Articles 76 & 77 of LOSC for exploring and exploiting non-living resources on the seabed and sub-soil. This claim was required to be submitted initially within ten years of LOSC's ratification (i.e. 2004) but more recently the requirement to document a claim has been extended to 2009.¹⁴⁹

Predictably, the United States, the Russian Federation, Japan and East Timor responded.¹⁵⁰ The United States and the Russian Federation indicated that they did not recognise any claims in relation to territories located in the area covered by the Antarctic Treaty nor any State's rights over the seabed and subsoil of the submarine areas beyond and adjacent to the continent of Antarctica. Japan made similar comments and stressed that the balance of rights and obligations in the Antarctic Treaty should not be affected by individual State claims under LOSC. East Timor observed that, in its view, the Australian submission was without prejudice to the question of delimitation of any maritime boundaries relating to the current Timor Sea Joint Petroleum Development Area negotiations. The likely outcome will be the maintenance of the status quo.

With respect to Antarctic, Australia has consistently acted in accordance with its position as a State claiming territorial sovereignty. Failure to take action on this occasion could be seen as a limitation on Australia's commitment to the [Australian Antarctic Territory], a commitment which should not be doubted.¹⁵¹

LOSC High Seas provisions, and the other International instruments pertaining to oceans governance,¹⁵² apply to all areas of ocean not within a coastal State's declared territorial waters, and therefore apply to the waters of the Southern Ocean. CCAMLR

¹⁴⁹ LOSC document SPLOS/72, 29 May 2001, 11th meeting of State parties to the United Nations Convention on the Law of the Sea, held in New York 14-18 May 2001, decided that: 'In the case of a State party for which the Convention entered into force before 13 May 1999, it is understood that the ten year period referred to in Article 4 of Annex II to the Convention shall be taken to have commenced on 13 May 1999.'

¹⁵⁰ Through notes dated, respectively, 3 and 9 December 2004, 19 January 2005 and 11 February 2005.

¹⁵¹ Australian Antarctic Division, *Australia, Antarctica and the Law of the Sea: Defining the limit of the continental shelf*, 2001, at <http://www.antdiv.gov.au/information/treaty/continentalsshelf.asp> viewed 20 December 2002.

¹⁵² A list of the major treaties ratified by Australia and applying to management of the marine environment is given in the Report *Ocean Management - The Legal Framework*, Tasmanian State Library Reference 1-877043-20-6. A more comprehensive list is available in the APEC *Oceans Governance Report - Australia 2002*, prepared by the Centre for Maritime Policy, University of Wollongong. See Barry Snushall, *The Enforcement Aspects of Australia's Oceans Policy*, 13; and Cameron Moore, *ADF on the Beat: A Legal Analysis of Offshore Enforcement by the Australian Defence Force*, Ocean Publications, Centre for Maritime Policy, University of Wollongong, 2004.

seeks to regulate access and fishing by member States in order to preserve and protect the Antarctic ecosystem, however non-member States have no obligation to abide by CCAMLR determinations. Non-member States can therefore pursue their High Seas' freedoms to undertake unreported and unregulated fishing, tourism, exploration and other sensitive activities within the High Seas area of the Antarctic ecosystem, much to the concern of Treaty members. The matter can be resolved if the Antarctic Treaty System is recognised as an internationally binding body of international law, which is unlikely noting the privileged status that it grants to the Consultative Parties, or by member State unilateral action.

The prospect of unilateral action is a point made by Harold Kearsley. He identifies that for the first time in the history of mankind the sea has precipitated a form of conflict that has long been associated only with the land—disputed frontiers¹⁵³ and ownership. Traditionally, where conflicts involve a sea power against a land power, the focus of the conflict was on or near the shore but not the sea itself. Sir Julian Corbett epitomises the traditional attitude concerning the sea and its role in disputes that has persisted until recently. Warfare at sea, he states, is concerned with the 'control of sea lines of communications' and has nothing to do with the conquest of sea territory. Conquest was a term that applied only to land—'you cannot conquer sea because it is not susceptible to ownership ...you cannot subvert your armed forces upon it as you can do upon enemy's territory.'¹⁵⁴ Clearly, this is no longer true.

Refugee Movements across Maritime Boundaries

Another issue that has attracted political, military and media attention is that of 'people trafficking' and refugee movements across Australia's northern maritime boundaries, and the constabulary response that these movements have generated. Globally, the current refugee legislation lies in the Armenian genocide of 1915 and the Jewish diaspora of the 1930s. These situations resulted in the uncontrolled mass movements of vulnerable people, and embarrassed the international community due to its reluctance to help—primarily through the collective lack of being able to surrender perceived

¹⁵³ Harold Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Co, Hants, 1992, 16.

¹⁵⁴ Sir Julian Corbett, *Some Principles of Maritime Power*, Longman Green & Co, London, 1911 (1938 reprint), 78-79.

national sovereignty to a coordinating international body¹⁵⁵ for the global good. It was only in January 1951, following the displacement of almost 30 million Europeans during the Second World War, that the fledgling United Nations created a temporary agency, the United Nations High Commissioner for Refugees (UNHCR) to be the international implementing agency for the assistance and protection of refugees.¹⁵⁶ The UNHCR was initially created with a three-year mandate and with a budget funded by the industrialised nations who were concerned of the potential impacts of uncontrolled refugee movement to their national interests. The UNHCR was therefore initially founded by States, for the protection of States, and not necessarily for the rights of the displaced person.

The United Nations Convention Relating to the Status of Refugees signed on 28 July 1951, defines the term ‘refugee’¹⁵⁷ and describes the protection, other assistance and social rights that refugees should receive from States that are parties to the Convention.¹⁵⁸ The Convention has formed the foundation of the United Nation’s efforts to assist refugees and although limited in its initial application—to protecting European refugees displaced prior to 1951—it was expanded in 1967 (the 1967 Protocol) to cover global displacements of refugees. A total of 140 States have acceded to either one, or both, of these instruments and although the Convention holds status as being representative of global morality, it has not yet been accepted universally as customary international law.

¹⁵⁵ E. Ferris, *Beyond Borders: Refugees, Migrants and Human Rights in the Post-Cold War Era*, WCC Publications, Geneva, 1993, 4-5.

¹⁵⁶ *ibid.*, 7.

¹⁵⁷ The 1951 Convention defines a refugee as: ‘...any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country, ...or owing to such fear, is unwilling to return to it.’ Source: *The United Nations Convention relating to the Status of Refugees* (1951), Article 1(A)(2).

The principal points to be noted from the definition are the causes of persecution and being located outside the country of their nationality. The definition does not cover persons displaced by acts of violence or warfare or those internally displaced within their country of nationality and importantly the fear of persecution must be directed at the individual not family members or relations. Persecution is not defined in the Convention or the protocol allowing it to be interpreted widely by state and non-state actors.

¹⁵⁸ United Nations, *The 1951 Refugee Convention: Questions & Answers*, United Nations 2002, 5.

The Convention includes three principal refugee rights. First, the right of non-refoulement;¹⁵⁹ second, the right to have full access to the courts of the host State; and third, the right not to be penalised by the host State for illegal entry.¹⁶⁰

The Refugee Convention is not the only instrument of international law that deals with situations of persecution or with the plight of those facing or fleeing gross human rights violations. *The 1948 Universal Declaration of Human Rights* provides in Article 14(1) that, ‘...everyone has the right to seek and to enjoy in other countries asylum from persecution.’ The *1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, and the *1990 Convention on the Rights of the Child*, also contain provisions relating to the rights of non-refoulement and non-detention of persons in fear of persecution and danger.¹⁶¹ Also, maritime tradition lays an obligation on those who may safely do so, to go to the assistance of those in peril on the sea.¹⁶² This tradition has been incorporated into maritime and international law within the *International Convention on Maritime Search and Rescue* (1985),¹⁶³ the *International Convention on Salvage* (1989)¹⁶⁴ and the LOSC, which states:

Every State shall require the master of a ship flying its flag ... to render assistance to any person found at sea in danger of being lost ...and to proceed with all possible speed to the rescue of persons in distress...¹⁶⁵

The LOSC also requires coastal States to provide assistance and promote the establishment, operation and maintenance of an effective search and rescue service. The *International Convention on Safety of Life at Sea 1974* (SOLAS) requires every vessel to carry sufficient safety equipment for all members of the crew and passengers and to ensure that the equipment is maintained in working order. A vessel that does not carry the requisite serviceable equipment, as most refugee vessels are deemed not to do,

¹⁵⁹ Non-refoulement is the right not to be forcefully repatriated to the country of origin.

¹⁶⁰ *The United Nations Convention relating to the Status of Refugees* (1951), Articles 16, 31 and 33.

¹⁶¹ Amnesty International Australia, *Factsheet 11, Refugees – Australia’s Obligations*, www.amnesty.org.au/refugees/ref-fact11.html, 3 viewed 11 September 2002.

¹⁶² M. White, ‘M/V Tampa Incident and Australia’s Obligations – August 2001’, in *Maritime Studies*, 122, January/February 2002, 7–17.

¹⁶³ *The International Convention on Maritime Search and Rescue* (1985), Annex, Chapter 2.1.10 provides, ‘that parties are to ensure assistance is provided for those in distress at sea’.

¹⁶⁴ *The International Convention on Salvage* (1989), Article 10(1) provides: ‘Every master is bound, so far as he can do so without serious damage to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.’

¹⁶⁵ LOSC, Article 98(1), http://www.un.org/Dept/los/convention_agreements/convention....

is considered under the Convention to be unseaworthy and is prohibited from proceeding to (or back to) sea.

Mass population and refugee movements across international maritime boundaries have continued to grow in volume and significance since the mid 1980s and are claimed to be one of the most important factors in global change to be addressed in the 21st Century.¹⁶⁶ The causes vary, as do the ways that States and non-governmental organisations are impacted and react to the flows. In the past many people left in orderly migrations of their own free will, seeking a new life or were encouraged to migrate as indentured labour. Intakes of migrants were controlled so that the State's interests were maintained and strengthened. More recently, however, larger numbers are fleeing as refugees from war, ethnic cleansing or brutal regimes. Many others are fleeing from increasing poverty in an effort to improve their standard of living.

The root causes of the phenomenon of refugee migration are, of course, the grand evils of the world: civil and international war, communal violence, famine and drought, the repression of military and other dictatorial governments, natural disasters and the frightening gap between the richer and the poorer world.¹⁶⁷

Armed conflicts are probably the largest single cause of population flows as the more recent flow of asylum seekers from Afghanistan and the Middle East illustrates. Widespread fundamental human rights violations, natural disasters, economic and employment disparity, secessionist movements and failures of State governance all contribute to and promote mass movements. Over the past decade the degree of ethnically and racially motivated violence has actually increased¹⁶⁸ and there is little to give confidence that this situation will improve in the future. Environmental degradation and changing climatic conditions are also contributing. The causes are complex and interrelated, and involuntary movements often result from a diverse

¹⁶⁶ A. Brown and N. Viviani, 'Population, Migration, and Refugee Trends', in M. Hanson and William Tow, (eds.) *International Relations in the New Century*, Oxford University Press, 2001, 119.

¹⁶⁷ G. Gilbert, 'Tackling the Causes of Refugee Flows', in S. Spender, (ed) *Strangers and Citizens: A Positive Approach to Migrants and Refugees*, IPPR/Rivers Oram Press, London, 1994, 21.

¹⁶⁸ S. Castles and Mark Miller, *The Age of Migration International Population Movements in the Modern World*, Guildford press, New York, 1993, 2.

combination of causal factors for which the identification of solutions is elusive¹⁶⁹ but nevertheless very real to the host.

People Trafficking

While refugee movements are primarily a humanitarian problem, the rise in opportunistic trafficking of vulnerable people quickly becomes a criminal enterprise. At a global level, the degree of criminal involvement and sophistication varies, from loose amateur groups concentrating on particular routes, through to transnational crime groups specialising in illicit migration services for subsequent exploitation by the group. This variation in operators also characterises smuggling and trafficking into Australia—and the rewards can be very profitable. The International Organisation for Migration estimates the worldwide proceeds of people trafficking to be \$US 10 billion a year.¹⁷⁰

Unlike Europe, where road and rail are frequently used, the two means of entry into Australia are by sea and by air. Not all cases of entry involve facilitation by criminal organisers; in some cases individuals plan and arrange their own travel. Yet organised facilitation of illegal entry does occur, via both routes. In the case of the majority of boat landings, the arrival is overt, the boats used are Indonesian fishing vessels, and landing takes place on the north-west coast or outlying islands—Ashmore and Christmas Islands. Evidence suggests that persons from a variety of source countries make their way to Indonesia, which usually serves as the final staging point for boat travel to Australia. The spread of nationalities arriving by boat also suggests the involvement of a number of criminal groups or individuals facilitating passage. While Indonesia is the major staging point for boat travel to Australia, it is not the only staging point in the region—for example, in 1998-99, a small proportion of boat arrivals embarked from Papua New Guinea.¹⁷¹

Having the capacity to move large numbers of individuals undetected suggests a well organised criminal syndicate(s) with contacts throughout various transit countries, safe-houses to accommodate groups en route, the means of transporting these groups, and

¹⁶⁹ Arthur Helton, 'The Legal Dimensions of Preventing Forced Migration', in *Cooperation and Conflict in the Former Soviet Union: Implications for Migration*, RAND Conference Report, 1996, 160.

¹⁷⁰ <http://www.immi.gov.au/facts/73smuggling.htm>

¹⁷¹ Rebecca Tailby, 'Organised Crime and People Smuggling/ Trafficking to Australia', *Trends & Issues in crime and criminal justice* No 208, Australian Institute of Criminology, May 2001, Canberra.

possible links to corrupt officials. Arrests of Iraqi residents and naturalised citizens in Australia for involvement in people trafficking activities¹⁷² also suggest a local component of Middle Eastern smuggling syndicates.

Clandestine boat arrivals are relatively few, and those detected have generally involved Chinese nationals arriving on Australia's east coast. The boats involved are larger, steel-hulled ships possessing sophisticated navigational technology rather than the wooden fishing vessels common from Indonesia. In most cases they have sailed direct from China and there has been an onshore presence to meet the smuggled group upon landing. This involvement is suggestive of a syndicate with control from beginning to end, employing sophisticated methods, including flexibility of entry route in response to law enforcement monitoring.¹⁷³

Illegal arrival by air is somewhat more difficult, as some form of fraudulent documentation or access to corrupt officials en route is usually needed. One example was a Taiwan-based syndicate organising Taiwanese passports (both stolen and fraudulent) for Chinese nationals travelling to Australia.¹⁷⁴ Another involves illegitimate migration agents who assist individuals with fraudulent visa applications, and recruiters who pre-arranged illegal employment upon arrival. Illegal overstayers entering under a tourist visa is another method of entry.

In 1998-99 more asylum seekers arrived in Australia by air than by sea—2,106 air travellers, compared with 921 people arriving on 42 boats. During the year 2000-01 more asylum seekers arrived by sea—1,508 air travellers compared with 4,137 people arriving on 54 boats. These figures have since reduced—in 2001-02 only 1,212 asylum seekers arrived in six boats.¹⁷⁵ To provide a global comparison, in 1999, 300,000 asylum seekers arrived in Europe. In 2000, Iran and Pakistan each hosted over a million Afghan refugees. And Tanzania hosts one refugee for every 76 Tanzanian (1:76).¹⁷⁶ In

¹⁷² *Protecting the Border: Immigration Compliance*, Department of Immigration and Multicultural Affairs, 1999, Canberra..

¹⁷³ Rebecca Tailby, 'Organised Crime and People Smuggling/ Trafficking to Australia', *Trends & Issues in crime and criminal justice* No 208, Australian Institute of Criminology, May 2001, Canberra.

¹⁷⁴ *ibid.*

¹⁷⁵ <http://www.immi.gov.au/facts/73smuggling.htm>.

¹⁷⁶ In comparison, Britain hosts one refugee for every 530 British people (1:530). Australia only hosts one refugee for every 1583 Australian people. (1:1583). Source: <http://www.tear.org.au/resources/harambee/014/debunking-the-myths.htm>

1999-2000 the Australian Government, through the Department of Immigration and Multicultural and Indigenous Affairs, spent in the order of \$A 247 million on the enforcement of Immigration law. This cost rose to \$A 299 million in 2000-01 and to \$A 348 million in 2002-03. Additionally, from 1 July 2001 to 30 June 2002, the cost of operating the detention centres (excluding capital works) was approximately \$A 138 million. In 2003, it costs Australia an average of \$A 50,000 to process every unauthorised arrival by boat.¹⁷⁷

The ‘grand evils of the world’ are not going away. Their consequence, both in the form of refugee movement and the incitement of ‘people trafficking’ attracts public attention through being politicised, and many of the most vulnerable are the victims of crime during transit, and become falsely vilified at destination. People who arrive in Australia without prior authorisation, with no documents, are not necessarily ‘illegals.’¹⁷⁸ They can be asylum seekers—a legal status under Australian domestic and International law.¹⁷⁹ Australia used to accept 20,000 refugees each year at the beginning of the 1980s—today, its compassion appears less forthcoming. Despite domestic political campaigns suggesting otherwise, 97 per cent of applicants from Iraq and 93 per cent of applicants from Afghanistan seeking asylum without valid visas in Australia in 1999 were recognised as genuine refugees.¹⁸⁰ Regardless, the management and resolution of vulnerable refugee movements remain of vital interest to Australia, and are an intrinsic component of Australia’s maritime environment that needs an effective constabulary response.

The Australian Illicit Fishing Industry

As at 2000, Australia's 19.5 million population demanded 442,000 tonnes of seafood, with an average consumption of about 11 kilograms per person per annum. By 2050, it is projected that Australia's 25 million population will require 1,150,000 tonnes, with an average consumption of 23 kilograms per person per annum.¹⁸¹ Between FY1991-92 and FY2001-02, the value of Australia's aquaculture sector grew from \$A 202 million to

¹⁷⁷ <http://www.immi.gov.au/facts/73smuggling.htm>

¹⁷⁸ A term that more accurately describes ‘overstayers’—the 5,000 or so British tourists who overstay their visas.

¹⁷⁹ ‘Everyone has the right to seek and to enjoy in other countries asylum from persecution.’ *Universal Declaration of Human Rights*, Article 14.

¹⁸⁰ <http://www.tear.org.au/resources/harambee/014/debunking-the-myths.htm>

\$A 733 million. A wide range of seafood products are now farmed (pearls, prawns, redclaw, barramundi, crocodiles, Atlantic salmon, oysters, abalone, mussels, trout, silver perch, murray cod, yabbies and marron.)¹⁸² There is also an exponential demand for Australian seafood in overseas markets. For example, in FY2002-03 the export value of Australian seafood product was \$A 1.84 billion (primarily rock lobster, pearls, prawns, tuna and abalone). This accounted for 80 per cent of total production.¹⁸³

With this growth, and increase in value, has come crime. Opportunistic domestic fishing crime and low volume Indonesian poaching along the northern maritime borders, has existed for some time. But more recently there is increasing and widespread concern within the fishing industry about the extent and scope of illegal activity in high-value, low-volume domestic fish products such as abalone, shark fin and seahorse,¹⁸⁴ and in selected high-value offshore fisheries such as Patagonian toothfish, Orange Roughy¹⁸⁵ and Southern Bluefin Tuna.¹⁸⁶

Abalone is a gastropod mollusc found on rocky reefs along the Australian coastline but mainly harvested off the colder waters of the southern states. The meat of these shellfish is regarded as a delicacy in certain cultures and is highly sought after, particularly in Asian markets. Australia currently produces around one-third of the global wild abalone harvest with national export earnings from fresh, chilled and frozen abalone rising from

¹⁸¹ B.Kearney, B.Foran, F.Poldy & D. Lowe, *Modelling Australia's fisheries to 2050: policy and management implications*, Fisheries Research and Development Corporation, Canberra, 2003.

¹⁸² G. Love & D. Langenkamp, *Australian aquaculture: industry profiles for selected species*. Australian Bureau of Agriculture and Resource Economics eReport no 03.8 prepared for the Fisheries Resources Research Fund, Canberra, 2003, 3.

¹⁸³ Department of Foreign Affairs and Trade, *Australia now: Australia's seafood industry*, 2004, at <http://www.dfat.gov.au/facts> viewed 14 December 2004.

¹⁸⁴ Katherine M Anderson & Rob McCusker, 'Crime in the Australian fishing industry : key issues', *Trends & issues in crime and criminal justice*, No. 297, April 2005, at <http://www.aic.gov.au/publications/tandi2/tandi297t.html> viewed 30 June 2005.

¹⁸⁵ Orange Roughy have a bright reddish orange head and body and their mouth and gill cavities are black. Their head is covered with bony ridges and deep mucus cavities. They mainly live in deep, cold (4°-7°C) waters over steel continental middle and lower slopes and oceanic ridges. In Australia they live in waters from 700m to at least 1400m, on the continental shelf slope between Port Stephens in New South Wales and Cape Naturaliste in Western Australia. They are also found on the South Tasman Rise, Cascade Plateau and Lord Howe Rise. Source <http://www.sea-ex.com/fishphotos/orange.htm>.

¹⁸⁶ Southern Bluefin Tuna is a large silver-white fish with a blue-black upper body and yellow tinged fins. It grows up to 2m and 200kg in size, but more commonly adults tend to be around 1.6m in length. They are mainly found between latitudes 20°S and 50°S, in Australian fishing waters south from northern New South Wales around to the northern waters off Western Australia (spawning grounds). Southern Bluefin Tuna migrate southwards from the spawning grounds, and juvenile fish tend to remain near the coasts. Adults from about 3 years of age generally move out to sea, to live a pelagic (oceanic) life. Source <http://www.scieng.flinders.edu.au/biology/lmsc/lmscsbt.htm>.

\$A 86.7 million in FY1998-99, to \$A 102.5 million during FY1999-2000,¹⁸⁷ and to \$A 238 million in FY2003-04.¹⁸⁸ Australia's stake in global supply has increased following the decline or disappearance of abalone populations in other parts of the world—Japan, Mexico, South Africa and the United States (California). This 'disappearance' can be attested to declining environmental conditions, limited stocks, illegal fishing and poor fisheries management. The south-east coast of Australia is said to be home to the last robust wild abalone grounds in the world. But only last year, Australia's illegal abalone export trade was estimated to exceed \$A 200 million,¹⁸⁹ nearly equal in value to the legal industry.

The demand for shark fin and seahorse is also being largely driven by the culinary tastes of China's growing middle class and traditional Chinese medicine—aphrodisiacs.¹⁹⁰ For example, 11 metric tonnes per annum of shark fin were imported into Hong Kong in the ten years to 2004.¹⁹¹ Prices for shark fin during 2001 retailed as high as \$US 744 per kilogram, with fishermen receiving up to \$US 180 per kilogram. These profit margins result in medium-sized operators turning over approximately \$US 771,000 per month. Allegedly, one of the largest operators turns over \$US 129 million annually, claiming an annual profit of nearly \$US 12 million.¹⁹² Furthermore, the jaws of a great white shark can realise around \$US 50,000 with individual teeth worth several hundred US dollars.¹⁹³ As at 2003, the World Conservation Union had 105 members of the wider shark family listed on its 'red list'¹⁹⁴ of threatened species. The great white, basking shark and whale shark are also listed as endangered species.

Traditional Chinese medicine use approximately 24 million dried seahorses each year. Other uses for seahorse include souvenirs, curios and the live aquarium trade.¹⁹⁵ In 2000, a price of \$US 2,400 per kilogram was reached for dried seahorse in Hong Kong

¹⁸⁷ Australian Bureau of Agriculture and Resource Economics Report 2002, as cited in Rebecca Tailby & Frances Gant, 'The Illegal Market in Australian Abalone', *Trends & issues in crime and criminal justice*, No. 225, April 2002.

¹⁸⁸ V. Theodore, *Organised crime groups and their involvement in fisheries and wildlife trafficking*, Department of Primary Industries, Fisheries Victoria, Melbourne, 2004.

¹⁸⁹ *ibid.*

¹⁹⁰ S. Clarke, *Trade in Asian dried seafood*, Wildlife Conservation Society, Working Paper No. 22, 2002, 15.

¹⁹¹ S.K.H. Lee, *Wildlife trade*, World Wide Fund For Nature, Hong Kong, Factsheet No 5, 2004.

¹⁹² S. Clarke, *Trade in Asian dried seafood*, 15.

¹⁹³ See www.whitesharktrust.org/pages/citesnews.

¹⁹⁴ See www.redlist.org

¹⁹⁵ S.K.H. Lee, *Wildlife trade*.

(60 individual seahorses).¹⁹⁶ These sorts of profits encourage a steady stream of domestic and foreign criminal entrepreneurs. The World Conservation Union's 'red list' also contains 46 members of the wider seahorse family, including pipefish, seahorse, seadragon, sea pony and pipehorse. Australia is home to at least ten of the 32 known species of seahorse and is the major supplier of pipehorse to the Hong Kong market.¹⁹⁷ Other emerging criminal high-profit targets include eel, trepang (sea slug/sea cucumber) and sea urchin.

As an example of international deep water poaching, the lucrative Patagonian toothfish¹⁹⁸ fishery around Heard and McDonald Islands has, since the mid-1990s, captured media attention. Located some 4,100 kilometres south-west of Perth, Australia's EEZ around the Heard and McDonald Island is managed under Australian domestic legislation. Illegal, unregulated and unreported fishing in this remote area has caused severe depletion of the spawning fish stock and in turn has become the primary threat to the conservation of the commercial toothfish industry. Patagonian toothfish is a high value, high quality, white-fleshed fish that is mainly sold to the restaurant trade as Bacalao de profundidad in Chile, Butterfish in Mauritius, Chilean Sea Bass in the United States and Canada, and Mero in Japan. High consumer demand and high prices encourage not only the legal fishing industry, but also the international poacher.

The targeting of toothfish in the Southern Ocean started in earnest in the mid-1990s. Most illegal fishers had strong links to traditional deep sea fishing nations and, historically, many such fishers and vessels were displaced by the commercial collapse of Northern Hemisphere fisheries, over-capacity in the global fishing fleet, and the

¹⁹⁶ *TRAFFIC and Project seahorse briefing document: seahorses and the twelfth meeting of the conference of the parties to CITES*, Santiago, Chile October 2002, at <http://www.traffic.org/cop12/seahorses.pdf> viewed 23 February 2005.

¹⁹⁷ Marine Life Society of South Australia '2001a. Seahorses' & '2001b Seahorses being branded' *MLSSA newsletter* No 282, October, at <http://www.mlssa.asn.au> viewed 11 November 2004.

¹⁹⁸ Patagonian toothfish (*Dissostichus eleginoides*) have large pectoral fins, long upper rays and pelvic fins. It is believed they grow to a maximum length of 2.2 metres and can reach maximum age of 50. A full-grown Patagonian toothfish can weigh up to 100 kilograms. Their bodies are brownish-grey with distinct darker blotches. Patagonian toothfish are a deep-sea (demersal) species found throughout large areas of the sub-Antarctic oceans, primarily the Southern Ocean and adjacent southern parts of the Atlantic and Indian Oceans. Distribution ranges from Southern Chile, Patagonia, Falkland Islands, Shag Rocks, South Georgia, sub-Antarctic islands and seamounts of the Indian Ocean sector, and Macquarie Island. Patagonian toothfish take 10 to 12 years to reach breeding age; at this stage they are about 70 cm long. As juveniles they feed on krill but as they grow their diet changes, and they eat more cod and crocodile icefishes. As adults, they feed mainly on squid and prawns. Sperm whales are the Patagonian toothfish's main predator. Source http://www.fish.wa.gov.au/fishtales/what/what_toothfish.htm.

introduction of larger coastal State maritime jurisdictions under LOSC. But since the turn of the century, the character of international illegal fishing has changed. It is now a highly sophisticated form of transnational organised crime with: sophisticated control of vessel movements; complex logistics, including chartering tankers to refuel vessels at sea; specially built and modified factory ships for at-sea processing; use of active intelligence gathering about enforcement efforts; use of complex corporate arrangements to exploit and disguise the real owners and beneficiaries; and the use of complex arrangements to ‘launder’ catches.¹⁹⁹

In 2003 it was estimated that there were between 20-30 vessels illegally fishing for toothfish. Most vessels are registered under a ‘flag of convenience’, taking advantage of deficient vessel monitoring by the flag-States involved. Other vessels, flagged to CCAMLR members, are owned by ‘front companies’ that are often registered in tax havens or States that are not party to international fisheries agreements—Belize, Togo and Bolivia. Key ports for landing illegally caught toothfish are all located in States that are not party to CCAMLR—Tanjung Priok in Indonesia, Hong Kong and Singapore.²⁰⁰ ‘Front companies’ are the most visible ‘tip’ of a usually complex, transnational corporate structure deliberately constructed to disguise the identity of the beneficial owners and controllers, and to gain financial advantage, through poor governance, low taxation, and lower administrative costs. As such, the beneficiaries become very difficult to link conclusively to the illegal activities.²⁰¹

The Heard and McDonald Islands provides a legitimate Patagonian toothfish and mackerel icefish fishery of about 17,563 tonnes, worth \$A 30 million, and employs 150 people in the capture and post-harvest processes. The marine environment within these waters also contains valuable nursery grounds for these and other commercial species—sponge habitats and benthic fauna. However, since the 1995–96 season, illegal fishers have taken an estimated 20,352 tonnes of toothfish from the Heard and McDonald Islands EEZ, considerably more than the legal fishery.²⁰² And the total illegal catch of

¹⁹⁹ Dave Williams, ‘Illegal fishing in the Southern Ocean: the problem, practices and perpetrators’, *Australian Antarctic Magazine*, Winter 2003, 5.

²⁰⁰ *ibid.*

²⁰¹ *ibid.*

²⁰² Source ‘SC-CAMLR (2002) Report of the Working Group on Fish Stock Assessment (WG-FSA)’, *Report of the twenty first meeting of the Scientific Committee (SC-CAMLR XXI)*. CCAMLR, Hobart, 2002. See also ‘Even a conservative estimate by TRAFFIC puts the IUU catch as accounting for half of

toothfish 1997-2003 throughout the Southern Oceans has been estimated to be equal to, or to exceed, the total catch by the legal fishing industry—83,696 tonnes worth about \$A 1 billion in wholesale value.²⁰³ Yet since 1997, Australia has only apprehended seven foreign vessels operating illegally—*Salvora* (Belize), *Alicia Glacial* (Panama), *Big Star* (Seychelles), *South Tomi* (Togo), *Lena* (Russia), *Volga* (Russia), and *Viarsa One* (Uruguay).

In 2002, Senator Ian Macdonald, Minister for Fisheries, Forestry and Conservation stated; ‘I would like to put all those illegal fishermen and companies on notice that Australia will sink your boats, confiscate your catches and prosecute you to the full extent of the law if you fish illegally in our waters.’²⁰⁴ In 2005 he added:

This fight against [illegal, unregulated and unreported] fishing is a fight Australia will not give up. It is one that I am determined to win but what I have learned is that it is not a fight that Australia can win on its own. It is a fight that requires support, commitment and political will of all nations. What has emerged in the past 10 years, is that organised criminal agents facilitated in many instances by legitimate multi-national fishing companies are engaged in [illegal, unregulated and unreported] fishing. These criminals don't care how they make a profit or what they destroy. They don't care what they do to developing countries or to our very fragile marine ecosystem.²⁰⁵

Conclusion

This thesis challenges the maritime strategic concept that protecting mainland Australia against conventional military attack from a hostile State should determine the structure and capability of the Australian Defence Force. Dealing with messy Third World conflicts involving peace keeping and nation building tasks and countering the asymmetric and criminal threat in Australia's domestic maritime environment are Australia's modern strategic imperatives and the real challenges ahead. These obligations also replicate the modern strategic imperatives of a medium power in the contemporary world of the *Pax Americana* era. The world has changed, Australia's

the Patagonian Toothfish traded last year. That's four times the amount of IUU catch estimated by CCAMLR,' Glenn Sant, the Director of TRAFFIC Oceania and co-author of the report *Patagonian Toothfish: Are Conservation and Trade Measures Working?* at <http://www.traffic.org/toothfish/>.

²⁰³ <http://www.traffic.org/toothfish/>.

²⁰⁴ *ibid.*

²⁰⁵ Senator Ian Macdonald, Minister for Fisheries, Forestry and Conservation, FAO Fisheries Ministerial Meeting, Rome, 12 March 2005.

maritime interests have changed, and therefore Australia's naval force structure should transform to respond to the strategic demand and the national interest.

East Timor was not in the script of any white paper nor did it fit the preconceptions of Australia's maritime strategy. The main task for Australia's military forces in the future will be security management. Immediacy, volume and duration of activity in security management will be bigger challenges than military intensity. Future military operations will most likely be of an expeditionary nature, and the most difficult and burdensome aspects of expeditionary warfare, both in volume and complexity, is the logistic train it demands. Maritime forces are also going to need a much greater understanding of, and adherence to, a range of legal and political norms that will set some strict, and perhaps unwelcome, limits on military freedom of action.

Against the background of this world change there is the advancing intrusion of global regulation and State sovereignty, as sovereign power encroaches further and further into the global commons—oceans governance. For coastal countries like Australia, this fundamental change in the sovereign rights of States, now means that 67 per cent of Australia's national jurisdiction is covered by seawater. The change in ocean 'ownership' is evident by the increased awareness of resource management, environmental protection, immigration regulation, quarantine inspection and trans-national crime enforcement—the regulatory requirements needed from a ship-of-law.

CHAPTER NINE

NAVAL FORCE STRUCTURE IMPLICATIONS

AN AUSTRALIAN CASE STUDY

I have said that a navy is an instrument, designed for a purpose; and when that purpose is clearly known to the designer, it—the navy or the ship—will be useful... A tool is anything whatsoever which is used by an intelligent being for realising its object. The idea of a desired end is inseparable from a tool.

Admiral Sir Herbert W. Richmond, April 1916 ¹

During the recent *Australian Defence Magazine* Conference in Canberra 14-15 March 2006 the Honourable Dr Brendan Nelson MP, Minister for Defence, stipulated in his address that Australia must have the ‘capacity to move our equipment and people to other parts of the world’ and further defined that deployment capacity to be a ‘Brigade offshore and a Battalion somewhere else.’ This theme was also taken up the Australian Chief of Airforce, Air Marshal Geoff Shepherd, ‘We need to be an expeditionary balanced force....’ We need to ‘nurture and further the expeditionary capabilities we currently have.’ The Chief of Navy, Vice Admiral Russ Shalders, added ‘We are entering a new environment - away from big blue water ships.’ He was referring to the recrudescence of ‘naval force’ in the littoral at the expense of the ships-of-war traditionally associated with large-scale open-ocean naval confrontations: as this thesis argues, these capabilities are expeditionary and constabulary in nature.

The Chief of Army, Lieutenant General Peter Leahy, then articulated his perceptions on the contemporary threat: ‘...globalisation has transferred the nature of geopolitics.... War is increasingly being fought amongst people in complex physical and human terrains ... The ADF now faces security as well as defence threats ... Our supply lines are in more danger than our front lines.’ He was very aware that modern technologically advanced weaponry had changed the character of warfare for Army—warfare had moved into the sanctuaries of the Third World and brought about an asymmetric response. Current conflict structures could no longer be compared to the near-continuous military contests that have occurred between successive competing nation-States over the last three centuries. The future was in the so-called low-intensity, long duration festering conflicts that have risen through the intensification of ethnic, cultural,

religious, and socioeconomic divisions. As the General concluded 'The battlefield is empty [yet] the battlefield is more lethal.'

It is against this background that it is necessary look further into the Australian naval force implications as proposed in the introduction to this thesis: 'the contribution of this thesis is to suggest the next step', namely, 'proposing to restructure naval forces to meet the changing national maritime interests' of the State. While there is a certain attractiveness and simplicity in producing a tangible blueprint of, or indications for, the restructuring of the Royal Australian Navy, such an approach carries considerable academic risk, as: it would be devoid of legacy parameters, it would re-focus the arguments presented onto a crude quarrel about ship hulls and their respective numbers, and it would introduce a vast array of new arguments concerning employment contexts. The primary philosophical foundation underlying this thesis is that naval force structure should reflect the changing emphasis of a coastal State's maritime interests, and the intellectual challenge is in the articulation of these interests, and the contemporary pressures that are influencing them.

Also, popular perception of warships as autonomous agents of military capability often belies the essential industrial and social capability required to maintain their relevance. The economic impacts of politico-industrial decisions may be invisible to the general public but rarely should they be in sensible discussion concerning the tangible outcomes of the force structure debate. While there is a political objective to provide defence workload to the Australian naval shipbuilding industry to build on the considerable investment made in capability since the 1980s, it should also be appreciated that this capability is much more than just the physical infrastructure established in Australia at locations such as Williamstown, Osborne and Henderson. Importantly, capability is embodied in the industry's intangible infrastructure in the workforce and relationships with suppliers, as well as the ability to train and educate people with the requisite skills to sustain the industry into the future. A simple scan of the many submissions being presented at the current Senate Inquiry into Naval Shipbuilding in Australia re-enforces this point. Also of note is that initiatives attempting to promote 'a sustainable and competitive defence industry base, with efficient, innovative and durable industries,

¹ H.W. Richmond, 7 April 1916, as cited in Arthur Pollen *The Pollen Papers*, edited by J.T. Sumida, Allen & Unwin, London, for the Navy Records Society, 1984, 24.

able to support a technologically advanced ADF² for example, *The Australian Naval Shipbuilding and Repair Sector Strategic Plan*,³ are now profoundly politicised.

The ANZAC Ship Project (which is discussed further in this Chapter) provides one such example of the politico-industrial considerations of force structure initiatives. The ANZAC Ship Project is a \$5 billion (1999 dollars) joint Australian/New Zealand activity for the delivery of ten ANZAC Class frigates (eight RAN, two Royal New Zealand Navy) and associated shore facilities. The Project involves more than 1,300 Australian and New Zealand companies as secondary and tertiary subcontractors. In 1999 *Tasman Consultants* were commissioned by the Australian Industry Group's Defence Council to examine the ANZAC Ship Project's high level of Australian industry involvement and the impact that it had made to the Australian economy. It concluded that Australia had generated between \$200-500 million in additional annual GDP (over the fifteen year construction phase, this means GDP will grow by a least \$3 billion); generated between \$147-300 million in additional annual consumption (over the fifteen year construction phase, this means consumption in Australia will grow by at least \$2.2 billion); and generated around 7,850 full time equivalent jobs. The Tasman report also concluded that subcontractors and small-to-medium enterprises who participated in the ANZAC Ship Project had become more innovative through their own research and development and access to foreign technology; improved their business practices leading to a culture of continuous improvement; increased their export opportunities; and acquired new defence capabilities enabling them to play a greater role in Australia's national security. As the last ANZAC Ship is delivered (16 June 2006) the social implications and adverse employment consequences to the Williamstown suppliers, sub contractors and Tenix employees are very real political issues.

Notwithstanding all of the above, this Chapter will nevertheless address the more tangible restructuring of the Royal Australian Navy given Australia's strategic maritime imperatives (Chapter Eight) and the historical trends and contemporary pressures influencing them. For the expeditionary focus, it will address the nature of

² *Defence 2000: Our Future Defence Force*, Commonwealth of Australia, 2000.

³ *The Australian Naval shipbuilding and repair Sector Strategic Plan*, Defence Materiel Organisation, Commonwealth of Australia, 2002.

expeditionary warfare, the generic ship types and inherent capabilities that are required, and the American approach to expeditionary warfare, concluding with the Australian Amphibious requirement as publicly being debated, as documented and as being addressed. For the constabulary focus, it will address the 'White Paper' policy requirements, the inherent functional capabilities that are required for the task, current capabilities, and affirm the need for an open ocean constabulary patrol ship. It will conclude by discussing two different approaches that could offer Australia a viable open ocean patrol and response capability befitting the emphases of this thesis: the United States Coast Guard's Project *Deepwater* and the Royal Danish Navy's *Absalon* Class flexible support ships.

The Nature of Expeditionary Warfare

Major-General Sir Charles Callwell (1859-1928), an artillery officer who fought the Afghans and the Boers, was the first recognised military theorist to attempt to synthesise Britain's colonial military experience in his 1896 book *Small Wars*. Callwell articulated the concept of exploiting sea control to establish military control on land. His 1905 book *Military Operations and Maritime Preponderance* extends this same theme as a 'timeless contribution to the short list of insightful books on sea-land cooperation' against an enemy that was both 'irregular in military character' as it was 'second-rate in military efficiency'.⁴ He provided a classical contribution to the nature of expeditionary warfare, in particular the strategic utility of amphibious forces and their dependence upon 'maritime preponderance'⁵ in their execution.

It has been proven ... from the history of war that the land-service and the sea-service can cooperate in many situations which arise in struggles between maritime nations, and that they can mutually aid one another in bringing about the triumph of their side. But if the highest results are to be attained, there must not only be confidence and harmony between the naval forces and the military forces—each must also be organised and equipped for the

⁴ Colin S. Gray, *Military Operations and Maritime Preponderance: Their Relations and Interdependence, Classics of Sea Power*, Naval Institute Press, Annapolis, Maryland, 1996, xx-xxi.

⁵ A term that is today more readily understood as 'Command of the Sea'. It is defined as the possession of such a degree of superiority that one's own operations are unchallenged by the adversary, while the enemy is incapable of utilising the sea to any degree.

execution of amphibious operations ... and each must be prepared to meet with experiences foreign to normal stereotyped forms of warfare.⁶

He also noted that ‘the class of vessel by which domination of the sea is attained in time of war is not necessarily that which is best suited for sustaining operations ashore’⁷ a point that is as valid for the Royal Australian Navy today as it was for the Royal Navy in 1905.

On the conduct of expeditionary warfare, Sir Julian Corbett added through historical analysis the breadth of the maritime supporting components. In this he recognised four elements: firstly, the army—the expeditionary landing force; secondly, the transports and landing flotilla—the amphibious task force; thirdly, the escort proper and the supporting flotilla, and lastly, the “covering squadron.”

From a naval point of view it is the covering squadron which calls first for consideration, because of the emphasis with which its necessity marks not only the distinction between the conduct of [joint] expeditions and the conduct of commercial convoys, but also the fact that such expeditions are actually a [joint] force, and not merely an army escorted by a fleet.⁸

...For a right consideration of the war the army must be regarded primarily as forming an integral part of the maritime force with which it was carried on,⁹ [with the aim to conduct joint operations through mutual support and expeditionary cover where:] ...we are able by the use of our navy to restrict the amount of force our army will have to deal with.¹⁰

This concept of expeditionary cover has not changed; ultimately it remains holding the ‘duty of preventing the intrusion of an enemy’s force’. Modern Royal Australian Navy doctrine defines ‘cover’ as the provision of support for less capable forces to ensure their protection and the completion of their tasking without interference from an adversary. Cover may be effectively exercised through just the simple threat of intervention. This is particularly applicable to situations in which it is desirable to

⁶ Sir Charles.E. Callwell, KCB, *Military Operations and Maritime Preponderance* (originally published 1905), in Colin S. Gray, Introduction to Callwell’s *Military Operations and Maritime Preponderance: Their Relations and Interdependence, Classics of Sea Power*, 431-432.

⁷ *ibid.*, 433.

⁸ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Longmans, Green & Co, London, 289.

⁹ Sir Julian Corbett, ‘England in the Seven Years War’, 1907, as quoted in ‘The Late Sir Julian Corbett’, *Naval Review*, Volume XI, Number 1, February 1923.

¹⁰ Sir Julian Corbett, *Some Principles of Maritime Strategy*, 68.

contain the intensity or branching of a conflict.¹¹ As Major General Cosgrove acknowledged post Operation *Stabilise* and command of INTERFET.

Another military blinding glimpse of the obvious is the utility of sea power in the East Timor operation. The persuasive, intimidatory or deterrent nature of major warships was not to me as the combined joint force commander an incidental, nice to have 'add on' but an important indicator of national and international resolve and most reassuring to all of us who relied on sea lifelines.¹²

The coalition's naval forces provided the physical presence that any 'interferer' would need to displace, and also the expeditionary cover under which the operation was geographically isolated and protected.

There are many other modern day examples of the necessity, either within or in addition to a coalition, to provide expeditionary cover to land forces. The activities of the Royal Navy's aircraft carriers in the Adriatic in support of the United Nations Protection Force in former Yugoslavia (UNPROFOR) are classic.¹³ These ships provided an air platform under purely national control whose assets could be used as the British Government so decided without reference, in the final analysis, to either NATO or the United Nations, or to any other support of any other ally. This reassured both the political and military decision-makers and the British land forces ashore, and was perhaps a wise condition of the United Kingdom's contribution to the coalition.¹⁴ As the Iron Duke during the Peninsula War once identified: 'If anyone wishes to know the history of this war, I will tell them it is our maritime superiority which gives me the power of maintaining my Army while the enemy are unable to do the same.'¹⁵ The relevance of Wellington's premise has not changed over time.

¹¹ *Australian Maritime Doctrine*, Defence Publishing Service, Canberra, 57 & 58.

¹² General P.J. Cosgrove, AC, MC, ANZAC lecture 4 April 2000.

¹³ UNPROFOR – It was initially established in Croatia to ensure demilitarisation of designated areas. The mandate was later extended to Bosnia and Herzegovina to support the delivery of humanitarian relief, monitor "no fly zones" and "safe areas". The mandate was later extended to the former Yugoslav Republic of Macedonia for preventive monitoring in border areas. Source: http://www.un.org/Depts/dpko/dpko/co_mission/unprofor.htm.

¹⁴ Eric Grove, 'Navies play their part in Peace Support Operations', *Jane's Navy International*, 1 March 1999, Volume 104/002.

¹⁵ Duke of Wellington during the Peninsular War, as cited in *BR 1806: British Maritime Doctrine*, Second edition, MOD, DSDA (Print Centre), Keynsham, 1999, Chapter 2, 27.

Not Merely an Army Escorted by a Fleet

The point being made is that Expeditionary Warfare is not limited to amphibious lift nor is it ‘merely an army escorted by a fleet.’ The practice of transitioning combat power from sea to shore is one of the most complex and difficult military operations that can be conducted. It is inherently ‘Joint’—‘the effective integration of thought and action at all levels of command to achieve the common goal that produces a synergy in the conduct of operations.’¹⁶ Expeditionary Warfare also denotes the area of operations as an integrated combat arena rather than one segregated by environmental boundaries. This means that warfighters view both adversary and friendly forces as a complex and adaptive series of systems and sub-systems. ‘These battlespace systems consist of nodes and connections that represent a relationship linked ...[through] overlapping and inter-related domains.’¹⁷

These are not new ideas, in 1905 Sir Charles Callwell argued that ‘Concord between forces accustomed under normal circumstances to work apart, can only be ensured when emergency obliges them to work together, if there is mutual sympathy and community of thought between them’.¹⁸ ‘If there is to be perfect harmony in war between the navy and army, there must be mutual confidence in peace and mutual understanding of respective functions.’¹⁹

Operations are not joint simply because forces from different Services and resources from other agencies and organisations operate in the same area. Operations are only truly joint when there is an interdependence between single Service force elements. The Australian Defence Forces must shift from a ‘lift and lodge’ philosophy, where Army units are deposited on a foreign shore for autonomous land operations, to a true manoeuvre warfare philosophy, using joint forces to exert influence in an uncertain littoral security environment.²⁰ The Australian Army must adopt a key role in Australia’s national maritime strategy²¹ and the Royal Australian Navy needs to develop

¹⁶ *The Australian Approach to Warfare*, ADDP-D1, Commonwealth of Australia, Canberra, para 6.4.

¹⁷ *Joint Warfighting*, ADDP-D.4, Commonwealth of Australia, Canberra, paragraph 2.8-9.

¹⁸ Sir Charles.E. Callwell, KCB, *Military Operations and Maritime Preponderance*, 20-21.

¹⁹ *ibid.*, 21-22.

²⁰ ‘The New Maritime Security Environment’, *Semaphore: Newsletter of the Sea Power Centre Australia*, Department of Defence, Canberra, Issue 13, November 2003.

²¹ *Defence 2000: Our Future Defence Force*, Defence Publishing Service, Canberra, 2000, Section 6.7.

‘an understanding of what it means to wield a landing force as a maritime weapon.’²² Effective command and control of joint operations then depends upon Commanders and staff understanding the relative strengths and weaknesses (both inherent and situational) of each component of the force, and how they may complement each other.²³ Joint teamwork is not something that will exist automatically—‘new thinking, new and re-learned skills, and a degree of joint cooperation, never seen before and reflecting a seamless force’,²⁴ will be required. Such a seamless force will require a foundation of shared understanding about the roles of each functional component, together with a level of mutual confidence developed by operating and training in a joint environment.²⁵

Expeditionary Warfare is also inherently controversial. Geoffrey Till stresses that because expeditionary operations often elicit very differing views, they are usually politicised in origin, style and consequence. The clarity of purpose in the East Timor intervention is probably the exception, rather than the rule. Nevertheless, ‘every military move at every level bears tremendous potential and strategic significance ... the action of an individual Marine patrolling a city street may have major consequences’ at the strategic political level. Till also identifies expeditionary warfare, by definition, as a form of campaign-of-choice: Forces ‘do not *have* to get involved; they can sail away.’²⁶ This makes politicians and the media acutely conscious of the human costs of intervention and it offers adversaries an obvious means of compensating for military inferiority. Also, expeditionary operations conducted under United Nations auspices, as peace support operations, are intrinsically difficult because of the centrality of the notion of ‘consent’.

Expeditionary operations are difficult, expensive and demanding.

²² ‘ADF Amphibious Capability: Implications for Navy’, *Semaphore: Newsletter of the Sea Power Centre Australia*, Department of Defence, Canberra, Issue 8, August 2004.

²³ *Foundation of New Zealand Military Doctrine*, NZDDP-D, February 2004, New Zealand Defence Force, Part 2, Chapter 6, 6-8.

²⁴ ‘ADF Amphibious Capability: Implications for Navy’, *Semaphore: Newsletter of the Sea Power Centre Australia*.

²⁵ This point is recognised in *Joint Warfighting ADDP-D.4*, Commonwealth of Australia, Canberra, paragraph 3.5.

²⁶ Geoffrey Till, *Seapower: A Guide for the Twenty-First Century*, Frank Cass Publishers, London, 2004, 239-240.

Thinking of expeditionary operations as relatively easy for professional forces trained for full-scale operations has often led to major difficulty... The fact that military technologies and skills useful for first-class war are often useful for expeditionary operations, too, does not mean they always are.²⁷

Expeditionary operations are certainly not easy job-preservation options for navies deprived by international developments of their normal adversaries. As Callwell remarked: 'The conduct of small wars is in fact in certain respects an art by itself, diverging widely from what is adapted to the conditions of regular warfare.'²⁸ Expeditionary warfare is as much an organisational posture and doctrinal methodology, as it is an equipment-focused capability.

The Ship-of-Expedition Over the Shore

In this thesis the term 'ship-of-expedition over the shore' refers directly to the generic ship types and inherent capabilities that are required to conduct naval expeditionary warfare. Naval expeditionary warfare involves the conduct of military operations mounted from the sea. It seeks to exploit the seaborne force's superior mobility in transporting mass over long distances. The qualities of maritime forces, as political and military instruments, are characterised in their readiness, flexibility, self-sustainability and utility. They can be used to reassure or provide succour to allies and friends, deter aggression, and influence unstable situations. They offer presence without occupation and deterrence without commitment, 'strategic mobility together with both political and military flexibility.'²⁹ They represent a worldwide, balanced, and autonomous intervention capability.³⁰ They provide Governments with not only the ability to react, but also to act.

From a 'Western' military perspective, expeditionary warfare requires a self-sustaining joint maritime force (army, navy and air force) tailored to possess military agility in responsiveness and environment, versatility across the spectrum of operations, flexibility in focus, responsiveness with sustainable power and operational tempo, and

²⁷ *ibid*, 238.

²⁸ Callwell (1896), as cited in Geoffrey Till, *Seapower: A Guide for the Twenty-First Century*, Frank Cass Publishers, London, 2004, 268.

²⁹ Allied Joint Operations Doctrine AJP-01(A), Chapter 5 Maritime Operations, dated September 1998.

³⁰ Based on the information contained within the ABCA Coalitions Operations Handbook, 01 November 2001 and the *Royal Australian Navy Doctrine One*, Commonwealth of Australia.

the ability to sustain operations in an austere environment without host-nation support.³¹ Expeditionary operations are no easy option for navies or armies—they are specialised activities that, if attempted, need to be taken seriously.³²

United States Expeditionary Capabilities

The United States argues ‘that the 21st Century has been accurately characterised as the “Expeditionary Age” and each of the services now strives to enhance their respective abilities to conduct expeditionary operations.’³³ This renewed appreciation reflects the reality, as we see current operations unfold, that a vital component of the United States’ response to almost any security threat today will be expeditionary in nature. The heart of the United States defence strategy rests on the assumption that United States forces have the ability to project power worldwide. To send well armed and logistically supported forces to any crisis situation anywhere around the globe—to locations where the support infrastructure is lacking or has collapsed.³⁴

In achieving this role the United States Navy has restructured its Marine Corps into integrated, tailorable, and modular organised Marine Air-Ground Task Forces³⁵ ranging from light, air transportable units to relatively heavy, mechanised units.³⁶ It has also refocused its supporting command and control units, amphibious shipping, aviation assets, tactical lift capacity, and naval fire support capabilities.

However, the real challenge in expeditionary warfare concepts comes with ‘sustainment’.³⁷ The United States Navy has invested heavily in 16 Maritime

³¹ Summarised from the definition developed by the Expeditionary Warfare Division (N75) in the Office of the Chief of Naval Operations <http://www.exwar.org/Htm/IntroPopA.htm> viewed 11 May 2004.

³² Geoffrey Till, *Seapower: A Guide for the Twenty-First Century*, 249.

³³ United States Department of Defense, The United States Expeditionary Warfare Division’s concept paper *Transforming Naval Expeditionary Warfare for a New Strategic Environment*, www.exwar.org.

³⁴ United States Department of Defense, *Quadrennial Defense Review Report*, 2001, 43.

³⁵ Marine Expeditionary Units – approximately 2,200 troops and 15 days sustainment, Marine Expeditionary Brigade – approximately 17,000 troops and 30 days sustainment, Marine Expeditionary Force – approximately 50,000 troops and 60 days sustainment.

³⁶ United States Department of Defense, The United States Expeditionary Warfare Division’s concepts paper *Naval Expeditionary Forces, America’s Asymmetric Advantage*, www.exwar.org.

³⁷ Sustainability is defined as the ability of a force to maintain the necessary level of combat power for the duration required to achieve its objectives. It denotes a force’s ability to continue to conduct operations and it is measured in terms of the personnel, equipment, facilities, and the consumables necessary for the force to complete its operational tasks. Sustainability, combined with readiness makes up preparedness—in other words a prepared force or unit is one which is ready in all respects to conduct operations and is able to be sustained whilst deployed. For more detail on sustainability refer to Australian Defence Doctrine Publication (ADDP) 00.2—*Preparedness and Mobilisation*.

Prepositioning Force ships³⁸ capable of warehousing the heavy equipment needed to support three separate Marine Expeditionary Brigades in theatre, and a large (200 plus) strategic Military Sealift Fleet to support it.³⁹ This concept has recently been extended to a 19 ship all-services Afloat Preposition Force as a means of providing prepositioned ordnance, equipment and material. In comparison, and relevant to Australia, in 1999, 20 commercial merchant ships (of which 17 were foreign flagged) were needed to provide the strategic sealift to support operations in East Timor.⁴⁰ Future United States augmentation concepts also include additional engineering repair facilities; fleet hospitals; and at-sea floating expeditionary airfields (mobile offshore bases).⁴¹ This leads to the capacity to conduct at-sea arrival and assembly of units; direct support of assault echelons; indefinite sea-based sustainment; and at-sea reconstitution and re-deployment of the force, all in order to further reduce the landward footprints of expeditionary forces.⁴² What is understated is that the United States' Sea-Basing philosophies recognise that local and area sea control will not realistically be contested, or even more boldly, it can now be assumed.

For pure size and global ambition Australia is not in this game, nor should it expect to be. Nevertheless, while force sizes and resources are considerably smaller, the operational requirements for each function are the same for any participant endeavouring to achieve an independent expeditionary capability—it needs an independent sustainment capacity to provide follow-on support. Australia has embarked on an ambitious, although a generally realistic, program in achieving all of the above functions within its own force levels—but it is going need some fundamental

³⁸ United States Navy's Fact File on MPS and MSC Prepositioning. www.exwar.org viewed 12 June 2004.

³⁹ The United States 'Military Sealift Command operates about 120 ships worldwide with about 100 more ships in reserve status.' Source: <http://www.globalsecurity.org/military/agency/navy/msc.htm> viewed 28 February 2005; See also Mary A. Fults, 'Strategic Sealift: Decisions Today to Ensure Tomorrow', Naval Post Graduate School, Monterey, California, see www.exwar.org viewed 12 June 2004.

⁴⁰ Air Commodore Rawlinson testimony to the Joint Standing Committee of Foreign Affairs, Defence and Trade - *Inquiry into Australia's Maritime Strategy*, 2003.

⁴¹ Various studies for the Mobile Offshore Base concept are presented in Scott C. Truver 'Sea Basing: more than the sum of its parts', *Jane's Navy International*, Volume 109, Number 2, March 2004, 17. The concept is essentially a floating airport made up of interlocking sections that could be towed into theatre providing the capability to accept large transport aircraft to rapidly build up, deploy and support expeditionary forces afloat.

⁴² Referred to as the Maritime Prepositioning Force (Future), this capability will enable sea-based operations, expanding the current role beyond that of a floating warehouse to providing the entire logistic package to mount, support, sustain, and reconstitute operations ashore. See Ronald O'Rourke, 'Transform and roll out: the USN's approach to change', *Jane's Navy International*, Volume 109, Number 3, April 2004, 23.

organisational changes as well. As General Cosgrove adds, ‘a pillar of the Australian Defence Force’s maritime doctrine is on the ability to project and sustain land power over strategic distances, into underdeveloped operational environments. Sea power, and specifically amphibious capability is crucial to that end.’⁴³ Strategic concepts, joint doctrine and tactics, and individual and collective training will all require development in order to maximize the potential advantages that a realistic, and operationally effective, expeditionary capability can provide.⁴⁴

The Australian Amphibious Requirement

In terms of the Australian Government’s expectations for the Australian Defence Force to undertake expeditionary operations, *Defence 2000: Our Future Defence Force* stipulates that it ‘be able to sustain a brigade deployed on operations for extended periods, and at the same time, maintain at least a Battalion Group available for deployment elsewhere.’⁴⁵ More recent defence announcements have not departed from this requirement. Moreover, this requirement has been the foundation for extensive operational concepts and force composition studies undertaken over the last few years. These studies have accurately identified and, through experimentation, tested the operational concept needed to deploy and sustain these forces, the conduct and management of operations and, more recently, the quantifiable sealift needed to deploy, support and sustain them. The operational concept is known as MOLE—Manoeuvre Operations in the Littoral Environment⁴⁶—and it has been tested during the annual *Headline* experiments at the Australian Land Warfare Development Centre, 2001-2003, as part of the Army’s Experimentation Framework.

The MOLE concept identifies four key actions: shaping, initial entry,⁴⁷ actions required to achieve the mission,⁴⁸ and transition back to normalcy post-mission. In broad outline

⁴³ General Peter Cosgrove, AC, MC, Chief of Defence Force, Australia, 18 November 2002.

⁴⁴ The message of the article ‘ADF Amphibious Capability: Implications for Navy’ in *Semaphore: Newsletter of the Sea Power Centre – Australia*.

⁴⁵ *Defence 2000: Our Future Defence Force*, 80.

⁴⁶ *The Australian Approach to Warfare*, ADDP-D1, Commonwealth of Australia, Canberra, 23.

⁴⁷ In Army-speak this is referred to as ‘Entry from Air and Sea’ (EAS) – the rapid and simultaneous air and sea insertion of combat forces in fighting formation configured to rapidly seize the initiative and set the tempo of operations. Source: Army Headquarters, *The Army’s Future Amphibious Requirements*, December 2002, iv.

⁴⁸ In Army-speak this is referred to ‘Decisive Actions’ and involves those land based tactical actions following the initial landings, which are required to achieve the mission, including the landing of more substantive ‘Following-on’ forces. Source: Army Headquarters, *The Army’s Future Amphibious Requirements*, iv.

the concept of operations would see the initial entry force being deployed by naval amphibious ships whereas the more substantive follow-on forces,⁴⁹ and any sustainment operations thereafter, would need the support of strategic sealift ships. While the exact composition details of the initial entry force are dependent on the nature, envisaged threat, and circumstance of the operation, a number of generic models have been developed for planning purposes. These generic models inform the size—operational lift capacity and ship to shore movement assets—for which the new amphibious ships need to satisfy. They therefore inform the following key requirements:

- A combined arms team embarked landing force ‘of about 1,200 soldiers (defined as a battalion group)’⁵⁰ and their armour, light vehicle and engineering plant equipment;
- An afloat support force (command and control, logistics, aviation crews and maintenance staff, watercraft crews, ships company) of a further 800 personnel;⁵¹
- An aviation (helicopter) capacity capable of generating ‘the simultaneous delivery of up to 120-220 personnel’⁵² (defined as a company group or approximately 12 simultaneous Blackhawk helicopter loads).

Conceptually, the Royal Australian Navy’s amphibious capacity needs to be capable of delivering an integrated combined arms formation of some 1,200 soldiers (and their vehicles and equipment) directly into the area of operations. The initial insertion group will be task organised so as to achieve the key operational effects once it is ashore: protect, detect, sustain, shape, move, command, etc. Accordingly, it will be comprised of at least three manoeuvre sub-units and supporting combat and combat support force elements. Typically this force will include infantry forces, protected mobility (armoured personnel carriers, light armoured vehicles (ASLAVs), engineers, etc) and offensive support elements (tanks, artillery, etc). Sitting over the top of this is the command, control and communication (C3) requirements. To exploit the utility, flexibility and security of the initial entry into a potentially ‘unfriendly’ environment, the landing force needs to be inserted through a combination of helicopter, landing craft and maybe even

⁴⁹ Also known as the ‘Objective Force’.

⁵⁰ Aldo Borgu, ‘Capability of First Resort? Australia’s Future Amphibious Requirement’, *Strategic Insights*, Australian Strategic Policy Institute, July 2004; See also Ian Bostock, ‘Australia leans towards Spanish ship design’, *Jane’s Defence Weekly*, 24 March 2004; and Ian Bostock, ‘Australia weighs up LHD options’, *Jane’s Navy International*, 01 April 2004.

⁵¹ Aldo Borgu, ‘Capability of First Resort? Australia’s Future Amphibious Requirement’.

⁵² *ibid.*

parachute means, and must be synchronised to achieve the massing of operational effects in both time and space—synchronised coordination is very important. Accordingly, the amphibious (and aviation) lift requirements are not just bulk capacity, they also include the ability to deliver the required forces in an operationally effective manner—this includes onboard cargo management, medical support, assembly, marshalling and re-configuration of individual units, onboard preparation and repair of vehicles, aviation support and maintenance, and ongoing sustainment and re-supply of landed units.

Small vs Big Ship Options

The Australian Joint Project 2048 ‘Amphibious Deployment and Sustainment Capability’ is designed to replace the heavy landing ship HMAS *Tobruk* in 2010 and one of the amphibious transport ships (LPA) (either HMA Ships *Manoora* or *Kanimbla*) in 2013 with two large amphibious Landing Platform Helicopter (LHD) ships, and the other LPA in 2016 with a “strategic sealift capability”. Ships’ landing craft are also included within the program. Currently the short listing of the LHDs includes Spain’s *IZAR* (offering the Spanish Navy’s 225m, 26,000 ton BPE (Buque Proyeccion Estrategica) Strategic Projection Ship capable of crew plus 1,100 troops, 2 x 3,000 m² garages & hangar for 11 NH90 sized helos.) and France’s *Armaris* (offering the French Navy’s 199m, 21,500 ton *Mistral* Class LHD/BPC (Bâtiment de Projection et de Commandement) capable of crew plus 450 troops & 60 armoured vehicles/8 helos or 16 helos or 230 vehicles).

However, in July 2004, Hugh White added to the Australian Strategic Policy Institute’s continuing challenge⁵³ against this intended procurement strategy preferring ‘three or four smaller ones’⁵⁴ instead of the ‘two big ship’ option. While accepting that additional numbers offer additional operational flexibility, what is generally not appreciated is that the acquisition costs of warships are driven, not so much by their size—‘steel is cheap and air is free’⁵⁵—but by their: weapon systems (guns, missiles etc); sensor systems (radars, sonars etc); command and control systems (including integration issues and communication systems); propulsion and platform systems (including domestic services

⁵³ Aldo Borgu, ‘Capability of First Resort? Australia’s Future Amphibious Requirement’.

⁵⁴ Hugh White, ‘Big ships: too costly, too cumbersome’, *The Sydney Morning Herald*, 12 July 2004.

⁵⁵ Geoffrey Till, *Seapower: a guide for the twenty-first century*, 122.

and electrical power generation); shock loadings (military or commercial specifications⁵⁶—that is the ability to withstand combat damage); and construction techniques (shipbuilder's labour costs, location, gearing up costs, pre-fit out percentages and bulk material spot-market costs). As a generalisation pertinent to amphibious ships, greater size allows for greater combat resilience and damage hardiness (survivability),⁵⁷ superior flexibility across the whole range of operational activity, larger facilities (medical, evacuee, engineering workshops etc) can be accommodated for humanitarian missions and, provided that the ship's architecture has been kept open, considerable scope for development can be achieved through the ship's life.⁵⁸

For example, given similar systems and construction criteria, the acquisition cost increase of procuring a 25,000 ton / 25 knot⁵⁹ amphibious ship compared to a 15,000 ton / 20 knot⁶⁰ amphibious ship is in the order of only 24 per cent.⁶¹ At the same time this increase in size achieves a 70 per cent increase in internal volume equating to well over a 100 per cent increase in aviation capabilities (landing spots and hangarage), linear lane meters (vehicle garaging) and personnel accommodation (embarked landing force). To achieve similar operational capabilities, the multiple smaller ship option incurs a 60 per cent acquisition cost loading.

Added to the disparate acquisition costs are the whole-of-life cycle costs.⁶² Within the Australian Defence Force, Life Cycle Costing Analysis is an essential part of major

⁵⁶ An Italian study *Comparison between Commercial and Military Standards in LPD Construction* has suggested differences of up to 25% and the French up to 34%. See NATO Group 6 studies: Specialist Team on Ship Costings and P. Vialatte & Y. Cotton, *An Analysis of the Influence of Military Requirements on Ship Platform Costs by Comparison of Frigates of the Floreal and La Fayette Classes*, Defence Research Information Centre, Ministry of Defence, Glasgow, July 1995.

⁵⁷ Commodore Tim Cox, RAN, 'Surface warfare and surface combatants: an Australian view', in David Wilson (ed), *Maritime War in the 21st Century*, RAN Sea Power Centre, Commonwealth of Australia, 2001, 199.

⁵⁸ Geoffrey Till, *Seapower: a guide for the twenty-first century*; Tim Cox, 'Surface warfare and surface combatants: an Australian view'.

⁵⁹ Representative of the Spanish IZAR Strategic Projection Ship at 27,082 tons and the French *Mistral* Class 21,500 tons.

⁶⁰ Representative of the Dutch *Rotterdam* Class ranging between 12,750- 16,680 tons or the British *Bay* Class at 16,160 tons.

⁶¹ Directorate of Naval Platform Systems conceptual study papers dated 29 June 2004. Other studies suggest the cost curve actually flattens as displacement tonnage increases—for example, an increase from 21,000 tons to 27,000 tons reflects only a 15 per cent increase in acquisition costs.

⁶² To achieve 'the maximisation of value for money by considering all relevant costs and benefits over the full procurement and service life cycle.' See *Through Life Support Manual* Volume 6 – Life Cycle Costing Analysis, Department of Defence, Commonwealth of Australia.

material assets decision making and tender evaluation.⁶³ Compared to whole-of-life costs, the initial acquisition cost may only represent 22 per cent⁶⁴ of the final cost. The cost drivers in whole-of-life issues include system reliability, availability and maintainability requirements, intended and actual operating profile, consumption of consumables (fuel, upkeep and stores outfit), supporting capability management issues (training, facilities, organisation etc.) and personnel. Within the framework of this debate smaller ships require similar crew sizes to larger ships⁶⁵ and achieve only marginal savings in consumables. To achieve a similar operational capability through twice the number of platforms occurs major differences in net personnel and, operating and maintenance whole-of-life costs, adding significantly to the cost loading of the multiple smaller ship option.

While multiple platforms, by definition, offer increases in deployment flexibility and platform reliability, just through numbers alone, the cost loading to achieve this is significant. The Australian Government's decision to short list two 21,000-27,000 ton amphibious ships⁶⁶—Spain's *IZAR* and France's *Armaris* at \$A 2 billion to enter service in 2010—rather than 'three or four smaller ones' has financial merit which should be recognised. 'As far as [amphibious ships] are concerned, big is increasingly beautiful'⁶⁷—but big is best in large numbers.

The Constabulary Requirement

In a range of constabulary, regulatory and diplomatic contingencies, surface vessels provide a visible and continuous presence for the protection and enforcement of sovereignty, including surveillance and response (interception and arrest), which neither

⁶³ 'Government has directed that in-service cost estimates are to be a key determinant in the capability development process. Additionally, the Chief of the Defence Force and the Secretary, Department of Defence, have directed that in-service costs be fully considered in procurement processes and greater emphasis be placed on Life Cycle Costing in concert with Integrated Logistic Support issues.' Source: Defence Instructions (General) Log 0304 dated 14 November 2003.

⁶⁴ Australian National Audit Office, *Life-cycle Costing in the Department of Defence*, Audit Report No 43 tabled 12 May 1998 suggests a 'two to three fold increase' over the initial acquisition cost.

⁶⁵ Vice Admiral C.A. Ritchie, RAN, *The Sydney Morning Herald*, July 2004.

⁶⁶ Key capability requirements for the LHD ship design includes: Each ship to have the capability to embark, sustain and deliver by sea an amphibious Combined Arms Force (this equates to an embarked force of around 1,000); be able to deploy approximately 100 vehicles including the recently acquired M1 Abrams tank tactically via 4 medium-sized watercraft; simultaneously deliver an air mobile Combined Arms Team (around 100 troops with a mix of soldiers and their weapons and equipment) - this will require 6 helicopter launch spots and hangarage for 12 medium sized helicopters, and have the Command, Control and Communication facilities to manage the amphibious battle group. Source: Defence Material Organisation presentations 8 November 2004.

aircraft nor submarines can match. The surface ships-of-law, through their ability to sustain presence and to provide comprehensive sensor and communication facilities, are relevant to any multi-dimensional national maritime security strategy. This strategy extends to providing adequate protection against smugglers, illegal immigrants, and any potential foe—a maritime perimeter protector force: apprehending illegal fishing vessels, prevent disease entering through illegal landings, search and rescue, marine legislation enforcement, navigation aids maintenance, vessel traffic services, hydrography, and oceanography.⁶⁸ The requirements of national sovereignty enforcement, maritime border protection, and ocean resource governance.

The surface ships-of-law can also contribute directly to higher-level contingencies when the threat from capable aircraft and naval platforms equipped with anti-ship missiles can be managed through the effective employment of ‘covering’ forces. Not all ships of the fleet need the high-level combat capabilities of front-line forces; United States’ Coast Guard ships, for example, currently operate in the Persian Gulf. It is also simply misleading to match a specific platform capability to a specific level of military contingency. A more relevant evaluation should be to assess the overall response effect that can be provided by the ‘networked’ range of military capabilities, platforms and response options. Defence is in the business of providing Government options to not only react to a contingency, but also to act across the spectrum of intensity—‘the objective being to exploit power rather than to expend ammunition.’⁶⁹

From a constabulary perspective, *Australia’s Oceans Policy*⁷⁰ sets out a strategy for maximizing economic, social and political benefits from the oceans and is the current heart for ocean governance in Australia. If ‘one eschews a purely military concept of military strategy then in many ways a comprehensive oceans policy, establishing a development and management regime for national maritime interests, constitutes a large

⁶⁷ Geoffrey Till, *Seapower: a guide for the twenty-first century*.

⁶⁸ Joint Committee of Public Accounts and Audit, *Report 384 – Review of Coastwatch*, Canberra, August 2001.

⁶⁹ Harold Kearsley, *Maritime Power and the Twenty-first Century*, 73.

⁷⁰ The Commonwealth Government released the *Australia’s Ocean Policy* in December 1998 with the publication of three documents: *Australia’s Oceans Policy Volume 1 & 2* in 1998 and the *Australia’s Marine Science and Technology Plan* in 1999. The policies promulgated in these documents arose from a series of Oceans Forum reports, background discussion papers, and issue papers, together with information from other unspecified sources.

element of maritime strategy.’⁷¹ *Australia’s Oceans Policy* calls for a greater priority to be attached to the protection of offshore areas and resources both in national areas of maritime jurisdiction and possibly on the High Seas—this ‘protection is an integral component of national security.’⁷² During its preparation process, the 1997 *Oceans Policy Consultation Paper*⁷³ listed the following issues that needed to be addressed in the Oceans Policy: an efficient and effective surveillance and enforcement regime; deterrent effectiveness; coordination between Commonwealth and Territory agencies; security issues such as poaching, pollution, piracy and unregulated population flow; the exercise and protection of Australian rights over offshore areas including resources; and options for international cooperative surveillance of fisheries.⁷⁴ It remains contentious whether this has been achieved.

Australia’s Oceans Policy Volume 2 expands on the enforcement requirement of the proposed national regulatory and management measures in the section on ‘Protecting the National Interests’.⁷⁵ This section identifies the responsibilities of the Australian Defence Organisation in surveillance and response.⁷⁶ The challenge, it states, is ‘for the Australian Defence Force is to protect Australia’s national interests and sovereign rights’⁷⁷—‘to ensure that potential aggressors are not able to cross our marine jurisdictions, to safeguard these areas, to control our maritime approaches...’⁷⁸ These tasks include preparedness and contingency planning, maritime surveillance and response, fisheries law enforcement, search and rescue, and hydrographic and oceanographic services.

⁷¹ Sam Bateman, ‘Ocean governance—the global challenge for the new century’, Wilson and Sherwood, *Ocean Governance and Maritime Strategy*, Chapter 18, Allen & Unwin, Sydney, 2000, 211.

⁷² *ibid.*

⁷³ *Australia’s Oceans – New Horizons 1997* : ISBN 0 642 26659 X.

⁷⁴ Barry Snushall, *The Enforcement Aspects of Australia’s Oceans Policy*, Working Paper No. 14, Sea Power Centre Australia, Department of Defence, Canberra, 2003, 1.

⁷⁵ *Australia’s Ocean Policy Volume 2*, National Oceans Office, Hobart, www.oceans.gov.au, 37.

⁷⁶ The requirement for a more holistic and integrated approach to maritime surveillance and enforcement is raised in *Background Paper 3* (National Oceans Office – www.oceans.gov.au) and repeated in *Background Paper 4* under ‘Governance, Surveillance and Enforcement, where it is recommended that the civil surveillance and interception capabilities of agencies with enforcement responsibilities in coastal areas be increased and more co-ordinated.

More detailed discussions of defence and enforcement aspects have also been included in the South-East Marine Region Assessment Papers *Ocean Management – the Legal Framework* and *Resources – Using the Ocean*.

⁷⁷ *Australia’s Ocean Policy Volume 2*.

⁷⁸ Barry Snushall, *The Enforcement Aspects of Australia’s Oceans Policy*.

Under 'Response' the list of Australian Defence Organisation required activities includes: developing an integrated surveillance system to provide continuous, real-time, all-weather detection and identification of aircraft and ships within Australia's maritime approaches; contributing fully to the National Surveillance Program managed by Coastwatch; and contributing fully to fisheries law enforcement activities, particularly in Australia's north and north-west but also within Australia's offshore territories.⁷⁹ This is in addition to noting that 'the ADF contributes to a number of other civil enforcement activities. These low intensity policing tasks include enforcement of exclusive economic zone arrangements and other maritime agreements, drug interdiction and anti-contraband operations, anti-piracy operations and maritime counter-terrorism.'⁸⁰

The constabulary requirement is not limited to only domestic issues; although most international conventions that Australia has ratified have generally been incorporated into Commonwealth legislation. Nevertheless, Australia is party to a large variety of International conventions pertaining to Oceans Governance,⁸¹ and these conventions have extended jurisdiction for certain offences onto the High Seas and, in at least two cases, extend flag-State responsibility and compliance of Australian 'nationals' world-wide.⁸² Of a constabulary nature they include:

⁷⁹ *Australia's Ocean Policy Volume 2*, as listed in Barry Snushall, *The Enforcement Aspects of Australia's Oceans Policy*, 3-4.

⁸⁰ *Australia's Ocean Policy Volume 2*, 42.

⁸¹ A list of the major treaties ratified by Australia and applying to management of the marine environment is given in the Report *Ocean Management - The Legal Framework*, Tasmanian State Library Reference 1-877043-20-6. A more comprehensive list is available in the APEC *Oceans Governance Report - Australia 2002*, prepared by the Centre for Maritime Policy, University of Wollongong. See Barry Snushall, *The Enforcement Aspects of Australia's Oceans Policy*, 13. and Cameron Moore, *ADF on the Beat: A Legal Analysis of Offshore Enforcement by the Australian Defence Force*, Ocean Publications, Centre for Maritime Policy, University of Wollongong, 2004.

⁸² *Convention for the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* and the *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*, as just two examples. See also Martin Tsamenyi & Lara Manarangi-Trott, 'The implications of the WCPFC for Australia's maritime regulation and enforcement', in Rachel Heath & Barry Snushall, *Protecting Maritime Resources: Boundary delimitations, resource conflicts and constabulary responsibilities*, 91-95.

- LOSC Supplement in relation to the *Conservation and Management of Straddling Fish stock and Highly Migratory Fish Stock*;⁸³
- *Convention for the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean*;⁸⁴
- *The Convention on the Conservation of Antarctic Marine Living Resources 1980*;⁸⁵
- *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*;⁸⁶
- *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region 1986 and Protocol*;⁸⁷ and
- *Convention for the Prohibition of Fishing Long Driftnets in the South Pacific and Protocols*.⁸⁸

⁸³ *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 in relation to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stock of 4 December 1995*, defines a frame work for co-operation requiring coastal and Flag States to establish regional fisheries management organisations to agree on specific conservation and management measures intended to ensure the long-term sustainability of the stocks. Includes co-operative mechanisms for effective maritime control, surveillance and enforcement. This Agreement has been ratified by Australia and incorporated into the *Fisheries Management (Amendment) Act 1999*.

⁸⁴ *Convention for the Conservation and Management of the Highly Migratory Fish Stock in the Western and Central Pacific Ocean* adopted 5 September 2000. Defines the regional organisation for the western and central Pacific Ocean. As at 2004, the Convention is not yet in force—Australia has signed, but not yet ratified the convention. It builds on the current western and central Pacific Ocean regional organisations by controlling vessels flying the flags of both the fishing States and the coastal States through proper authorisation and permit system. These provisions also control fishing on the high seas. The Convention includes taking enforcement action irrespective of where violations occur—a marked increase in undertaking. See also Martin Tsamenyi & Lara Manarangi-Trott, ‘The implications of the WCPFC for Australia’s maritime regulation and enforcement’, 91-95.

⁸⁵ *The Convention on the Conservation of Antarctic Marine Living Resources 1980* has 31 State parties and promotes the conservation of Antarctic marine living resources between 60 degrees South latitude and the Antarctic Convergence Zone. The act is implemented in Australia by the *Antarctic Marine Living Resources Conservation Act 1981*.

⁸⁶ *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*, Department of Foreign affairs & Trade, *Australian Treaty series 1993 No. 10*. This Convention was brought into force after the hijacking of the passenger liner MV *Achille Lauro* by Palestinian terrorists in 1985. The Convention closes the gap in the system of law and order at sea created by the limited definition of piracy under LOSC, allowing one State to exercise jurisdiction in another State’s territorial sea for offences concerning seizing control of, damaging or sabotaging ships, damaging navigational systems and acts of violence against persons aboard ships.

⁸⁷ This Convention requires State parties to adopt measures to protect the marine environment and ensure the sound environmental management and development of the natural resources of the South Pacific region. The Australian Acts that implement the Protocol include *Environment Protection (Sea Dumping) Act 1981* and the *Environment Protection and Conservation Act 1999*.

⁸⁸ The Driftnet Convention commits State parties to prohibit nationals and vessels from engaging in driftnet fishing within an area lying within 10-50 degrees South latitude and 50 degrees East – 120 degrees West longitude. Includes Australia’s EEZ. It is implemented in Australia’s *Fisheries Management Act 1991*.

In particular, the *Convention for the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean* (WCPFC) carries a number of maritime constabulary implications for Australia. The WCPFC area comprises most of the western and central Pacific Ocean.⁸⁹ Compliance to the convention's management and conservation measures is, in the first order, obligated to the flag-State of the fishing vessel. However, Article 26 of the WCPFC allows for the boarding and inspection of fishing vessels on the High Seas by member State constabulary vessels 'marked and identifiable as being on government service and authorized to undertake high seas boardings.' 'The master and each member of the crew of the vessel shall immediately comply with every instruction and direction given by an authorised and identified officer of the [WCPFC], including to stop, to move to a safe location, and to facilitate safe boarding and inspection of the vessel, its licence, gear, equipment, records, facilities, fish and fish products.'⁹⁰ Physical enforcement powers also extend to the ports of member States under port-State obligations. Cooperative arrangements within, and by, the Pacific Islands include the coordination of combined EEZ management, surveillance and fisheries enforcement—effectively a licensing regime that allows member States 'to fish within the EEZ of any Pacific Island State and thus the WCPFC as a whole.'⁹¹ Australia and New Zealand, as the more militarily capable States within the western and central Pacific, can reasonably be expected to shoulder a large share of the constabulary requirement, although ambiguities with the specifics of such enforcement procedures remain. For example: the extent of member State responsibility for ensuring compliance of their 'nationals' and flagged vessels with regional fishery management and conservation measures; the measures that may be taken, consistent with international law, to discourage the activities of non-member States attempting to fish within the area; and the procedures and authorisations for boarding and inspection, and compliance enforcement measures, on the High Seas or in the EEZs of other member States.⁹²

⁸⁹ The boundary limits are outlined in Article 3(1) of the Convention for the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

⁹⁰ Article 6(2) of Annex III of the Convention for the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

⁹¹ Martin Tsamenyi & Lara Manarangi-Trott, 'The implications of the WCPFC for Australia's maritime regulation and enforcement', 100.

⁹² *ibid.*, 101.

Globally, it is estimated that illegal, unregulated and unreported fishing accounts for up to 30 per cent of total catch in important fisheries and this could be as high as 300 per cent of permitted catch for some identified species. Greenpeace claim that illegal fishing levels in the Western and Central Pacific Ocean are between five per cent and 15 per cent of all catch. Even this conservative estimate represents lost earnings to Pacific Island States of between \$A 191 million and \$A 571 million per year. And this is up to 400 per cent more than Pacific Island States currently earn in access and licence fees.⁹³

In June 2004, the FAO convened a four-day meeting at its Rome headquarters to assess progress towards implementation of the international protection measures on illegal, unregulated and unreported fishing and on the over-capacity of new generation fishing vessels. According to the FAO reports presented during that meeting, illegal fishing continues to increase in scope and intensity, and there are still too many fishing vessels operating in too few fisheries, with negative consequences for commercial fish stocks. Particular concern was noted at the on-going build up of fishing capacity in those fleets that operate in the Western and Central Pacific.⁹⁴ Resource regulation and enforcement is a growth industry.

Harold Kearsley identifies that:

...the changing nature of the maritime arena, the maintenance of a State's nautical domain, once considered a diversionary pastime to be exercised only when a State's navy was not involved in conducting its 'real' mission of defeating an enemy, has assumed paramount importance. It is clear that if it were necessary to construct a hierarchy of which naval mission was of more importance to almost all States, the maintenance of the national nautical domain would be a leading contender. ...At certain times and in certain locations it is important for governments to establish their authority. If that need is identified at sea, then it is up to a State's naval forces to provide that link with authority.⁹⁵

Given the relatively recent events of illegal immigration, Heard Island fishing infringements, and the current historical patterns emerging from geo-political change, technological development and ocean governance, it seems reasonable to contend that the Royal Australian Navy will continue to become more and more involved in

⁹³ http://www.greenpeace.org.au/oceans/overfishing_and_other_threats/pirate_fishing/index.html

⁹⁴ *ibid.*

⁹⁵ Harold J. Kearsley, *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Company, Aldershot, 190.

constabulary tasks, both independently and in cooperation with neighbouring powers.⁹⁶ This is because Australia's vital interests have changed. Resource management, environmental protection, immigration regulation, quarantine inspection and transnational crime enforcement does, and will continue to, focus the government's attention. This is in addition to observing that, over the last decade, Australia's area of sovereign influence has nearly tripled in size—there is a need, and this need calls for a change of emphasis towards the ship-of-law.

The Ship-of-Law

In the context of this thesis, the ship-of-law refers to naval constabulary vessels: border control, protection of national sovereignty and offshore assets, anti-terrorism deterrence, and ocean resource governance by patrol boats and high endurance cutters. In promoting the founding principles for the utility of the naval instrument Admiral Sir Herbert W. Richmond offered uncomplicated clarity by simply stating the vessel's most basic requirements: being able to reach the area where her services are needed and being able to operate in the manner the performance of those services demands.⁹⁷

...she must be able to reach the place where her opponent is to be found; ... to maintain herself in that position long enough for the services required...⁹⁸ ...the ships whose business it is to control [other] shipping need to be more powerful than they, precisely as the police force must be more powerful than the law breaker... Thus, if the instrument, though capable of tactical victory ...is not strong enough to exercise control, it is useless.⁹⁹ Size ...is positive only in regard to sea-keeping, the limitations of which in the smaller classes of ship render them unable to perform the functions which [their] operations... require.¹⁰⁰

Captain Raymond Bland of the United States Coast Guard Service adds that the law enforcement vessel must have the weaponry small enough for displaying forceful intent, yet large enough to prevent pre-emptive escalation by an adversary, for the purpose of

⁹⁶ '...the requirement to enforce restrictions and conduct surveillance on large remote marine protected areas, such as Antarctica, would place new operational and material demands on the ADF. This potential requirement could necessitate the RAN's investment, alongside other government agencies, in a range of new capabilities and skill sets in order to meet the objectives of Australia's Ocean Policy.' ASCS Naval Public Service Team, *Australia's Ocean Policy and the RAN*, Australian Command and Staff Course, Canberra, 28 October 2003.

⁹⁷ Admiral Sir Herbert W. Richmond, *Naval Warfare*, Ernest Benn Ltd, London, 1930, 95.

⁹⁸ *ibid.*, 86.

⁹⁹ *ibid.*, 88.

bringing-to suspect vessels which refuse to submit to oral demands to heave-to. Compliance enforcement also requires vessels to range the full area of the EEZ, and further with respect to regional agreements, to operate for extended periods in adverse weather, and to successfully enforce the nation's claim to exclusive control—'Claiming control of the EEZ requires that vessels appropriate to the mission be assigned...'¹⁰¹

For the experienced mariner these criteria seem perfectly reasonable; they align operational utility and mission requirement. In summary, ships-of-law need an enforcement capability, geo-environmental reach, and sea keeping particular to the task they are required to do. However, in Australia, the realisation of these characteristics is not always apparent, especially in the numbers that are needed to exercise control over some 20 million square kilometers of ocean area.

On 17 December 2003 Australia entered into a \$A 553 million contract to provide 12 x 56.8 metre 270 tonnes 25 knot *Armidale* Patrol Craft to replace their aging *Fremantle* Class. Two additional *Armidale* Patrol Craft at \$A 116.7 million were approved in 2004.¹⁰² These 14 vessels are very capable, armed with a 20mm Bushmaster chain gun on a gyro-stabilised mounting, 3,000 nautical mile range at 12 knots, and capable of being deployed for up to 42 days. But they are limited in their area of operations by contracted design:

The Patrol Boat Force shall be able to conduct surveillance, patrol and response operations throughout Australia's Marine Jurisdictional Zones and on the high seas by day and by night in all conditions of visibility. Operational areas will include Australia's offshore islands and territories which lie to the north of latitude 50 degrees south, the SW Pacific Ocean and the South Tasman Ridge. The ability to operate in Australia's Antarctic Territories and sub Antarctic Islands is not required¹⁰³

They provide the enforcement capability without the geo-environmental reach and sea keeping 'to range the full area of the EEZ'. This is not meant as a criticism; it is simply stating the limitation of their intended employment ... and in their numbers.

¹⁰⁰ *ibid.*, 87.

¹⁰¹ Captain Raymond D. Bland, US Coast Guard, 'Controlling the EEZ: Implications for Naval Force Planning', *Naval War College Review*, July-August 1984, 29.

¹⁰² <http://www.budget.gov.au/2005-06/bp2/html/expense-04.htm>.

To service Australia's EEZ in the southern oceans and surrounding sub Antarctic Islands the Australian Fisheries Management Authority (AFMA) used to charter the 74 metre civilian P&O vessel *MV Southern Supporter* to patrol the Patagonian toothfish grounds around Heard and MacDonald Islands. Yet its utility and appropriateness has been left wanting on at least two occasions. The first incident, commencing 29 March 2001, occurred when the *Southern Supporter* intercepted the Togo-flagged fishing vessel *South Tomi* illegally fishing for Patagonian toothfish in the Australian EEZ around Heard Island.¹⁰⁴ Rough seas prevented AFMA personnel from boarding so, by radio transmission, the *South Tomi* was ordered to proceed in consort to Fremantle. Initially the *South Tomi* complied with this direction, although, once she had left the Australian EEZ and entered the High Seas, the *South Tomi* altered course away from Fremantle and towards the southern tip of Africa. The *Southern Supporter* initiated pursuit. The pursuit was conducted at 10 knots, traversed a distance of 3,800 nautical miles and lasted 14 days. Eventually, with the assistance of the South African Navy, the *South Tomi* was boarded and arrested, returning under escort across the Indian Ocean to Fremantle, a further distance of 5,300 nautical miles and 19 days passage. Both vessels arrived in Fremantle on 5 May 2001.

The second incident was very similar. On 7 August 2003, the *Southern Supporter* intercepted the Uruguayan-flagged fishing vessel *Viarsa One* also illegally fishing for patagonian toothfish around Heard Island. The fishing vessel fled into the Antarctic circle pursued by the *Southern Supporter*. Eventually, with the assistance of the Royal and South African Navies, the *Viarsa One* was boarded and arrested on 28 August 2003, a hot pursuit stretching 3,900 nautical miles. Both vessels finally arrived in Fremantle 3 October 2003.

While much spin doctoring has been generated concerning this incident, the real point is that both of these pursuits should not have occurred in the first place. The *Southern Supporter* was inappropriate for the mission she was assigned—she had the geo-environmental reach and sea keeping without the enforcement capability. Or as Admiral Richmond would call it: ‘...if the instrument, ...is not strong enough to exercise control,

¹⁰³ Clause 2.1.3 of Attachment A (Statement of Work) to Conditions of Contract for Supply and In Service Support of the *Armidale* Class Patrol Boat (ACPB), Commonwealth of Australia Contract.

it is useless.’¹⁰⁵ The Government’s post-*Viarsa One* incident announcement that it will finally lease an ice-strengthened vessel (*Oceanic Viking*) which will be fitted with a deck mounted 0.50 calibre machine gun, an armed Customs boarding party and Australian fishery officers¹⁰⁶ only draws attention to the inadequacy of the current arrangement. Even the Government’s Fisheries Minister, Senator Ian Macdonald, admits (ten months later): ‘In the past we have found it perhaps a little embarrassing that we’ve had to call upon the South Africans and the British when we couldn’t really help them with an armed patrol in the south.’¹⁰⁷

The Inevitable Transition

From the above constabulary perspective, review of Australia’s Defence White Papers¹⁰⁸ demonstrates the reluctant, although the inevitable, transition of political thinking regarding the military’s involvement in ‘peace-time’ surveillance and response operations. For example, *Strategic Review 1993*¹⁰⁹ and *Defending Australia 1994*¹¹⁰ both contain a recurring message with regard to the determination of military force structure—‘The key roles in providing for the defence of Australia determine the structure, not international or domestic activities.’¹¹¹ In direct reference to domestic activities, *Strategic Review 1993* also states that the ADF should not develop capabilities which supplant the responsibilities of other government agencies, rather it should provide support to these agencies.¹¹² *Defending Australia 1994* recognises that in structuring for the defence of Australia, the ADF has the versatility to become involved in a wide range of activities—‘It is this versatility that permits Defence to become involved in domestic tasks. These tasks however remain incidental to the key roles.’¹¹³

¹⁰⁴ Heard Island is located some 2,500 nautical miles south-west of Perth.

¹⁰⁵ Admiral Sir Herbert W. Richmond, *Naval Warfare*, Ernest Benn Ltd., 88.

¹⁰⁶ Prime Minister John Howard, as reported in *The Canberra Times*, 18 December 2003, 6.

¹⁰⁷ *The Canberra Times*, 20 November 2004, 9.

¹⁰⁸ The author has previously published much of this section—see Bruce McLennan, ‘The Maritime Constabulary Role in Australia: threat or opportunity?’ *Maritime Studies*, Number 125, July / August 2002, 1-14.

¹⁰⁹ Commonwealth of Australia, *Strategic Review 1993*, Australian Government Publishing Service, Canberra, Australia.

¹¹⁰ Commonwealth of Australia, *Defending Australia, Defence White Paper 1994*, Australian Government Publishing Service, Canberra, November 1994.

¹¹¹ *Defending Australia 1994*, 5.

¹¹² *Strategic Review 1993*, 46.

¹¹³ *Defending Australia 1994*, 33.

This debate is encapsulated in *Australia's Strategic Policy 1997* as: 'The ADF does not normally provide services to the civil community...the demands of modern warfare mean that Defence capabilities are highly sophisticated and very expensive. It would be most unusual for the use of defence capabilities to be more cost-effective than using civil alternatives. To do so diverts Defence from its core business, distorts funding priorities and reduces defence capability.'¹¹⁴ *Australia's Strategic Policy 1997* then goes on to describe two standing exceptions, the second of which is 'the use of ADF assets to provide surveillance and response forces for civil authorities off Australia's coasts'¹¹⁵ — an apparent dichotomy.

The most recent White Paper *Defence 2000—Our Future Defence Force* picks up on the themes of coastal surveillance and Defence's increasing role in the conduct of it, as

Australia faces many security concerns other than those involving military force... They... include concerns over illegal immigration, the drug trade, illegal fishing, piracy and quarantine infringements. Many of these problems, such as illegal immigration, involve the challenge of effective surveillance, patrolling and policing of our maritime approaches... The ADF will continue to have a major part to play in these activities. Our patrol boats, maritime surveillance aircraft and intelligence capabilities are fully engaged in the day to day monitoring and policing of our maritime approaches, and their efforts are closely integrated with other agencies. These capabilities will be maintained and enhanced.¹¹⁶

The Coast Guard Debate

Defence's increasing role in the conduct of coastal surveillance gained public attention when on 23 January 2000, the then leader of the Opposition, Kim Beazley, released the Australian Labor Party's policy to establish an Australian Coast Guard. The policy defines the Australian Coast Guard's role as 'the detection, surveillance and law enforcement response to people smuggling, drug smuggling and illegal fishing, search and rescue operations, and maritime safety.'¹¹⁷ Its charter includes defence, quarantine, and fisheries functions, and responsibility for environment protection and pollution

¹¹⁴ *Australia's Strategic Policy*, Department of Defence, Defence Publishing and Visual Communications, Canberra, 1997, 34-5.

¹¹⁵ *ibid.*, 35.

¹¹⁶ Commonwealth of Australia, *Defence 2000, Our Future Defence Force*, Australian Government Publishing Service, Canberra, 12.

¹¹⁷ David Cox, MP 'Dissenting Report' Joint Committee of Public Accounts and Audit, *Report 384 – Review of Coastwatch*, August 2001, Canberra.

control. It would also have primary responsibility for the maintenance and enforcement of Commonwealth maritime law.

The financial, personnel, and physical resources to establish the Australian Coast Guard already exist across various Commonwealth agencies...by bringing these resources together in one integrated agency, the Australian Coast Guard would be able to deliver coastal surveillance more effectively and more efficiently than under the current arrangements.¹¹⁸

Not surprisingly, on the eve of a federal election, the Coalition Government was less than embracing of Labor's initiative. The then Minister for Defence, Peter Reith, labeled it as

a quite incredible proposition' from the point of view of asserting that the Navy, 'was not as good as defending Australia's approaches as some new semi-bureaucratic organisation would be... It is incredible that his proposition is to take the Navy out of these operations, and send it back to port, and then employ a whole lot of people who will go out basically under some new bureaucratic department to manage a function which I think the Royal Australian Navy has done very well.'¹¹⁹

The Joint Committee of Public Accounts and Audit was at that time reviewing the effectiveness of Coastwatch, the coordinating agency for maritime surveillance and response. The recommendations evolving from this report were quickly 'politicised', effectively splitting the Committee along party lines. For the first time in ten years, a Public Accounts Committee could not agree and had to produce a 'dissenting report'—status quo 'Coastwatch represents the best value for money'¹²⁰ on one hand, and '...it is now time to implement a more robust structure with direct responsibility for the control of the principal surveillance and response platform',¹²¹ on the other.

Speaking to the Australian Labor Party's proposed Australian Coast Guard Bill on 24 September 2001, the then Leader of the Opposition, Kim Beazley stated that national security was not simply a matter any longer of preparing to fight against other States. It

¹¹⁸ *ibid.*

¹¹⁹ Peter Reith as quoted by Trevor Thomas in 'Coast Guard V Coastwatch – Who's right?' *Australian Defence Business Review*, 28 September 2001, 11.

¹²⁰ Mr Bob Charles MP, Chairman of the JCPAA, 'Foreward' *Joint Committee of Public Accounts and Audit, Report 384 Review of Coastwatch*, Commonwealth of Australia, August 2001, x.

¹²¹ Mr David Cox MP, Deputy Chairman of the JCPAA, as quoted by Trevor Thomas, 'Coast Guard V Coastwatch – Who's right?', *Australian Defence Business Review*, 28 September 2001.

was also about protecting communities from threats, which have no clear State base. 'As I speak, there is no single agency with the core role of law enforcement and border protection in Australia's maritime jurisdiction.'¹²² The proposed Australian Coast Guard would become the nation's maritime police force: '...on the beat 52 weeks a year, not just for a few weeks on the eve of an election. For the first time, Australia will have a dedicated agency with full-time responsibility and capability to protect Australia's sea borders and maritime interests.'¹²³

Commenting on the then deployments of naval frigates in northern waters to deter illegal immigrants, Kim Beazley added: '...when we have a Coast Guard, our Defence Force can stop playing policeman, and get on with the job it is supposed to do: defending Australia from attack and preparing for war when called to do so.'¹²⁴

In response to reports that these frigate deployments were costing nearly \$A 20 million per week, the then Shadow Defence Minister, Dr Stephen Martin, stated that this was 'proof of why the nation needs a Coast Guard service. Navy frigates are designed for war. It is for this reason that most other developed western maritime nations have a single dedicated agency designed to police its maritime zones and protect its ocean borders in peace time.'¹²⁵

The Australian Labor Party's Coast Guard initiative has sought to reform the structure, and number of agencies responsible, for conducting Australia's coastal surveillance and maritime protection needs. Currently, the Australian Customs Service's coordinating agency, Coastwatch, controls surveillance and response operations according to the needs of 'other' clients. These clients include the following Commonwealth Government agencies and departments: Australian Fisheries Management Authority, Australian Maritime Safety Authority, Department of Immigration and Multicultural Affairs, Department of Foreign Affairs and Trade, Australian Quarantine and Inspection Service, Environment Australia, Great Barrier Reef Marine Park Authority, Australian

¹²² Kim Beazley as quoted by Trevor Thomas, 'Coast Guard V Coastwatch—Who's right?' *Australian Defence Business Review*, 28 September 2001, 10.

¹²³ *ibid.*

¹²⁴ *ibid.*

¹²⁵ Dr Stephen Martin, 10 September 2001, as quoted by Trevor Thomas, 'Coast Guard Vs Coastwatch — Who's right?', *Australian Defence Business Review*, 28 September 2001.

Federal Police, Australian Search and Rescue, and also various State Government Departments and locally based agencies.

Initially, the 'Coastwatch' concept was developed in 1968 following a request from the then Department of Primary Industries to Defence to patrol Australia's newly claimed 12-nautical mile territorial sea. During the 1970s, surveillance operations were extended to counter the quarantine risk posed by Indonesian fishermen searching for trochus shellfish, and Vietnamese 'boat people' landing as refugees on the shores of northern Australia. In 1978, an internal Government review resulted in an increase Defence commitment to surveillance, and the addition of inshore air surveillance patrols using chartered civilian aircraft. Coordination was conducted initially by the Department of Transport's Marine Operation Centre, but in 1981 the title 'Coastwatch' was created. In 1984, reacting to the increased political emphasis given to countering drug smuggling, Coastwatch was transferred to the Australian Federal Police's Coast Protection Unit. Following the 1986 *Footprints in the Sand* report,¹²⁶ Coastwatch was transferred back to the Department of Transport.

The pivotal review of the Coastwatch function was the 1988 *Hudson Report*.¹²⁷ This report recommended coastal and offshore surveillance be coordinated by a newly created independent agency, the Australian Safety and Coastwatch Agency, and that this agency be serviced, but not administered, by the then Department of Transport and Communications. While many of the *Hudson Report*'s recommendations were accepted by Government, the creation of an independent agency was not. Instead, the Coastwatch function was placed within the Customs organisation, where it remains.¹²⁸ Since 1988 there has been a steady stream of reviews related to Coastwatch operations¹²⁹—as the 'orphan' vainly searched for its place within the Australian Government's bureaucracy.

The Australian Coast Guard, as proposed by Labor, would be an extension of the current Coastwatch—an independent agency with both surveillance and integrated

¹²⁶ House of Representatives, Standing Committee on Expenditure, *Footprints in the Sand*, Canberra, May 1986.

¹²⁷ Hugh Hudson, *Northern Approaches, a Report on the Administration of Civil Coastal Surveillance in Northern Australia*, AGPS, Canberra, April 1988.

¹²⁸ Minister for Science, Customs and Small Business, *Coastal Surveillance to Customs*, Media Release, Canberra, 12 July 1988.

response capabilities. It would be structured as a ‘maritime police force’ within the Justice and Customs portfolio. It would be responsible for all Commonwealth maritime policing functions—including illegal immigration and refugee interception, quarantine enforcement, illegal fishing interception, and customs regulation enforcement. These responsibilities will include maritime surveillance and response operations, the collection and coordination of intelligence, maritime search and rescue, anti-pollution functions and the enforcement components of Australia’s Ocean Policy. It is also proposed, in times of declared emergencies, conflict and war, the Coast Guard will come under military command, and act as a fourth arm of the Australian Defence Force.

The concept of an independent Australian Coast Guard is not new, although it has never before been so politically embraced. In April 1997, for example, the Australian Defence Studies Centre, Australian Defence Force Academy, and the Centre for Maritime Policy, University of Wollongong, jointly hosted a conference, in Canberra, to review the political, operational, legal, and administrative issues associated with the regulation and enforcement of Australia’s rights and responsibilities in the extensive offshore areas over which Australia exercises some degree of jurisdiction. This conference concluded:

[T]he maritime surveillance and enforcement task in Australia at present involves a multitude of agencies with overlapping responsibilities and powers. Although Coastwatch is doing an excellent job with limited resources and authority, the task of policing Australia’s offshore zones is becoming both more complex and more demanding. Serious deficiencies are apparent in the national capability to exercise our rights and fulfil our responsibilities in respect of the very large offshore areas over which Australia has jurisdiction. The present approach of partnership and shared responsibility, with management through committees, is not up to the requirements of the task and there is an urgent need for a more holistic and integrated approach to maritime surveillance and enforcement.¹³⁰

These deficiencies were somewhat more harshly highlighted by Derek Woolner, 20 March 2002: ‘there is no agency with... the legislative authority for overall law enforcement in the nation’s maritime jurisdiction—Coastwatch has no legislative basis’

¹²⁹ A list of reviews can be found at Auditor-General, *Audit Report No.38. 1999-2000, Coastwatch, Australian Customs Service*, 111.

¹³⁰ Sam Bateman and Anthony Bergin, ‘Conference Summation’, in Doug MacKinnon and Dick Sherwood, (eds), *Policing Australia’s Offshore Zones: Problems and Prospects*, Wollongong Papers on Maritime Policy No.9, University of Wollongong, 1997, 298.

and ‘breakdowns in inter-agency coordination most consistently explain failures of the system.’ Woolner summarised these and other problems as a ‘caution and lack of common purpose among agencies’, and a ‘competition for existing resources and unwillingness to own non-portfolio problems’. Woolner claims this manifests as ‘policy incapacity... crisis driven incrementalism... confusion of focus... [and] ...decisions of short lived utility’.¹³¹

Dr Martin appealed to the Australian public that: ‘for the sake of national security ...it is time for a coordinated dedicated single agency such as Coast Guard. The current arrangements for border surveillance are a bureaucratic mismatch of Commonwealth agencies and Labor’s Coast Guard would streamline this and provide better outcomes.’ He then added: ‘ the Howard Government would rather spend \$20 million a week on an ad hoc, knee-jerk operation in Australia’s northern waters rather than establish a Coast Guard that would provide excellent coastal surveillance 52 weeks a year, without compromising our naval resources.’¹³²

On the other hand, the Government, through the Joint Committee of Public Accounts and Audit’s *Report 384 Review of Coastwatch*, has countered as follows:

The Committee has evaluated various models for a future coastwatch function, including that represented by the current Coastwatch. The criteria used by the Committee has been whether the model provided better use of scarce resources and whether it will result in improved performance. The Committee has concluded that the current Coastwatch represents the best value for money. Indeed, Coastwatch could be regarded as an outsourced coastguard—its core function of coordination is retained, while its assets and the risk associated with asset ownership (performance, maintenance, repair and replacement) are borne by other entities. Such an arrangement allows flexibility in a world of changing threats and rapidly developing technology.¹³³

Following the August 2003 21-day 3,900-nautical-mile chase across the southern oceans of the Uruguayan vessel *Viarsa One*, Prime Minister John Howard announced,

¹³¹ Derek Woolner, Visiting Fellow, Australian Defence Studies Centre, Australian Defence Force Academy, during his presentation ‘*A Headless Hydra? Managing Maritime Border Protection*’, 20 March 2002.

¹³² Dr Stephen Martin, 26 September 2001, as cited in Trevor Thomas, ‘Coast Guard Vs Coastwatch – Who’s right?’.

18 December 2003, that full-time armed patrols of remote and ecologically sensitive parts of the southern ocean would be added to the existing patrol program. ‘Specifically, the Australian Customs Service will lease an ice-strengthened vessel which will a deck mounted 0.50 calibre machine gun, an armed Customs boarding party and Australian fishery officers.’¹³⁴ Labor’s homeland security spokesman Robert McClelland and fisheries spokesman Gavin O’Connor replied that this plan, while welcomed, meant the Government was simply reacting to a problem with a short-term fix. ‘Australia needs a proactive approach to border security, like Labor’s plan to establish a full-time dedicated Coast Guard, under a unified Federal Department of Homeland Security.’¹³⁵

A year later the Prime Minister initiated the *Taskforce on Offshore Maritime Security*, which reported to Government in November 2004.¹³⁶ This report identified ‘the lack of centralised coordination and integration of all information relevant to the maritime domain ... No single picture currently exists...’¹³⁷ and recommended the establishment of the Joint Offshore Protection Command, the implementation of the Australian Maritime Identification System (AMIS),¹³⁸ and augmented security patrols in the North West Shelf and Timor Sea. The intention is to achieve an enhanced level of security through a more integrated approach. An approach that combines:

- warning and maritime domain awareness (achieved through intelligence, cooperative international action, surveillance and the integrated use and analysis of available maritime information);

¹³³ Bob Charles MP, Chairman, ‘Forward’, *Joint Committee of Public Accounts and Audit, Report 384 Review of Coastwatch*, x.

¹³⁴ Prime Minister John Howard, as reported in *The Canberra Times*, 18 December 2003, 6.

¹³⁵ Robert McClelland, as reported in *The Canberra Times*, 18 December 2003, 6.

¹³⁶ http://www.pm.gov.au/news/media_releases/media_Release1173.html.

¹³⁷ Rear Admiral Russ Crane, RAN, Director General Coastwatch, 4 May 2005, ‘Increasing our offshore maritime security’, *Defence*, Department of Defence, Canberra, May 2005, 20-21.

¹³⁸ The Australian Maritime Identification System proposes the following graduated application:

- Up to 1,000 nautical miles or 48 hours steaming from the Australian coast, Australia will seek advanced arrival information from International Ship and Port Security Code vessels whose next port of call is in Australia. This information, on ship identity, crew, cargo, location, course, speed, and intended port of arrival is already collected for Australian Customs and International Ship and Port Security Code (ISPS Code) purposes.
- Up to 500 nautical miles or 24 hours steaming from Australia, information will be sought, on a wholly voluntary basis, on identity, course and speed from vessels proposing to transit Australia’s exclusive economic zone or territorial sea.

Within Australia’s Exclusive Economic Zone, the aim will be to identify all vessels, other than day recreational boats.

- deterrence (achieved through cooperative bilateral and multilateral action, increased patrolling and the demonstration of the intent and capability to achieve effective offshore maritime security);
- response (based on informed and effective planning and preparedness, clear command and control and sufficient available capabilities);
- enhanced protective security measures for offshore platforms, related onshore facilities and ports; and
- clear and practiced consequence management arrangements.¹³⁹

The new Headquarters of the Joint Offshore Protection Command was opened in March 2005. Co-located with Coastwatch, with a common Commander,¹⁴⁰ and with staff drawn from both Defence and Customs, it attempts to link offshore counter-terrorism with civil maritime surveillance and response coordination.¹⁴¹ While, within this initiative, there is still no single agency with legislative authority for overall law enforcement, the Joint Offshore Protection Command may improve inter-agency response coordination, or it may add yet another bureaucratic management level to an already ‘crisis driven, short-focused’ process. The Labor Party dismissed the initiative as: ‘the Government’s plan doesn’t offer any extra ships and too few resources for the task... What we’re talking about to guard our coastline—and the Government’s talking about out to 1,000 nautical miles—we’re talking, essentially, about 12 [14] naval patrol vessels and eight customs vessels.’¹⁴²

Regardless of the strengths and weaknesses in each argument, Labor, by introducing their Australian Coast Guard concept on the eve of a federal election, has destined their initiative to the realm of party politics. Australia, and the organisations responsible to effect maritime surveillance and response, now waits for the next election. Yet the real ‘need’ remains unanswered.

¹³⁹ http://www.dotars.gov.au/transsec/docs/Strengthening_offshore.pdf viewed 15 June 2005.

¹⁴⁰ Rear Admiral Russ Crane, RAN, is both the Director General Coastwatch, and the Commander of the Joint Offshore Protection Command.

¹⁴¹ http://www.dotars.gov.au/transsec/docs/Strengthening_offshore.pdf viewed 15 June 2005.

¹⁴² Robert McClelland, Shadow spokesman for Defence and Homeland Security, <http://www.abc.net.au/pm/content/2004/s1266082.htm> viewed 16 June 2005.

An Ocean Patrol Ship

In March 1986 Paul Dibb reported to Government that:

Our surface ship requirements can thus be narrowed down to a mix of general purpose naval capabilities... [including] An intermediate class of ship—an ocean patrol ship, perhaps to be known as a light patrol frigate—is required to provide an effective and sustained presence in our focal maritime areas, in more exposed or distant waters ... and at the outer limits of our fishing and resource zones. An organic helicopter capacity, principally for reconnaissance, would provide a desirable element of flexibility... such a vessel would not require the same comprehensive weapons and sensor capabilities as a destroyer....^[143] ... This review recommends that we build in Australia a new class of ocean patrol ship / light patrol frigate to complement our guided missile frigates and destroyers and our Fremantle class patrol boats. The new vessels would perform patrol, sovereignty and protection tasks for which smaller patrol boats are unsuitable, but which do not require the full range of capabilities of a destroyer-type ship.¹⁴⁴

Informed by this review, the then Minister of Defence, the Hon. Kim Beazley, presented to Parliament the 1987 Defence White Paper, *The Defence of Australia 1987*:

Present planning for the development of the surface combatant force envisages three broad levels of capability... The second level comprises ships of lesser capability, suitable for dealing with lesser forms of military pressure which could arise in Australia's area of direct military interest. A new class of vessel—a light patrol frigate—has been proposed for this level of capability... They will need endurance, sea-keeping and combat capabilities commensurate with these tasks, and will be able to embark Seahawk helicopters.¹⁴⁵

The prime contract with the then Australian Marine Engineering Consolidated, now Tenix Defence, was signed on 10 November 1989 for a design variant of the German MEKO 200 Class frigate, and thus the ANZAC Ship Project was born. At \$A 7 billion (2006 dollars), the ANZAC Ship contract is the largest single defence contract ever awarded in Australia. The first ANZAC Ship, HMAS *ANZAC*, was commissioned into the Royal Australian Navy 18 May 1996. As at 16 June 2006,¹⁴⁶ all ten ships will have been delivered, including two for New Zealand (Ships 02 and 04, HMNZ Ships *Te Kaha* and *Te Mana*), and all four Shore Support Facilities. By any measure, the

¹⁴³ Paul Dibb, *Review of Australia's Defence Capabilities*, Report to the Minister for Defence, Australian Government Publishing Service, Canberra, March 1986, 72.

¹⁴⁴ *ibid*, 149.

¹⁴⁵ Kim Beazley, *The Defence of Australia 1987: A policy information paper*, Australian Government Publishing Service, Canberra, 1987, 44.

¹⁴⁶ The delivery date of HMAS *Perth*, ANZAC Ship 10.

ANZAC Ships have been a remarkable achievement. Over the last ten years, the ANZAC Ships have become the combatant workhorses of the Royal Australian Navy—defending Australia’s overseas interests throughout the oceans of the world including gunfire support to British forces ashore on the Al Faw Peninsular during the second Gulf War in 2003 and maintaining Australia’s frontline in the Persian Gulf operations—hardly the 2nd tier ‘Ocean Patrol Ship’ that they were envisaged to be.

The ANZAC Frigate now has the ‘full range of capabilities of a destroyer-type ship.’ The ‘three broad levels of capability’ (or tiered capability structure) referred to by Kim Beazley has lost favour and the capability upgrades being undertaken appear as a steady stream of combat improvements—they include the Nulka Active Missile Decoy, Evolved Sea Sparrow Missile (ESSM), RGM 84 Harpoon Block II anti-ship missile, Mine and Obstacle Avoidance Sonar (MOAS), and the most recent ANZAC Anti-Ship Missile Defence (ASMD) package of upgrades.

By the end of June 2006 all eight Australian ANZAC Ships will have been converted to fire the ESSM anti-air missile giving them a magnitude increase in missile kinematics, combat range, and combat effectiveness, and a four fold increase in inventory. The first installation of Harpoon was achieved in December 2004 in HMAS *Warramunga* and the first MOAS installation commenced in HMAS *Arunta* in March 2005. Both of these installations are being progressed through the Class on an opportunity basis.

In 2005, the Australian Government approved the ASMD project; a project designed to deliver a substantial upgrade to the ASMD capabilities to defend themselves, and closely escorted vessels, from emerging missile threats. The upgrade will include an Infra Red Search and Track system, an upgraded COTS based combat system, the indigenously developed *CEA Technologies* phased array target indication and tracking radar, CEA-FAR, and a phased array missile illuminator, CEA-MOUNT. Installation is programmed from 2009 to 2013. Further capability enhancements to the ANZAC Ship’s ‘SPS 49 long range volume search radar and electronic sensor systems’ (\$A 350-450 million) are being planned.¹⁴⁷ At the launch of ANZAC Ship 10, HMAS *Perth*, 20 March 2004, the then Defence Minister Senator Robert Hill commented ‘The ANZACs

¹⁴⁷ *Defence Capability Plan 2006 – 2016* Public Version, Commonwealth of Australia, 2006, 124 & 142.

have provided a major capability boost for Navy...'¹⁴⁸ Immediate prior to the ship's handover, the current Defence Minister Dr Brendon Nelson, added 'The ANZAC ships will continue to represent Australia in our most dangerous and demanding situations. The Government will ensure their military capability will continue to be enhanced to meet the evolving threat.'¹⁴⁹

The requirement for an Ocean Patrol Ship to provide an effective and sustained presence in Australia's focal maritime areas, in the more exposed or distant waters, and at the outer limits of Australia's fishing and resource zones remains outstanding. To satisfy this requirement there are two, among many, approaches that seem to carry standing—the United States Coast Guard's Integrated Deep Water System program, Project *Deepwater*, and the Royal Danish Navy's *Absalon* Class flexible support ship.

Project *Deepwater*

The United States Coast Guard's Project *Deepwater* is intended to replace or modernize more than 90 ships and 200 aircraft used in the Coast Guard's deep water missions (classified as more than 50 miles offshore). Coast Guard activities in this zone have been identified as 'requiring extended on-scene presence, long transits to operating areas, and forward deployment of forces'¹⁵⁰, undertaken fourteen different major mission types including 'drug and migrant interdiction operations, homeland security, and fisheries law enforcement.'¹⁵¹ These responsibilities sound very familiar, they include the maritime surveillance and response operations, the collection and coordination of intelligence, maritime search and rescue, anti-pollution functions and the enforcement components as similarly listed in Australia's Ocean Policy.

The United States Coast Guard began planning a recapitalization program to replace their existing deep water-capable assets in 1996. Instead of proposing a traditional one-for-one asset replacement program, the Coast Guard invited industry to develop

¹⁴⁸ 'ANZAC Ship Project – The Final Milestone - \$7 billion project's in ship shape', *Herald Sun*, Thursday 15 June 2006, 62

¹⁴⁹ *ibid.*

¹⁵⁰ The United States House of Representatives Subcommittee on Coast Guard and Maritime Transportation Hearing, 20 April 2005, to review the Coast Guard's Integrated *Deepwater* System program (*Deepwater*) and the recently submitted Revised *Deepwater* Implementation Plan at www.TheIntegratedDeepwaterSystemACutterFleetforthe21st-CenturyUSCoastGuard_files/DeepwaterImplementation.htm

¹⁵¹ *ibid.*

competing proposals for a single, integrated package of ships, aircraft, and associated systems that would optimize performance of deep water missions while minimizing life-cycle costs.¹⁵²

On 25 June 2002, the Department of Transportation announced the award of a multi-year contract for *Deepwater* to Integrated Coast Guard Systems (ICGS), a joint venture established by Lockheed Martin and Northrop Grumman. *Deepwater*'s build-out plan was based on a 20-year projected funding stream of \$US 500 million (in 1998 dollars) per year beginning in fiscal year 2003. But on 25 March 2005, the Coast Guard submitted a Revised *Deepwater* Implementation Plan that proposed an amended baseline and a modified acquisition schedule. Under the revised plan, the total cost of the *Deepwater* program has increased to an estimated \$US 19-24 billion (in 2002 dollars). The revised plan also includes a modified acquisition schedule and asset specifications that would require funding over a 20-25 year period (completion in 2021-2026).

Deepwater's objectives in the surface arena call for the design and development of three new classes of cutters—each featuring higher reliability, greater ease of maintenance, improved operational effectiveness, and reduced manning—and all at lower total-operating costs. The Coast Guard plans for its new cutters to operate as integrated elements in the *Deepwater* system of systems of air and surface platforms, all highly interoperable as the result of their modern systems for command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR).

At a planned length of 127.4 metres (418 feet), the Maritime Security Cutter, Large (WMSL), also formerly known as the National Security Cutter, is the largest of *Deepwater*'s three cutter classes. With a displacement of 4,300 tons, CODAG main machinery (one LM2500 gas turbine and two MTU20V 1163 diesels) it will have maximum speed of 28-9 knots, an endurance of 60 days, and range at 9 knots of 12,000 miles. The WMSL will have the improved sea keeping, operational capabilities, and

¹⁵² Department of Homeland Security, United States Coast Guard Statement of Admiral Thomas H. Collins on the *Deepwater* Implementation before the Subcommittee on Coast Guard & Maritime Transportation Committee on Transportation & Infrastructure U. S. House of Representatives 20 April 2005

endurance appropriate for the Coast Guard's most demanding missions, including stern ramps for the rapid launch and recovery of their 11 metre interceptor craft and armed with a Bofors 57mm/70 Mk3 gun and Phalanx 20mm CIWS. The Coast Guard awarded two contracts on 2 April 2003 to Northrop Grumman Corporation's Ships Systems sector for the design and long lead materiel procurement of the first of eight WMSLs. Lockheed Martin is providing the command, control, communications and intelligence (C3I) integration and hardware. Detail design work is being conducted at Northrop Grumman's New Orleans Engineering Center of Excellence. Fabrication of the first WMSL is planned to begin in 2005, with the ship's initial operational capability projected for 2007.¹⁵³

The Maritime Security Cutter, Medium (WMSM), or formerly the Offshore Patrol Cutter, at a planned length of 106.7 metres (350 feet) is the middle of three platforms. With a displacement of 3,200 tons, CODAD main machinery (four diesels, 2 shafts, cp propellers) it will have maximum speed of 28 knots and range at 9 knots of 9,000 miles. The WMSM will have many of the improved sea keeping and operational capabilities of the WMSL including the stern ramps for the 11 metre interceptor craft and a 57mm gun. Contract for the accelerated design of this class was signed with Northrop Grumman Ship Systems 10 June 2004 with construction expected to start in 2009 for entry into service in 2012. The proposed build program is for 25 ships.¹⁵⁴

The third and smallest class is the Maritime Patrol Coastal Cutter, formerly known as the Fast Response Cutter. This asset represents the capabilities already inherent in the Australian *Armidale* Patrol Craft.

Each of *Deepwater*'s new cutters will be more capable than today's fleet that they will eventually replace. Crew size, the most significant contributor to a ship's total life-cycle cost, is being reduced through a variety of means, including a greater reliance on automated systems, the use of human-centred engineering principles; dual-gender berthing accommodations to enable more flexible crew assignment; and by applying the lessons learned from past multi-crewing program analysis. Other planned improvements include large hangars that will accommodate a mix of helicopter types and unmanned

¹⁵³ *Jane's Fighting Ships*, Jane's Information Group, <http://intranet.defence.gov.au/janes/jfshtm.htm>

¹⁵⁴ *ibid.*

aerial vehicles (UAVs); a 360-degree visibility bridge to enhance operational awareness and safety; and improved sea keeping enabling small boat and flight deck operations in higher sea states.

However, the feature most attractive for Australia is the program's integrated philosophy. As previously discussed, data collection, processing, analysis, and storage for network-centric information grids will not necessarily remain organic to the ships at sea; they will be accomplished ashore; at-sea commanders will be, as never before, dependent on capabilities that lie beyond, perhaps well beyond, their control.¹⁵⁵ What the Americans are doing is treating their ships and other sensor units as nodes within a shared common picture network, sharing the products of many different surveillance and information assets, and integrating their assets and associated systems to optimize coverage and performance in deep water missions—they are elements in the *Deepwater*'s system of systems. Yet even with these advantages the Coast Guard realise that they still need the 'numbers' in order to respond. Numbers are required to exercise governance control over vast tracts of ocean, and numbers are still required to maximise the effectiveness of integrated network-centric information and command grids. With their modern technology, low operating cost focus, and low-cost build advantages inherent in multi-ship procurement programs *Deepwater*'s Maritime Security Cutters offer Australia an interesting opportunity to satisfy a long standing ocean patrol ship surveillance and response deficiency.

Flexible Support Ships

An alternative approach resides with the two Danish *Absalon* Class flexible support ships, HDM Ships *Absalon* and *Esbern Snare*. These ships were commissioned into the Royal Danish Navy in July 2004 and February 2005 respectively. At 6,300 tons displacement, 137 metres (449.6 feet) in length and with CODAD (two MTU 8000 diesels – 22,300 hp (16.63 MW)) main machinery they have a sustained top speed of 23 knots and a range of over 9,000 nautical miles at 15 knots. The ship's aviation facilities include a hangar dimensioned to store two EH101 *Merlin* / UH60 *Blackhawk* sized helicopters and receive a 20-tonne-class CH-47D/F *Chinook* helicopter. They also carry an aircrew briefing room, maintenance support facility, night vision compatible lighting

¹⁵⁵ Roger Barnett, 'Naval Power for a New American Century', *Naval War College Review*, Washington, Winter 2002, Volume 55, Issue 1, 43-63.

and helicopter handling systems. However, as an Ocean Patrol Ship they offer their parent Service two unique, and highly flexible, capabilities: a Ro-Ro ramp giving access to a 900m² multipurpose vehicle deck (known as the flex deck); and positions for up to five Standard Flex (Stanflex) mission modularity containers.¹⁵⁶

The 900m² multipurpose vehicle deck offers considerable versatility. For example each ship has a company of 99 personnel and can accommodate up to 70 additional personnel in dedicated accommodation spaces. But, with accommodation containers carried on the vehicle deck, 130 additional personnel could also be carried. The vehicle deck could otherwise carry a '40-vehicle Danish Army reconnaissance squadron'¹⁵⁷ or seven Leopard 2A5 main battle tanks weighing 62 tonnes each, or 32 standard 20-foot shipping containers. In the later example, the ship could be configured as a containerised field hospital, with a medical staff of 70, having the capability to 'perform 10 surgical operations and 30-40 emergency treatments per day ... [including] a ward with 40 hospital-type beds.'¹⁵⁸

The five Stanflex Mission Modularity containers offer additional flexibility through alternate combat configurations. The flexibility is provided by 101 possible containers of 11 different types, weighing up to 18 tonnes, containing combinations of either the anti-air Evolved Sea Sparrow Missiles (ESSM), surface-to-surface/land attack Harpoon Block II missiles, a 76mm fully automatic main gun, a variable depth sonar including the launching and recovery system, or any number of other systems that the imagination could conceive including pollution control equipment or specialist storage. Apparently, the latest mission module is a signals intelligence / electronic intelligence configuration including operator workstations that could also, conceivably, be operated ashore from the back of a truck.¹⁵⁹

The Stanflex container system was originally developed by the Danes for their 300-tonne *Flyvefisker* Class Stanflex 300 patrol craft. These patrol craft were built in composite, and the same concept of flexible combat configurations has since been

¹⁵⁶ *Jane's Fighting Ships*, Jane's Information Group.

¹⁵⁷ Joris Janseen Lok, 'New Danish combat support ships offer greater flexibility for NATO operations', *Jane's International Defence Review*, June 2006, 78-85.

¹⁵⁸ *ibid.*

¹⁵⁹ *ibid.*

adapted for five different ship classes. Common Stanflex fittings across all ships are the container mounts, the interface panels with standard connections for power and cooling, and the self-configuring open-architecture 'plug-n-play' combat management system. Almost every ship in the Royal Danish Navy is now so equipped.

While such flexibility and versatility is not limitless, and implemented capability in practise is usually more difficult to realise than in theory, this example nevertheless provides exciting options for an Australian Ocean Patrol Ship. For example, such inherent versatility could make a significant contribution to the sustainment of the Australian-led Regional Assistance Mission to the Solomon Islands (RAMSI).¹⁶⁰ The ADF's force component consists of approximately 400 infantry soldiers (1 RAR and 3 RAR), two Army UH-1H *Iroquois* helicopters, RAAF Air Field Defence Guards assisting in the security of Henderson Airfield in Honiara, Navy patrol boats operating in support of the Police effort, and headquarters staff who are coordinating the military support effort. An ice-strengthen version of a Flexible Support Ship could also be of considerable utility supporting Antarctic activities and Australian obligations associated with CCAMLR's¹⁶¹ regulatory regime. Certainly, the Flexible Support Ships are option providers.

Conclusion

In both geographical and political terms Australia is a large insular landmass, surrounded by sea and occupied by a single nation-State. By virtue of both, Australia claims a territorial sea and Exclusive Economic Zone of some 16 million square kilometers. This increases to over 20 million square kilometers when including the access to the resources of the seabed within Australia's extended continental shelf. Australia's maritime search and rescue responsibilities extend two-thirds of the way across the Indian Ocean, and south to the Antarctic coast. Its economy is absolutely dependent on shipping—of international trade 99 per cent by bulk and 73.5 per cent by

¹⁶⁰ The Australian Defence Force (ADF) contribution is known as Operation Anode. RAMSI's assistance is known as Operation HELPEM FREN (Pidgin English for 'Helping Friend'). RAMSI's mission is to assist the Solomon Islands' Government in restoring law and order. The military component of RAMSI comprises of personnel from five troop contributing nations; Australia, New Zealand, Fiji, Papua New Guinea and Tonga. The main task for the military component is to provide security for RAMSI's multinational Participating Police Force.

¹⁶¹ *Convention for the Conservation of Antarctic Marine Living Resources* (CCAMLR)

value is carried by ship,¹⁶² with about 95 per cent of that in foreign flagged vessels. Employment and trade are intrinsically linked—one in five jobs in the city and one in four jobs in the country are directly related to the export of goods.¹⁶³ Australia is a maritime nation reliant on the maintenance of good-order within its vast sea surrounds.

Biologically, the breath of the Australian marine environment extends from the tropics to the southern temperate waters where as much as 80 per cent of the species are endemic. Marine industries (fishing, marine tourism, aquaculture) continue to grow in stature and importance to the Australian economy—some \$A 1.84 billion in seafood products alone. The oil and gas industry, in 2003/4, provided \$A 8.8 billion in export earnings.¹⁶⁴ And new forms of ocean utilisation in the form of submarine mining, energy extraction and fresh water filtration will develop in the future. Australia may have been given the right to explore and exploit her maritime domain, but she has also been given the responsibility to conserve and manage the species and resources that lie within it.¹⁶⁵

‘For Australia the strategic influence of the sea is all encompassing.’¹⁶⁶ Australia now lives in a new maritime strategic era that has progressively developed in the last twenty years and escalated in the last ten. Against the complex background of change created by the end of the Cold War, the rise of American Imperium, globalisation and information technology, and the arrival of ocean enclosure, the advent of transnational terrorism and the delimitation of territorial rights and obligations pursuant upon the LOSC have become critical factors in maritime strategic analysis. ‘Terrorism and territoriality are factors driving an increasing intermeshing of maritime legal and maritime strategic areas of concern. Maritime regimes and polices are not simply diplomatic and policing issues...’¹⁶⁷; they are strategic issues. The asymmetric threats of terrorism and criminality, as demonstrated in Southeast Asia, have generated new and

¹⁶² Bureau of Transport & Regional Economics, *Australian Transport Statistics – 2003*.

¹⁶³ Department of Foreign Affairs & Trade, *Fact Sheet: Why Trade Matters*, 22 December 2002.

¹⁶⁴ *Defence*, May 2005, 21.

¹⁶⁵ Article 56 of the Law of the Sea Convention.

¹⁶⁶ Vice Admiral Chris Ritchie, AO, RAN, ‘Sailing into the Future’, Glenn Kerr (ed), *Australian Maritime Issues 2004*, 41.

¹⁶⁷ John Reeve ‘Terrorism and territoriality: a new maritime strategic era’, in Rachael Heath & Barry Snushall, *Protecting Maritime Resources: Boundary delimitation, resource conflicts and constabulary responsibilities*, 67.

immediate threats to Australian interests, and they call for a regional constabulary response.

The Ocean Our Future argues: ‘The role of navies and, where appropriate, other maritime security forces, [should] be reoriented, in conformity with present international law, to enable them to enforce legislation concerning non-military threats that affect security in the oceans, including their ecological aspects.’¹⁶⁸ Australia’s sovereign responsibilities have changed, her national interests have changed, her regularity management and constabulary enforcement obligations have changed and so should Australia’s maritime planning paradigm also change. Australia’s naval force structure requires a much broader focus than just conventional invasion through the northern sea-air gap by a well-armed State. Australia’s relative emphasis in naval force structure thus should also reflect added resources being given to constabulary surveillance and response capabilities in order to manage her new vital interests.

¹⁶⁸ *The Ocean Our Future*, 17.

CHAPTER TEN

CONCLUSION

In war, specialisation of both weapons and their platforms has become the norm. This has not however, been necessarily effective when such platforms are used in our era of 'violent peace'. It is difficult to prepare [traditional] naval assets for non-war, despite this being the condition in which warships spend most of their time and perform most of their missions.

Harold Kearsley, 1992 ¹

In his 1986 book *Maritime Strategy for Medium Powers*, Richard Hill defines the characteristic of a medium power as being able to 'create and keep under national control enough means of power to initiate and sustain coercive actions whose outcome will be the preservation of its vital interests.'² James Goldrick further expands on this concept by suggesting that medium powers need to achieve a balance between national autonomy and cooperation or alliance with other nations—'between its inherent capabilities and the extent to which it will deliberately interact with other navies as a mechanism for achieving the protection of its vital interests.'³ He then goes on by accentuating the 'balance' theme:

[T]he question of balance to be drawn between high-level capabilities and those of a lower level... medium navies will need to sustain a very high degree of awareness of and expertise in surveillance and enforcement and take seriously their constabulary role. ...in force structure terms ...credible maritime surveillance capabilities are and will be inherent to an effective medium navy and that surveillance operations should be a significant element of naval effort... [and] ...much of the capacity which navies possess to accomplish the huge variety of diplomatic and constabulary tasks which they do from day to day rests upon the capabilities which they have developed for war fighting.⁴

This thesis is also fundamentally about naval force structure balance and the determination of a coastal State's vital maritime interests. It has looked to clarify these terms through studying the re-emergence of the historical patterns that underlie the political, social, and economic realities of our time. From a naval force structure

¹ Harold J. Kearsley, *Maritime Power and the Twenty first Century*, Dartmouth Publishing Co., Aldershot, 1992, 45.

² Richard Hill, *Maritime Strategy for Medium Powers*, Croom Helm, New York, 1986, 21. See also Richard Hill, *Medium Power Strategy Revisited*, Sea Power Centre Australia, Working Paper No.3, March 2000, Canberra, 4-5.

³ James Goldrick, 'The Medium Power Navy in the Twenty first Century', *Naval Review*, Volume 89, No 2, April 2001, 58.

⁴ *ibid*, 64-65.

perspective, it has evaluated the imperial eras of *Pax Romana* and *Pax Britannica*, when one State's hegemonic military power allowed it to assume control of the oceans and structure its forces accordingly. This thesis has then extrapolated these influences, linking the naval force structure pressures that had become apparent during these eras onto our own modern era of *Pax Americana*. It has also attempted to understand the progression of the technological developments that have transformed the character of warfare and the nature of battlefields, and given birth to the modern asymmetric threat. And it has traced the historical evolution of the coastal States' expansion of sovereignty into the global commons, and the coastal States' vital interests in controlling their new rights and sovereign territory.

First and foremost, this thesis has stressed that it is necessary to recognise that the naval force structure planning paradigm has changed. During the Cold War, force structure planning assumptions were relatively stable because the active deterrent role played by the military was clearly focused and easily understood.⁵ Military force levels were based on distinct threat-based calculations and configured primarily for high-intensity war-fighting roles; where naval forces of the western alliance concentrated substantially upon the capabilities which would protect sea borne communications⁶ and were thus principally configured for sea control rather than power projection operations.⁷

But the Cold War has now ended: the United States has achieved unchallenged maritime supremacy and offers a global umbrella for regional inter-State security. For Australia, this has dawned a new era of diplomatic self-assurance. Certainly it has extended Australia's regional aspirations with the assumption of such burdens as in the Solomon Islands and Papua New Guinea, as well as the military watershed of the East Timor commitment. This has lead to the current Australian Government, outside of a 'White Paper' policy declaration, to actively promote military capabilities that support the conduct of 'low-intensity' security operations at some distance from the mainland.⁸

⁵ See Mike Lawrence Smith and Matthew R.H. Uttley, 'Tradition and Innovation in Maritime Thinking', in Andrew Dorman, Mike Lawrence Smith and Mathew R.H. Uttley, (eds), *The Changing Face of Maritime Power*, Macmillan Press, Basingstoke, 1999, 1; and Admiral P.D. Miller, 'Both Swords and Plowshares: Military Roles in the 1990s', *RUSI Journal*, April 1993, 13.

⁶ See Colin S. Gray, *Modern Strategy*, Oxford University Press, Oxford, 1999, 218-219.

⁷ James Goldrick, 'The Medium Power Navy in the Twenty first Century', *Naval Review*, Volume 89, No 2, April 2001, 61.

⁸ Senator the Honourable Robert Hill, *Australia's National Security: A Defence Update 2003*, <http://www.defence.gov.au/ans2003/section1.htm>.

The Government has also committed Australia to playing substantial, though supplementary roles in ongoing ‘allied’ expeditions in pursuit of world order.⁹ With these commitments there comes an emergent realisation that there needs to be a shift in the balance of force structure; away from what might be termed ‘combat and contest’ towards ‘utilisation’. With *Pax Americana* ruling the waves, there is now relatively less need for maritime forces that are intended primarily to fight for the control of the sea and relatively more need for those forces that are intending to use it.

In parallel, there has also been a technological dimension that has transformed the nature of battlefields. The modern warship is a complex surveillance and targeting node of a networked and integrated environment—it is, and always has been, at the forefront of technological development and fits naturally as the end product of a nation’s technical sophistication and resource base. Due to its sophistication, the modern warship has evolved as a weapon of statecraft—as only States can afford the infrastructure and organisational costs to support them. Like most other highly sophisticated military platforms, the modern warship is designed to fight against a similarly sophisticated enemy; it is a weapon of statecraft that is designed to fight against a platform that resembles itself, in inter-State warfare.

With the proliferation of nuclear technology, the character of warfare and the nature of the battlefield have changed. Ironically, the end product of centuries of large-scale inter-State wars, the nuclear weapon, has effectively prevented the most significant powers, and their allies, from fighting each other. Conventional warfare has moved to the ‘Third World’—against States that do not have either nuclear weapons, or nuclear capable allies. In the modern era of *Pax Americana*, it is difficult to see where a conventional military challenge on the scale and intensity that both the East and West faced during the Cold War might come from. The current asymmetric threat and so-called low-intensity, long duration festering conflicts that have risen through the intensification of ethnic, cultural, religious and socioeconomic divisions seems set to continue in some form. The main task of military forces in the future will be security management. Immediacy, volume and duration of activity in security management are likely to be bigger challenges than military intensity. Future military operations will most likely be of an

⁹ Phil Radford, ‘Gunboat diplomacy’, *The Diplomat*, April / May 2004, 20.

expeditionary nature, and the most difficult and burdensome aspects of expeditionary warfare, both in volume and complexity, is the logistic train it demands. Maritime forces are also going to need a much greater understanding of, and adherence to, a range of legal and political norms that will set some strict, and perhaps unwelcome, limits on military freedom of action. What is clear from the operations of the last ten years is that the littoral—that is, the interface between land, sea and air, and the hinterland in all three environments—is a key arena of the type of security management, peace support, humanitarian operations that seem to be likely in the foreseeable future.¹⁰ The modern ship-of-war will be unable to find its equally sophisticated enemy.

As summarised by the Australian Chief of Army, Lieutenant General Peter Leahy:

I believe that we are living through an epochal period of discontinuity in global geopolitics; and such epochal shifts in the underlying political tectonic plates radically alter the means, if not the logic of war. ... Globalisation has undermined the sovereignty of the nation-state. It has empowered non-state actors, whether in the guise of hedge funds, global media conglomerates, or terrorist groups with global reach. Just as the state's monopoly on fiscal policy has eroded with the deregulation of capital markets, so too has its monopoly on the means of strategic violence. What are the consequences of this new fragmented and complex system? ... Firstly, it is more likely that our adversaries will be non-state and unconventional actors than was the case in the past. ... Military operations will entail providing aid, security, reassurance, support, governance — even infrastructure — to populations. ... 'War will be among the people.'¹¹

The character of war has changed.

Against this background of geopolitical change and technological development there has also been an evolution in the area of State sovereignty and sovereign rights expansion into the global commons—oceans governance. For coastal countries like Australia, this fundamental change in the sovereign rights of States, now means that 67 per cent of Australia's national jurisdiction is covered by seawater. The change in ocean 'ownership' has been reflected in, or by, the increased awareness of, and emphasis on, peacetime 'constabulary tasking' such as resource management,

¹⁰ Points articulated by Vice Admiral Sir Jeremy Blackham, Deputy Chief of Defence Staff (Equipment Capability), United Kingdom, in 'Future Littoral Warfare Requirements: A New Paradigm', *World Defence Systems*, Volume 4, Issue 1, April 2002.

¹¹ Speech by the Chief of the Army, Lieutenant General P.F. Leahy AO, at the ADI – Thales, Dinner with the Chiefs series Brisbane 22 March 2006

environmental protection, immigration regulation, quarantine inspection and trans-national crime enforcement—the regulatory requirements needed from a ship-of-law.

Geoffrey Till argues that naval emphasis should be on two things, first, ‘to the protection and supervision of their own local waters’—a task he refers to as ‘Good Order at Sea’ and includes maritime transportation, resource, sovereignty and environmental protection. And, second, to the military capacity, ‘maritime power projection against the shore’¹²—including strategic deterrence, good order from the sea, naval diplomacy (compellence, deterrence and coalition building), and expeditionary operations. This thesis agrees—today there is an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the seas (combat and contest) towards those naval forces that are going to use the sea control given to them (regulation and utilisation).

The Historical Legacy

Admiral Sir Herbert W. Richmond concluded his lecture at King’s College in the spring of 1926 by saying: ‘Knowledge does not come intuitively in the science of war, nor does capacity in the art. The source of knowledge is experience, either that of one’s self or of others. Profiting by the use of such experience as is obtainable, one may begin to consider the use and influence of, and the reactions and readjustments resulting from, the introduction of new [technology]; and thereby avoid the lament expressed in Petrarch’s lines:

*By sad experience taught I learnt at last
Wisdom’s best rule, to profit from the past.*¹³

Knowing what actually happened in the past is central to understanding the nature and character of Sea Power. It assists in knowing the limits to the usefulness of the naval

¹² Geoffrey Till, ‘A Changing focus for the Protection of Shipping’, Andrew Forbes, (ed), *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific*, Papers in Australian Maritime Affairs, No 10, Sea Power Centre Australia, Department of Defence, Canberra, 15. Also ‘...the leading ‘core maritime role’ for the modern Royal Navy is ‘maritime power projection’ in its two dimensions of ‘littoral manoeuvre’ and ‘maritime strike’. This reflects the expected strategic environment which requires ‘a clear focus on projecting force further afield and even more quickly than has previously been the case. This places a premium on the deployability and sustainability of our forces, sometimes in circumstances where access, basing and overflight cannot be guaranteed.’ Source: Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*, http://www.sms1835.no/xTEST/faste_arrangement/Ulvikseminar ... viewed 28 February 2005.

instrument and the power this instrument can wield when handled skilfully.¹⁴ It also assists in understanding where we are today in the development and progression of the art of naval warfare. As every navigator understands, 'it is critical to know where we are and what external forces affect us on the way there if we are to lay the best course towards where we want to be.'¹⁵ It is with these thoughts that the changing ascendancies of maritime geopolitical evolution, technological development and oceans governance have dawned a new historical paradigm; a paradigm rooted in the underlying political, social and economic reality of our time.

The end of the Cold War and the firm establishment of *Pax Americana* at sea have prompted a relative shift away from the traditional warfighting concepts and combat-styled emphasis espoused in the 1970s and 1980s. The desire and ability to project power for policing, crisis management, conflict prevention and to obtain influence in the world order reflects a world freed from the imperatives of the Cold War and the ideological competition that it entailed.¹⁶ However, the freedom of individual States to actually project their military power is now paradoxically constrained by the conventions of the globalised economy and international interdependence, in particular the overriding sea power of *Pax Americana* and the global multilateral institutions that it underpins. The exercise of military power is now a balance between the wishes for national autonomy, the wishes of the international community, and the permission or acquiescence of the United States.

In the views of some, the demise of the former Soviet Union seems to 'have taken the *raison d'être* of the Western navies with it... [leaving them] rushing around in circles looking for a mission before politicians could move to mothball [them] in the next round of defence cuts¹⁷—the populist's demand for a peace dividend. While rejecting the extreme and naive popularity of this view, it nevertheless identifies that the

¹³ Admiral Sir Herbert W. Richmond, *Naval Warfare*, Ernest Benn Ltd., London, 1930, 96.

¹⁴ See also Sir John Knox Laughton, 'The Scientific Study of Naval History', *Journal of the Royal United Services Institution*, 18, 1879, 508-27; and Admiral Sir Herbert W. Richmond, 'The Importance of the Study of Naval History', *Naval Review* 27, May 1939, 201-18, reprinted in *Naval Review* 68, April 1980, 139-50.

¹⁵ John B. Hattendorf, 'The Use of Maritime History In and For the Navy', <http://www.nwc.navy.mil/press/Review/2003/Spring/art1-sp3.htm>, viewed 24 November 2003.

¹⁶ Michael Clarke, 'Constraints on UK World Power Projection and Foreign Policy in the New World Order: the Maritime Dimension', Andrew Dorman, Mike Lawrence Smith & Mathew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 65.

¹⁷ D. Boothly, 'Sailing Under New Colours', *USNI Proceedings*, July 1992, 45.

historical paradigm has changed and that navies are particularly vulnerable to populist government policies and reductions in national spending. Without a monolithic State enemy, there is now relatively less need for maritime forces that intend primarily to fight for the control of the sea—there has been a shift of emphasis away from the ship-of-war.¹⁸

Coincidental to this shift, is the technological dimension that has transformed the nature of battlefields. The roughly three-hundred-year period in which war was associated primarily with the type of political organisation known as the State—first in Europe, and then, with its expansion, in other parts of the globe as well—seems to be coming to an end. If the last fifty years or so provide any guide, future wars will be overwhelmingly of the type known however inaccurately as ‘low intensity’. Both organisationally and in terms of the equipment at their disposal, the armed forces of the world ‘will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police.’¹⁹

The modern warship is designed to fight against a similarly sophisticated enemy, in inter-State warfare. But, there have been no wars between any of the 44 richest countries since 1945.²⁰ Nevertheless, incidents of violence are increasing in the modern world. Not only is violence increasing, its character is changing. This dissertation suggests that this is a result of three distinct factors: (1) the decline in power and authority of the modern State—‘States no longer have a monopoly on violence’²¹; (2) the change in demographics, a population bulge in the ages between 15 and 30, many living in poorer countries with bleak economic prospects; and (3) the ‘contradictions and ambiguities’²² of globalisation resulting in unfulfilled expectations and, in turn, alienation, frustration and violence. But regardless as to the reasons, conventional

¹⁸ ‘...the latest British White Paper provides a rationale for reduction in surface combatant numbers by arguing that in the most demanding operations the coalition framework will mean that ‘naval escorts are less likely to be at a premium.’ Source: *Delivering Security in a Changing World*, Supporting Essays, Cm6041-II, December 2003, 7, as cited in Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*.

¹⁹ Martin van Creveld, ‘Through a Glass, Darkly—Some Reflections on the Future of War’, *Naval War College Review*, Autumn, 2000, at <http://www.nwc.navy.mil/press/Review/2000/autumn/art2-a00.htm>.

²⁰ Ken Booth, *Navies and Foreign Policy*, Holmes and Meier, New York, 1979.

²¹ Peter Waldmann, ‘New and Old Forms of Violence in Times of Change’, a presentation given at the National Europe Centre, Australian National University as reported in the *Canberra Times*, Saturday 17 April 2004, 14.

²² *ibid.*

warfare has unquestionably moved away from the First World (at least on both sides) to the Third World—against States that do not have either nuclear weapons, or nuclear capable allies. These Third World States are also the very same States that do not have the technical sophistication and resource base to support the modern warship—the ship-of-war no longer has an equally sophisticated enemy.

One result of all this has been the redirection of naval force structure requirements away from traditional concepts of Sea Control towards expeditionary operations in the littoral²³—the projection of power from the sea to influence events ashore. The United States Navy has encapsulated this emphasis in a succession of documents, beginning with ...*From the Sea*²⁴ in 1992, and other western navies, as evidenced in the Royal Navy's capstone doctrine of 1999, *BR 1806: British Maritime Doctrine* and in their recently released White Paper *Delivering Security in a Changing World*, have adopted a similar approach.²⁵

It is notable that this redirection extends to navies further down the ladder of capability such as the Netherlands, which has recently completed one large landing ship and is planning another; Spain, who already has two *Rotterdam* LPDs and is building a larger flat topped strategic projection ship that could act as either an assault asset or as a second carrier; France two flat topped 21,200 ton support and command ships of the *Mistral* class plus a second, larger aircraft carrier based on their CVF design; Italy is building a 26,500 ton STOV/L carrier *Cavour*;²⁶ and Germany, which is building a class of multipurpose logistic ships for 'crisis management' expeditionary operations.²⁷ Even Denmark has quite consciously re-orientated its navy in the power projection direction for crisis response and peace support—two 6,300 ton, *Absalon* Class, 'combat support

²³ The interface between land, sea and air, and the hinterland in all three environments, or 'that area of the sea susceptible to influence or support from the land, and that area of the land susceptible to influence or support from the sea.' *Semaphore: Newsletter of the Sea Power Centre – Australia*, Department of Defence, Canberra, Issue 8, August 2004.

²⁴ ...*From the Sea: Preparing the Naval Service for the 21st Century*, United States Navy, Washington DC, 1992.

²⁵ '... 'power projection' in the broadest sense has become the dominating role of the world's major navies.' Source: Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*.

²⁶ *ibid.*

²⁷ Richard Sharp (ed), *Jane's Fighting Ships 2000-2001*, Jane's, London, 2000, 471, 639 & 257.

ships²⁸ are being built able to act in a wide range of roles including transporting 200 troops and accompanying vehicles that can be supported by a 5-inch gun firing extended range gun munitions.²⁹

In Asia, the Japanese Maritime Self Defence Force has begun a building program for a class of multipurpose helicopter carrying landing ships, with the specific intention that these be available for disaster relief and associated 'crisis management' tasks, and commissioned three 8,900 ton *Oosumi* Class LPD/LSTHs 1998-2003. Singapore has commissioned four 8,500 ton *Endurance* Class LPDMs 2000-01. India laid down in 2005 the 38,000 ton Project 71 light aircraft carrier (CVM) and purchased in January 2004 the 45,000 ton ex-Russian Modified *Kiev* Class CVGM.³⁰ Thailand, of course, commissioned a light carrier³¹ for such purposes only a few years ago.³² The utility and employment of the naval instrument is changing.

As a neighbour with a similar geo-political stance, [responsive to the security umbrella offered by *Pax Americana* with a first world order national infrastructure and outlook, a sophisticated human resource culture and base, and being fundamentally maritime in nature] New Zealand has also embarked on obtaining an 'independent... across the beach... sealift capability... for peace support, humanitarian assistance and evacuation operations' and to support these forces ashore for up to 30 days.³³ Further analysis also suggests that the transition of the Royal New Zealand Navy from a four frigate (Leander Class FFHs) combat force and four 100-ton patrol craft (Lake Class) to just two frigates (ANZAC Class FFHs) and their Project Protector's \$NZ 500 million (1993 dollars) 8870-ton Multi-Role Vessel, two 1583-ton off-shore patrol vessels and four 340-ton inshore patrol vessels reflects many of the arguments espoused in this thesis—a move

²⁸ HDM Ships *Absalon* L16 and *Esbern Snare* L17. See Joris Janseen Lok, 'New Danish combat support ships offer greater flexibility for NATO operations', *Jane's International Defence Review*, June 2006, 78-85. See also 'Denmark's FSS vessels: versatility in motion', *Jane's Navy International*, 13 June 2005, and 'Flex fleet: Denmark's new standard warships emerge', *Jane's International Defence Review*, 8 July 2004.

²⁹ Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*.

³⁰ The ex-*Admiral Gorshkov*, ex-*Buku*. It is expected to become operational circa 2008.

³¹ The 11,485 ton *Chakri Naruebet* Class CVM commissioned in 1997. Richard Sharp (ed), *Jane's Fighting Ships 2000-2001*, Jane's, London, 2000, 379 & 689.

³² James Goldrick, 'Medium Power Navy', *Maritime Strategies in Asia*, White Lotus Press, Thailand, 2002, 62.

away from those naval forces needed for inter-State contest, towards those naval forces needed for governance regulation and sea control utilisation. The acquisition of these ships, and the cancellation of New Zealand's option for an additional two ANZAC frigates, was initiated in the Government Defence Statement of 8 May 2001, *A Modern, Sustainable Defence Force Matched to New Zealand's Needs* and then articulated in the New Zealand Ministry of Defence's *Maritime Forces Review—Key Findings*, January 2002. While the roles of these ships are advised as sealift, training, patrol, emergency response and military contingency in that order, none of their parent documents attempt to rationalise the philosophical argument underpinning this apparent radical transition in naval force structure. New Zealand does not have a Defence White Paper—not since May 2001 when it was discarded as being outdated and no longer relevant within a globalised, unipolar world. The basis of these decisions appears to be simple political intuitive deduction. While not publicly aired as such, politically it was recognised that the world had changed, New Zealand's maritime interests had changed, and therefore New Zealand's naval force structure should change accordingly. This thesis does not pass explicit judgement on these developments, but it does attempt to implicitly articulate the academic philosophy that may have been behind them.

Also, within this new historical maritime paradigm there remains a moral obligation to manage the oceans and their resources more effectively, and in a way that protects the interests of future generations. This has led to new regimes for ocean governance and greater controls over the activities that can legitimately be undertaken at sea. The results, applying for example to fishing, marine biodiversity and marine pollution, are often contrary to the traditional approaches based on *Mare Liberum*. These regimes also have major implications in the way that a coastal State exercises its newly acquired jurisdiction, and in the way that navies do their business. If the modern concepts of maritime strategy are about the ability and policies of a State to use the sea for its own economic, political, strategic and military advantage, then it seems equally clear that the institutions, legal regimes and arrangements for ocean governance should be seen as components of that strategy. During this era of *Pax Americana* and the global multilateral institutions that have enclosed the oceans, there now comes a need to

³³ Graham Fortune, *Maritime Forces Review: Key Findings*, New Zealand Ministry of Defence, Wellington, January 2002. See also 'Project Protector, The Future Fleet', *Navy Today*, Number 88, New Zealand Defence Force, April 2004, 20-21.

administer and control the coastal State's newly acquired maritime estate—the regulation and expeditionary forces that are going to use the sea control that has been given to them. There has been a shift of emphasis towards the ship-of-law and the ship-of-expedition over the shore.

In Australia, we exist within a region that is profoundly maritime in nature, to the extent that practically all the issues and problems confronting the region have a maritime context. Today, the political rivalries of regional nation-States reflect only a small part of the security environment. To these one must add the activities of non-State organisations such as international criminals and insurgent movements, as well as the humanitarian consequences of economic, political and environmental failures. In a regional context, a significant proportion of illegal immigration by sea-borne means either originates in, or passes through, East Asian waters. Piracy, armed robbery, and drug smuggling are activities of international organised crime that have a significant maritime element. Environment degradation is a modern fact of life and we face the prospect of increasing competition at sea³⁴ from a greatly depleted and constantly diminishing amount of living natural resources.³⁵

In the modern world, navies face a new context in which the currency of political, diplomatic and legal emphases appears to outweigh the navy's conventional warfighting roles in terms of planning and policymaking.³⁶ Andrew Mack supports this view by suggesting that Australia's defence planners will find it hard to refute the argument that the increasing requirement for less 'combat' capable warships for constabulary duties should mean a diminishing requirement for more capable warships given the significantly reduced risk of major conflict war involving Australia.³⁷ Sam Bateman and Dick Sherwood counter by arguing that such theories imply: 'that there is a zero-sum game with naval roles and that if one increases in importance, another must decrease'.³⁸ 'There is, however, compelling evidence that the advent of increased maritime

³⁴ See also Bruce Stubbs & Scott C. Truver, *America's Coast Guard: Safeguarding US Maritime Safety and Security in the 21st Century*, USCG Headquarters, Washington DC, 2000.

³⁵ James Goldrick, 'Medium Power Navy', *Maritime Strategies in Asia*, 59.

³⁶ Alfred Nien-Tsu Hu & James Oliver 'A Framework for Small Navy Theory: The 1982 UN Law of the Sea Convention', *Naval War College Review*, Spring, 1988, 43.

³⁷ Andrew Mack, 'Strategic Security Issues', *Australia's Maritime Bridge Into Asia*, S. Bateman and R. Sherwood, (eds), Allen and Unwin in association with the Royal Australian Navy, 1995, 91-93.

³⁸ Sam Bateman, 'Naval Roles and Maritime Power', *Maritime Studies*, Vol. 84, September / October 1995, 13.

regulation and enforcement has in its implications for navies a subset of making all three of Booth's triad of roles³⁹ [constabulary, diplomatic & military] more important.⁴⁰

This thesis suggests that the post-Cold War *démarche* has not resulted in any breakthrough in strategic theory, but, rather in a recrudescence of the application of the naval instrument in areas such as power projection from the sea and constabulary operations—illegal immigration, national encroachment on the freedom of the seas, piracy, terrorism, pollution and the smuggling of drugs and other unwelcome cargoes in addition to ‘humanitarian relief to the innocent victims of violence’.⁴¹ All of these tasks have been accentuated in the post-Cold War world at the expense of Cold War operational plans that emphasised large-scale ‘blue-water’ naval confrontation.⁴²

This is not to suggest a ‘dumbing’ down of technological complexity as the intensity of a conflict and the sophistication of the technology which will be employed within that conflict, do not have a direct relationship. In particular, network centricity and expeditionary endeavours—expeditionary picture building, amphibious transportation, force protection, battle-space shaping, mine clearance operations, force insertion and extraction, maritime firepower, sea-based logistics and supporting cover operations—are the most difficult of all, demanding the full spectrum of technological intricacy.

However, a warship designed for sophisticated multi-environment (air, surface and sub-surface) warfare, if dispatched to fisheries/EEZ patrol, is wasting capabilities,⁴³ diverting resources from defence tasks to support commercial or policing interests, and possibly creating an overly militaristic impression when none is needed. Their use, in contrast to light forces able to respond proportionately to the threat or situation and with

³⁹ See Figure 1: *The Span of Maritime Operations* in Chapter 2 of this thesis.

⁴⁰ Dick Sherwood, ‘The Utility of Navies in Peacetime’, *Issues in Maritime Strategy: Presentations of the Royal Australian Navy Maritime Studies Program*, G. Cox, (ed), Directorate of Publishing, Canberra, 28.

⁴¹ James Cable, *Gunboat Diplomacy, 1919-1991: Political Application of Limited Naval Force*, 3rd edition, Macmillan/IISS, Basingstoke, 1994, 147-8.

⁴² Mike Lawrence Smith & Matthew R.H. Uttley, ‘The Changing Face of Maritime Power’, Andrew Dorman, Mike Lawrence Smith & Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, 187; See also Eric Grove, *Application of Sea Power on Conflict Management and Solution, Nationally and Internationally*.

⁴³ *Operation Relex* is a good example. The long term employment of HMAS *Warramunga*, an ANZAC Class frigate, for anti-refugee patrols between Christmas Island and Ashmore Reef in the Timor Sea.

simple visible weaponry, high speed, good sea-keeping and loiter characteristics, manoeuvrability and hull strength and cheapness,⁴⁴ can give a misleading impression of force excessively disproportionate to what is required.⁴⁵ In any case, they will never be available in the numbers that are required for the exercise of proper governance control. There is now an emergent need to shift the balance of force structure away from those naval forces that are needed to fight for the control of the seas (combat and contest) and towards those naval forces that are going to use the sea control given to them (regulation and utilisation).

Medium navies by their very nature already place very heavy demands on the domestic resources of their nations and on the hard currency of their governments. Well-placed proportionate employment is crucial to the relevancy of the service they provide. Yet there continues to be passive reluctance in the Royal Australian Navy, and other Western navies, to become too involved in what are seen as mundane constabulary or army support tasks, and only the United States has really embraced both requirements—the United States Navy for ‘whole of service’ power projection ashore operations; and the United States Coast Guard for ‘whole of service’ constabulary operations. Certainly, within the Royal Australian Navy there is an active reluctance to have its structure influenced by non-traditional missions such as humanitarian, stability, and peace support operations and to divert too many resources away from the ‘higher levels of conflict’ represented by the fleet combat unit—the ship-of-war. But the traditional style of warfare does not prepare it to cope with military situations that do not result in decisive or measurable outcomes. Rather than viewing humanitarian and stability operations as a trade-off with the potential to diminish its combat readiness, the Royal Australian Navy must recognise that these commitments are tools leading to the same goal. This is especially the case in the current security environment, where international peace may not be achievable, but the use of military forces in both combat and non-combat roles can promote order and stability. The Royal Australian Navy needs a new professional paradigm in which non-combat roles are accepted as valid, though adjunct, military missions. Australian military professionals must come to see themselves as

⁴⁴ Geoffrey Till, *Maritime Strategy and the Nuclear Age*, 2nd ed, Macmillan Press, Basingstoke, 1984, 206-7.

⁴⁵ Harold Kearsley, *Maritime Power and the Twenty-first Century*, 46-7.

managers of warfare, which includes, but is not limited to, the ‘higher level’ of physical combat.⁴⁶

‘Mundane constabulary’ and ‘army support’ tasks are important national tasks in protection of the country’s maritime interests, and they are of keen interest to national constituencies and in many cases come with expectations that the Navy will carry them out.⁴⁷ To neglect such tasks, or to suggest that they belong elsewhere, will eventually result in the Navy becoming increasingly irrelevant in the minds of the general public, particularly if the likelihood of having to protect the international sea lines of communications at the ‘higher level’ of conflict looks extremely remote in the eyes of the many. It is easy to conclude that if the pincers of technological development and financial stringency were to invest the navy’s wartime role with the character of a forlorn hope, it might be more desirable to give priority to the lesser dangers that could actually be countered. While there may be no ‘zero sum game with naval roles’, there probably is with government budgets.

Maritime forces need to face up to a new, much more politicised and complex set of situations in which ‘they may be called upon to deliver everything from bombs to babies.’⁴⁸ This expanding and widening role for navies will require organisational cultural alignment. ‘What will be needed, [Harlan Ullman advises,] is a new mentality and way of thinking that goes beyond traditional war-fighting and its professional skills.’⁴⁹

There is no suggestion in this thesis that constabulary and amphibious tasks should ever become the Navy’s absolute pre-eminent influence in force structure planning—for the essence of navies should always be the flexibility offered through their general-purpose ‘warship’ character. But, this thesis does suggest that combat, constabulary and power projection roles need to be seen as being complementary in the determination of future

⁴⁶ Matthew Morgan, ‘An Evolving View of Warfare: War and Peace and the American Military Profession’, *Small Wars and Insurgencies*, Vol 16, No 2, June 2005, 147-69.

⁴⁷ Dick Sherwood, *The Navy and National Security: The Peacetime Dimension*, SDSC, Canberra, 1994 31-2.

⁴⁸ Geoffrey Till, *Seapower: A Guide for the Twenty-First Century*, 375.

⁴⁹ Harlan K. Ullman, ‘Influencing Events Ashore’, Stephan J. Flanagan, Ellen L. Frost, and Richard L. Kugler, (eds), *Challenges of the Global Century: Report of the Project on Globalisation and National Security*, 2001, at http://www.ndu.edu/inss/books/Books_2001/Challenges%20of%20the%20Global%20Century%20June%202001/APP.HTML

naval force structure. It is an issue of balance and emphasis, as the consequence of being seen as irrelevant by both the customer and the financial provider, can only lead to one outcome. It is too great a risk to ignore.

BIBLIOGRAPHY

Books and Mongraphs

Adrock, Sir Frank E., (1960), *The Roman Art of War under the Republic*, W. Heffer & Sons, Cambridge, England

Akehurst, M., (1989), *A Modern Introduction to International Law*, 6th ed., Unwin Hyman, London

Aldcroft, D.H. (ed), (1968), *The Development of British Industry and Foreign Competition 1875-1914*, University of California Press, Berkeley, California

Anand, R.P., (1982), *Origin and Development of the Law of the Sea*, Martinus Nijhoff, The Hague

Anthony, Mely C. and Jawhar, Mohamed Hassan (eds), (2000), *The Asia Pacific in the New Millenium: Political and Security Challenges*, 14th Asia-Pacific Roundtable, Kuala Lumpur, ISIS Malaysia

Attard, David J., (1987), *The Exclusive Economic Zone in International Law*, Clarendon Press, Oxford

Australian Defence Force Doctrine Publication – D.3.1, (2004), *Enabling Future Warfighting: Network Centric Warfare*, Edition 1, Defence Publishing Service, Department of Defence, Canberra

Babbage R. and Bateman S. (eds), (1993), *Maritime Change: Issues For Asia*, Allen and Unwin, Sydney,

Babbage R., (1990), *A Coast Too Long - Defending Australia Beyond The 1990's*, Allen & Unwin, Sydney

Bacevich, Andrew J., (2002), *American Empire: The Realities and Consequences of U.S. Diplomacy*, Harvard University Press, Cambridge, Massachusetts

Bacevich, Andrew J. (ed), (2003), *The Imperial Tense: Prospects and Problems of American Empire*, Ivan R. Dee, Chicago

Baginda, Abdul Razak and Bergin, Anthony (eds), (1998), *Asia-Pacific's security dilemma: multilateral relations amidst political, social and economic changes*, Asean Academic Press, London

Ball, Desmond and Downes, Cathy (eds), (1990), *Security And Defence - Pacific And Global Perspectives*, Allen & Unwin, Sydney

Ball, Desmond and Wilson, Helen (eds), (1991), *New Technology: Implications for Regional and Australian Security*, Canberra Papers on Strategy and Defence No 76, Strategic and Defence Studies Centre, Australian National University, Canberra

Ball, Desmond, (2000), *The Council for Security Cooperation in the Asia Pacific (CSCAP) – Its Record and its Prospects*, Canberra Papers on Strategy and Defence No. 139, Strategic and Defence Studies Centre, Australian National University, Canberra

Barrow, Reginald Haynes, (1949), *The Romans*, Penguin Books, Harmondsworth, Middlesex

Bartlett, C.J., (1963), *Great Britain and Sea Power 1815-1853*, Oxford University Press, London, England

Bateman, S. (ed), (1999), *Maritime Cooperation in the Asia-Pacific Region: Current Situation and Prospects*, Canberra Papers on Strategy and Defence No 114, Strategic and Defence Studies Centre, Australian National University, Canberra

Bateman, S. and Bates, S. (eds), (1998), *Regional Maritime Management & Security*, Canberra Papers on Strategy and Defence No 124, Strategic and Defence Studies Centre, Australian National University, Canberra

Bateman, S. and Sherwood, R. (eds), (1994), *Oceans Management Policy : The Strategic Dimension*. Wollongong Papers On Maritime Policy, University of Wollongong, Wollongong

Bateman S. and Sherwood R. (eds), (1995), *Australia's Maritime Bridge Into Asia*, Allen & Unwin, Sydney

Bateman S. and Ward M. (eds), (1990), *Australia's Maritime Interests - Views From Overseas - Occasional Papers In Maritime Affairs: 6*, Australian Centre For Maritime Studies Incorporated, Canberra

Belfiglio, Valentine J., (2001), *A Study of Ancient Roman Amphibious and Offensive Sea-Ground Task Force Operations*, E.Mellen Press, Lewiston, New York

Bergin, Anthony (ed), (1996), *National Coordination of Maritime Surveillance and Enforcement*, Australian Defence Studies Centre, Canberra

Betts Richard K., (1994), *Conflict after the Cold War, Arguments on Causes of War and Peace*, Macmillan Publishing Company, New York

Blake, Gerald (ed), (1987), *Maritime Boundaries and Ocean Resources*, Croom Helm, London

Boak, Arthur E.R. and Sinnigen, William G., (1965), *A History of Rome to A.D. 565*, Macmillan Publishing, New York

Boot, Max, (2002), *The Savage Wars of Peace: Small Wars and the Rise of American Power*, Basic Books, New York

Booth, Ken, (1979), *Navies And Foreign Policy*, Holmes and Meier, New York

- Booth, Ken, (1985), *Law, Force and Diplomacy at Sea*, Allen and Unwin, London
- Bruce, Anthony & Cogar, William, (1998), *An Encyclopedia of Naval History*, Filzroy Dearborn Publishers, Chicago & London
- Bryce, James, (1914), *The ancient Roman Empire and British Empire in India: The diffusion of Roman and English law throughout the world / two historical studies*, H. Milford, Oxford University Press, London
- Buzan, Barry, (1978), *A Sea of Troubles? Sources of Dispute in the New Ocean Regime*, Adelphi Paper No 143, Institute of International and Strategic Studies, London
- Cable, J., (1985), *Diplomacy At Sea*, Macmillan, London
- Callender, G. & Hinsley, F.H., (1924), *The Naval Side of British History 1485-1945*, Christophers, London
- Callwell, C.E., (1905), with introduction & notes by Gray, Colin S., (1996), *Military Operations and Maritime Preponderance: Their Relations and Interdependence (Classics of Sea Power)*, Naval Institute Press, Annapolis, Maryland
- Castles, S. & Miller, Mark, (1993), *The Age of Migration International Population Movements in the Modern World*, Guildford Press, New York
- Charles, B., chair, (2001), *Report 384: Review of Coastwatch*, Joint Committee of Public Accounts and Audit, The Parliament of the Commonwealth of Australia
- Charlesworth, Martin Percival, (1951), *The Roman Empire*, Oxford University Press, London
- Chen, Lung-Chu, (2000), *An Introduction to Contemporary International Law: A Policy-Orientated Perspective*, 2nd ed., Yale University Press, New Haven.
- Churchill, R.R. and Lowe, A.V., (1999), *The Law of the Sea*, 3rd ed., Juris Publishing, Manchester University Press, Manchester
- Coombe, Rodney, (2003), *Security in the post-Cold War Asia-Pacific*, Australian Defence College Monograph Series, No 2, Department of Defence, Canberra, ACT, Australia
- Corbett, Julian S., (1911), *Some Principles of Maritime Strategy*, Longmans, Green & Co, London
- Crawford, J. and Rothwell, D.R. (eds), (1995), *The Law of the Sea in the Asian Pacific Region*, Martinus Nijhoff, Dordrecht
- Davis, R., (1972 edn), *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries*, Newton Abbot

De Nooy, G., (1996), *The Role of European Naval Forces after the Cold War*, Kluwer Law International, Dordrecht

Dibb, Paul, (1986), *Review of Australia's Defence Capabilities*, Australian Government Publishing Service, Canberra

Dorman, A., Lawrence Smith, M., & Uttley, M.R.H., (1999), *The Changing Face of Maritime Power*, MacMillan Press Ltd, Basingstoke, Hampshire, England

Dudley, Donald R., (1960), *The Civilization of Rome*, The New American Library of World Literature, New York

Dupuy, R. Ernest & Dupuy, Trevor N. (eds), (1993), *The Harper Encyclopedia of Military History: From 3500 BC to the present*, Fourth Edition, Harper Collins Publishers, New York,

Evans, G. and Grant, B., (1995), *Australia's Foreign Relations In The World Of The 1990s*, 2nd ed, Melbourne University Press, Melbourne

Evans, Michael, (1999), *Conventional Deterrence in the Australian Strategic Context*, Working Paper No 103, Land Warfare Studies Centre, Duntroon, ACT

Ferguson, Niall, (2004), *Colossus: The Price of America's Empire*, Penguin Press, New York

Fieldhouse, R., (1990), *Security at Sea: Naval Forces and Arms Control*, Oxford University Press, Oxford

Fisher, John, (1919), *Memories*, Hodder & Stroughton, London

Franke, Volker C., (2002), *Security in a Changing World: Case Studies in U.S. National Security Management*, Praeger Publishers, Westport, Conn, and London

Friedman, N., (2001), *Seapower as Strategy, Navies and National Interests*, Naval Institute Press, Annapolis, United States of America

Frost, Alan, (2003), *The Global Reach of Empire: Britain's Maritime Expansion in the Indian and Pacific Oceans 1764-1815*, Miegunyah Press, Carlton, Victoria

Fry, G. (ed), (1991), *Australia's Regional Security*, Allen & Unwin, Sydney

Forbes, Andrew (ed), (2003), *The Strategic Importance of Seaborne Trade and Shipping: a common interest of Asia Pacific*, Papers in Australian Maritime Affairs, No 10, Australian Sea Power Centre, Department of Defence, Canberra, ACT, Australia

Galdorisi, G., Bandow, D., Jarman M.C., (1994), *The Law of the Sea Institute Occasional Paper No 38*, University of Hawaii, United States of America

Ganter, Mary, (1998), *Australian Coastal Shipping: The Vital Link*, Number 3, RAN Maritime Studies Program, Defence Publishing, Canberra, ACT, Australia

Garney, Peter and Saller, Richard, (1987), *The Roman Empire: economy, society and culture*, Duckworth publishers, London

Gilliver, Catherine, (2001), *The Roman Art of War*, Tempus Publishing, Stroud, Gloucestershire

Gipson, L.H., (1936), *The British Empire Before the American Revolution*, 14 vols., New York

Goldrick, James & Hattendorf, John B., (1993), *Mahan is not Enough—The Proceedings of a Conference on the Works of Sir Julian Corbett and Admiral Sir Herbert Richmond*, Naval War College Press, Newport

Goldsworthy, Adrian, (2003), *The Complete Roman Army*, Thames and Hudson, London

Gordon, Andrew, (1996), *The Rules of the Game, Jutland and British Naval Command*, John Murray, London

Graham, G.S., (1950), *Empire of the North Atlantic*, University of Toronto Press, Toronto, Canada

Graham, G.S., (1965), *The Politics of Naval Supremacy*, Cambridge University Press, New York

Graham, G.S., (1972), *Tides of Empire*, Naval Records Society, Montreal and London

Grant, Michael, (1996), *The Climax of Rome*, Weidenfeld and Nicholson, London

Grant, Michael, (1960), *The World of Rome*, Weidenfeld and Nicholson, London

Gray, Colin S., and Barnett, Rodger W. (eds), (1989), *Seapower and Strategy*, Naval Institute Press, Annapolis

Grove, Eric J., (1990), *The Future of Sea Power*, Naval Institute Press, Annapolis

Grove, Eric J., (2001), *Seapower in the Asia-Pacific in the twenty-first century*, Routledge Curzon

Hammond, Nicholas G.L., (1989), *The Macedonian State: origins, institutions, and history*, Oxford University Press, New York

Hattendorf, John B., (2000), *Naval History and Maritime Strategy: Collected Essays*, Krieger Publishing, Malabar, Fla

Heath, Rachael & Snushall, Barry (eds), (2003), *Protecting Maritime Resources: Boundary delimitations, resource conflicts and constabulary responsibilities*, Papers in Australian Maritime Affairs No 11, Commonwealth of Australia

Herr, Richard (ed), (2000), *Sovereignty at Sea: From Westphalia to Madrid*, Wollongong Papers on Maritime Policy No 11, Centre for Maritime Policy, University of Wollongong, Wollongong

Higham, R., (1962), *Armed Forces in Peacetime. Britain 1918-1940, a case study*, Archon Books, Hamden, Conn

Higham, R., (1966), *The Military Intellectuals in Britain 1918-1939*, Greenwood Press, Westport, Conn.

Hildinger, Erik, (2003), *Swords against the Senate: the rise of the Roman Army and the fall of the Republic*, Da Capo Press, Cambridge, Mass

Hill, J.R. Rear Admiral, (1986), *Maritime Strategy for Medium Powers*, Croom Helm, London

Hill, John Richard, (1995), *The Oxford Illustrated History of the Royal Navy*, Oxford University Press, Oxford, UK

Hippler, Jochen, (1994), *Pax Americana, hegemony or decline*, Pluto Press, London

Hodges, Peter (2001) *The Big Gun: Battleship Main Armament 1860-1945*, Naval Institute Press, Annapolis, Md

Howarth, D., (1979), *The Seafarers: The Dreadnoughts*, Time-Life Books, Amsterdam

Howarth, D., (1974), *Sovereign of the Seas. The Story of British Sea Power*, Artus Publishing, London

Howard, Michael, (1983), *The Causes of Wars*, Harvard University Press, Cambridge, Massachusetts

Hudson, H., (1988), *Northern Approaches - A Report On The Administration And Management Of Civil Coastal Surveillance In Northern Australia*, Australian Government Publishing Service, Canberra

Hunt, Barry D., (1982), *Sailor-Scholar Admiral Sir Herbert Richmond 1871-1946*, Wilfrid Laurier University Press, London

Jablonsky, David (ed), (1999), *Roots of Strategy: Book 4*, Stackpole Books, Mechanicsburg, Pa

Jackson, Robert, (2001), *History of the Royal Navy*, Parragon, Bath

Janis, M.W., (1976), *Sea Power and the Law of the Sea*, Lexington Books, Lexington, Mass.

Johnson, Charles A., (2004), *The Sorrows of Empire: Militarism, Secrecy and the End of the Republic*, Verso, London

Kane, Thomas M., (2002), *Chinese Grand Strategy and Maritime Power*, Frank Cass, London

Kearsley, Harold J., (1992), *Maritime Power and the Twenty-first Century*, Dartmouth Publishing Company Limited, Aldershot, England

Kemp, P.K., (1976), *The Oxford Companion to Ships & the Sea*, Oxford University Press, Walton Street, Oxford

Kemp, Paul, (1998), *Sea Warfare*, Arms & Armour Press, London

Kennedy, M.J. and O'Connor, M.J., (1990), *Safely at Sea*, University Press of America, Lanham, Maryland

Kennedy, Paul M., (1976), *The Rise and Fall of British Naval Mastery*, Penguin Books, London

Kennedy, Paul, (1987), *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000*, Random House, New York

Kerr, Glenn (ed), (2004), *Australian Maritime Issues 2004*, Papers in Australian Maritime Affairs No. 12, Commonwealth of Australia, Canberra

Koburger, C.W., (1990), *Narrow Seas, Small Navies and Fat Merchantmen*, Praeger, New York

Kuribayashi, T. & Miles, E.L. (eds), (1992), *The Law of the Sea in the 1990s: A Framework for Further International Cooperation*, Law of the Sea Institute, University of Hawaii, Honolulu

Lamson, Cynthis (1994), *The Sea Has Many Voices – Ocean Policy for a Complex World*, McGill-Queens University Press, Toronto

Lee, Choon Kum (ed), (1999), *The Middle Power Navies*, The Korea Institute for Maritime Strategy, Seoul

Lewis, Naphtali and Reinhold, Meyer (eds), (1990), *Roman Civilization: Selected Readings*, Columbia University Press, New York

Lintolt, Andrew William, (2000), *The Roman Republic* Sutton Pocket Histories, Stroud, Sutton

Luttwak, Edward, (2001), *Strategy: The Logic of War and Peace*, Belknap Press of Harvard University Press, Cambridge, Mass

MacFarlane, S. Neil, (2002), *Intervention in Contemporary World Politics*, Adelphi Papers 350, The International Institute for Strategic Studies, Oxford University Press, England

Mack, Andrew, (ed), (1993), *A Peaceful Ocean? Maritime Security in the Pacific in the Post-Cold War Era*, Allen & Unwin, Sydney

MacKinnon, Doug and Sherwood, Dick (eds), *Policing Australia's Offshore Zones – Problems and Prospects*, Wollongong Papers on Maritime Policy No 9, Centre for Maritime Policy, University of Wollongong, Wollongong

Mahan, Alfred Thayer, (1890), *The Influence of Sea Power upon History 1660-1783*, Sampson Low Marston, London

Mahan, Alfred Thayer, (1907), *From Sail to Steam: recollections of naval life*, Harper & Brothers, London & New York

Mahan, Alfred Thayer, (1920), *The Interest of America in International Conditions*, Sampson Low Marston, London

Marder, Arthur J., (1940), *The Anatomy of British Sea Power*, Frank Cass & Co Ltd, London

Marder, Arthur J., (1952), *Portrait of an Admiral: the life and papers of Sir Herbert Richmond*, Jonathan Cape, London

Mason, David J.P., (2003), *Roman Britain and the Roman Navy*, Tempus Publishing Ltd, Gloucestershire

Mawer, G. Allen, (1999), *Ahab's Trade: The Saga of South Seas Whaling*, Allan & Unwin, Sydney, Australia

McCaffie, Jack and Hinge, Alan (eds), (1998), *Sea Power in the New Century: Maritime Operations in Asia-Pacific Beyond 2000*, Australian Defence Studies Centre, Australian Defence Force Academy, Canberra

Mearsheimer, John J., (2001), *The Tragedy of Great Power Politics*, Norton, New York

Miller R., (1980), *The Seafarers: The East Indiamen*, Time-Life Books, Amsterdam

Molloy, Ivan (ed), (2004), *Eye of the Cyclone: Issues in Pacific Security*, RSPAS Publishing, Research School of Pacific and Asian Studies, The Australian National University, ACT

Moore, Cameron, (2004), *ADF on the Beat: A Legal Analysis of Offshore Enforcement by the Australian Defence Force*, Ocean Publications, Centre for Maritime Policy, University of Wollongong, Wollongong

Mordal, J., (1970), *25 Centuries of Sea Warfare*, Abbey Library, London

Morris J., (1968), *Pax Britannica: The Climax of an Empire*, Faber and Faber Ltd, London

Natkiel, Richard & Preston, Antony, (1986), *The Weidenfeld Atlas of Maritime History*, Weidenfeld and Nicolson, London

Nichols, D.B., (1985), *The Strategic Implications for Australia of the New Law of the Sea*, Canberra Papers on Strategy and Defence No 33, Strategic and Defence Studies Centre, Australian National University, Canberra

Northedge, F.S., (1966), *The Troubled Giant. Britain among the Great Powers 1916-1939*, Duckworth, London

O'Brien, Phillips Payson (ed), (2001), *Technology and Naval Combat in the Twentieth Century and Beyond*, Frank Cass, London

Padfield, Peter, (2000), *Maritime Supremacy and the Opening of the Western Mind: Naval Campaigns that Shaped the Modern World 1588-1782*, Pimlico, London

Parker, Geoffrey (ed), (1995), *Cambridge Illustrated History of Warfare*, Cambridge University Press, Cambridge

Peddie, John, (1994), *The Roman War Machine*, Sutton Publishers, Strovel, England

Pollen, Arthur H., (1984), *The Pollen Papers*, (edited by J. T. Sumida), Allen & Unwin for the Navy Records Society, London

Reeve, John, (1999), *Maritime Strategy and Defence of the Archipelagic Inner Arc*, Royal Australian Navy Sea Power Centre Working Paper No 5, Jervis Bay, NSW

Richmond, Herbert W., (1920), *The Navy in the War of 1739-1748*, 3 vols., Cambridge University Press, Cambridge

Richmond, Herbert W., (1928), *National Policy and Naval Strength and Other Essays*, Ernest Benn Ltd, London

Richmond, Herbert W., (1930), *Naval Warfare*, Ernest Benn Ltd, London

Richmond, Herbert W., (1931), *The Navy in India 1763-1783*, Benn, London

Richmond, Sir Herbert W., (1947), *Statesmen and Sea Power: Based on the Ford Lectures Oxford 1943*, Clarendon Press, Oxford

Richmond, Sir Herbert W., (1953), *The Navy as an Instrument of Policy, 1558-1727*, (edited by E.A. Hughes), Cambridge University Press, Cambridge

Roach, J.A. and Smith, R.W., (1994), *Excessive Maritime Claims*, International Law studies Vol 66, Naval War College Press, Newport, R.I.

Roberts, Timothy Roland, (2000), *Ancient Rome*, MetroBooks, New York

Roberts, William Masfen, (1912), *The History of Rome by Livy*, J.M. Dent Publishers, London

- Robertson, Alan, (2001), *Centre of the Ocean World, Australia and Maritime Strategy*, Seaview Press, South Australia
- Rodger, N.A.M., (1997), *The Safeguard of the Sea – A Naval History of Britain*, Harper Collins Publishers, London
- Rodger, N.A.M. (ed), (1994), *Naval Power in the Twentieth Century*, Annapolis, Md.: Naval Institute Press, United States
- Rodgers, William Ledyard, (1937), *Greek and Roman Naval Warfare*, Naval Institute Press, Annapolis, Maryland
- Roskill, Stephen W., (1962), *The Strategy of Sea Power*, John Goodchild Publishers, London
- Roth, Jonathan P., (1999), *The Logistics of the Roman Army at War (264 BC – AD 235)*, Brill publishers, Leiden, Boston
- Royal Australian Navy, (2000), *Australian Maritime Doctrine One*, Defence Publishing Service, Canberra
- Salmond, Anne, (2003), *The Trial of the Cannibal Dog: Captain Cook in the South Seas*, Penguin Books, New Zealand
- Sanger, C., (1987), *Ordering the Oceans – The Making of the Law of the Sea*, University of Toronto Press, Toronto
- Schurman, Donald M., (1965), *The Education of a Navy, the Development of British Naval Strategic Thought, 1867-1914*, University of Chicago Press, Chicago
- Schwarz, J. Herrmann W.A. & Seller H.F. (eds), (2002), *Maritime Strategies in Asia*, White Lotus Press, Bangkok, Thailand
- Scott-Kilvert, Ian, (1987), *The Roman History: the reign of Augustus by Cassius Dio Cocceianus*, Penguin Books, Harmondsworth, Middlesex
- Scott-Kilvert, Ian, (1979), *The Rise of the Roman Empire by Polybius*, Penguin Books, Harmondsworth, New York
- Seager, Robin, (2002), *Pompey the Great: a Political Biography*, Blackwell Publishers, Oxford, Malden, Mass
- Sheil, Christopher (ed), (2001), *Globalisation: Australian Impacts*, University of New South Wales Press, Sydney, Australia
- Shepard, Arthur McCartney, (1925), *Sea Power in Ancient History: the story of the navies of classic Greece and Rome*, Heinemann, London

Sherwood, R. (ed), (1994), *Maritime Power In The China Seas - Capabilities And Rationale*, Australian Defence Studies Centre, Canberra

Sherwood, R. (ed), (1994), *Operational And Technological Developments In Maritime Warfare : Implications For The Western Pacific - Canberra Papers On Strategy And Defence No 105*, Strategic And Defence Studies Centre, Australian National University, Canberra

Sherwood, R., (1994), *The Navy and National Security: The Peacetime Dimension - Canberra Papers on Strategy and Defence*, Strategic and Defence Studies Centre, Australian National University, Canberra

Sherwood, R., (1994), 'The Utility Of Navies In Peacetime', in *Issues In Maritime Strategy : Presentations Of The Royal Australian Navy Maritime Studies Program*, edited by G. Cox, Directorate Of Publishing Defence Centre, Canberra

Smith, Hugh (ed), (2001), *The Strategists*, Australian Defence Studies Centre, Canberra

Snushall, Barry, (2003), *The Enforcement Aspects of Australia's Oceans Policy*, Working Paper No. 14, Sea Power Centre Australia, Commonwealth of Australia, Canberra

Spender S. (ed), (1994), *Strangers and Citizens: A Positive Approach to Migrants and Refugees*, IPPR/Rivers Oram Press, London

Starr, Chester G. Junior, (1941), *The Roman Imperial Navy 31 B.C. – A.D. 324*, Greenwood Press, Connecticut

Tangredi, Sam J. (ed), (2002), *Globalisation and Maritime Power*, National defense University Press, Washington DC

Taylor, A.J.P., (1971), *The Struggle for Mastery in Europe, 1848-1918*, Oxford University Press, New York

Thubron C., (1982), *The Ancient Mariners*, The Seafarers Collection, Time-Life Books, Amsterdam

Till, G., (1984), *Maritime Strategy And The Nuclear Age*, 2nd ed, Macmillan, London

Till G., (1987), *Modern Sea Power - Volume 1*, Brasseys, London

Till, G., (2004), *Seapower: a guide for the twenty-first century*, Frank Cass Publishers, London

Tsamenyi, M., Bateman, S. & Delaney, J., (1996), *The United Nations Convention on the Law of the Sea: What it Means to Australia and Australia's Marine Industries*, Wollongong Papers on Maritime Policy No.3, University of Wollongong, Wollongong

Tsamenyi, M., & Herriman, M., (1996), *Rights and Responsibilities in the Maritime Environment: National and International Dilemmas*, Wollongong Papers on Maritime Policy No.5, University of Wollongong, Wollongong

Van Creveld, Martin, (1989), *Technology and War: From 2000 BC to the Present*, Free Press, New York

Van Creveld, Martin, (1991), *On Future War*, Brassey's, London

Van Creveld, Martin, (1991), *The Transformation of War*, Free Press, New York

Van Creveld, Martin, (1993), *Nuclear Proliferation and the Future of Conflict*, Free Press, New York

Van Creveld, Martin, (1999), *The Rise and Decline of the State*, Cambridge University Press, Cambridge

Van der Vat, Dan, (2001), *Standard of Power: the Royal Navy in the Twentieth Century*, Pimlico, London

White, Colin, (2002), *The Nelson Encyclopaedia*, Chatham, London

Whittaker, C.R., (1994), *Frontiers of the Roman Empire: a social and economic study*, Johns Hopkins University Press, Baltimore

Wilson, D. & Sherwood, R., (2000), *Ocean Governance and Maritime Strategy*, Allen & Unwin, St Leonards, NSW

Wolfrum, R., (1991), *Law of the Sea at the Crossroads: The Continuing Search for a Universally Accepted Regime*, Duncker & Humboldt, Berlin

Wylie J.C., Rear Admiral USN, (1967), *Military Strategy: A General Theory Of Power Control*, Australian Naval Institute Press, Sydney

Journal or Book Articles

Akimoto, Kazumine, (2003), 'Re-routing Options and Consequences' in Andrew Forbes (ed) *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific* Papers in Maritime Affairs, No 10, Australian Sea Power Centre, Department of Defence, Canberra

Acharya, Amitav, (1999), 'Regionalism, Institutionalism, and the Asian Economic Crisis', *Contemporary Southeast Asia*, Volume 21, No 1, April 1999, pages 1-29.

Barnett, Roger, (2002), 'Naval Power for a New American Century', *Naval War College Review*, Washington, Winter 2002, Volume 55, Issue 1, pages 43-63

Barnett, Thomas, (2001), 'Globalisation is Tested', *US Naval Institute*, October 2001

Bartlett, C.J., (1967), 'The Mid-Victorian Reappraisal of Naval Policy', in K.Bourne and D.C. Watts (eds) *Studies in International History*, London

Bateman, Sam, (1995), 'Naval Roles and Maritime Power', *Maritime Studies*, Vol.84, September/October 1995, page 13.

Bateman, Sam, (1996), 'Introduction' to Martin Tsamenyi, Sam Bateman and Jon Delaney (eds) *The United Nations Convention on the Law of the Sea: What it means to Australia and Australia's Marine Industries*, Wollongong Papers on Maritime Policy No.3.

Bateman, Sam and Bergin, Anthony, (1997), 'Conference Summation', in Doug MacKinnon and Dick Sherwood, (eds), *Policing Australia's Offshore Zones: Problems and Prospects*, Wollongong Papers on Maritime Policy No.9, University of Wollongong.

Bateman, Sam, (2000), 'Ocean governance—the global challenge for the new century', Chapter 18 of Wilson and Sherwood, *Ocean Governance and Maritime Strategy*, Allen & Unwin, Sydney.

Bateman, Sam, (2004), 'Developing a Pacific Island Ocean Guard: The Need, The Possibility and The Concept' in Ivan Molloy, ed., *The Eye of the Cyclone: Issues in Pacific Security*, RSPAS Publishing, Research School of Pacific and Asian Studies, The Australian National University, ACT.

Baugh, Daniel A., (1993), 'Admiral Sir Herbert Richmond and the Objects of Sea Power', as published in James Goldrick & John Hattendorf, eds., '*Mahan is not Enough—The Proceedings of a Conference on the works of Sir Julian Corbett and Admiral Sir Herbert Richmond*' Naval War College Press, Newport, Rhode Island.

Bell, Coral, (2004), 'The Prince of Terror', *The Diplomat*, April / May 2004.

Bender, Peter, (2003), 'America: The New Roman Empire', *Orbis: A Journal of World Affairs*, Volume 47, Number 1, Winter 2003, pages 145-159.

Bergin, Anthony, (1992), 'Changes to the Law of the Sea', *Asian Defence Journal*, Number 1, January 1992, pages 35-42.

Bergin, Anthony, (2001), 'Steady as you go', *Australian Defence Force Journal*, Number 147, March / April 2001, pages 21-22.

Bergin, Anthony & Bateman, Sam, (1999), 'Law and Order at Sea in the South Pacific: the contribution of the Pacific Patrol Boat Project', *Australia and Security Cooperation in the Asia Pacific: AUS-CSCAP Newsletter*, Number 8, April 1999.

Birkel, Franz-Josef, (2003), 'Globalisation: Reducing or Exacerbating the Zero-Sum Game of International Relations', *Yolla –Journal of the Australian Defence Colleges Association*, Defence Publishing Service, Canberra, September 2003.

Blackham, Sir Jeremy, (2002), 'Future Littoral Warfare Requirements: A New Paradigm', *World Defence Systems*, Volume 4, Issue 1, April 2002.

Bland, Raymond D., Captain US Coast Guard, (1984), 'Controlling the EEZ: Implications for Naval Force Planning', *Naval War College Review*, July-August 1984, pages 22-30.

Booth, Ken, (1991), 'The 'New World Order' and the Future of Naval Power', *Journal of the Australian Naval Institute*, November 1991, pages 17-27.

Boothly, D., (1992), 'Sailing Under New Colours', *US Naval Institute Proceedings*, July 1992

Bremer, J.S., (1994), 'The End of Naval Strategy: Revolutionary Change and the Future of American Naval Power', *Strategic Review*, Spring 1994, pages 40-53.

Brown, A. and Viviani, N., (2001), 'Population, Migration, and Refugee Trends', in M. Hanson and William Tow, (eds.) *International Relations in the New Century*, Oxford University Press, Oxford.

Callaway, John, (2002), 'War on Terror Snaps', *US Naval Institute Proceedings*, July 2002.

Chang, Pao-Min, 'A New Scramble for South China Sea Islands', *Contemporary Southeast Asia*, Volume 12, Number 1, June 1990.

Clarke, Michael, (1999), 'Constraints on UK World Power Projection and Foreign Policy in the New World Order: the Maritime Dimension', in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, MacMillan Press Ltd, Hampshire, England.

'The Late Sir Julian Corbett', *Naval Review*, Volume XI, Number 1, February 1923.

Djalal, Hasjim, (1990), 'Potential Conflicts in the South China Sea', *The Indonesian Quarterly*, 2nd Quarter, Volume XVIII, Number 2, pages 178-186.

Dorman, Andrew M., (1999), 'Back to the Future: the Royal Navy in the 21st Century', in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, MacMillan Press Ltd, Hampshire, England, Chapter 13.

Dupont, Alan, (2002), 'Transformation or Stagnation? Rethinking Australia's Defence', inaugural presentation of the Australian Security in the 21st Century lecture co-hosted by the Menzies Centre and Australian Defence Industries, Parliament House, Canberra, 13 November 2002.

Eason, Ros, (2001), 'Trade Wars in the Information Economy: Telecommunications', in Christopher Sheil (ed), *Globalisation: Australian Impacts*, University of New South Wales Press, Sydney.

Feil, Martin, (2002), 'Some Important Myths About Globalisation', *National Observer*, Number 53, Winter 2002.

Ferguson, Niall, (2003), 'Think Again: Power', *Foreign Policy*, January/February 2003.

Ferguson, Niall, (2004), 'A World Without Power', *Foreign Policy*, July/August 2004.

Flint, Matthew, (2004), 'Timor Sea Oil and Gas – Too Valuable to Ignore', in Kerr, Glenn (ed), *Australian Maritime Issues 2004*, Papers in Australian Maritime Affairs No. 12, Commonwealth of Australia, Canberra, pages 13-16.

French, Dr Gregory, (2003), 'Antarctica', in Heath, Rachael & Snushall, Barry (eds), *Protecting Maritime Resources: Boundary delimitations, resource conflicts and constabulary responsibilities*, Papers in Australian Maritime Affairs No 11, Commonwealth of Australia, pages 11-21.

Hoffmann, Stanley, (2002), 'Clash of Globalisations', *Foreign Affairs*, July / August 2002.

Gallagher, J. and Robinson, R., (1953), 'The Imperialism of Free Trade', *Economic History Review*, 2nd series, VI, No. 1, August 1953.

Garden, Sir Tim, (2004), 'Terrorism is the challenge of the century', *The Canberra Times*, Tuesday 16 March 2004, page 11.

Gilbert, G., (1994), 'Tackling the Causes of Refugee Flows', in S. Spender, (ed) *Strangers and Citizens: A Positive Approach to Migrants and Refugees*, IPPR/Rivers Oram Press, London.

Goldrick, James, (2002), 'Medium Power Navy', *Maritime Strategies in Asia*, White Lotus Press, Thailand.

Goldrick, James, (2001), 'The Medium Power Navy in the 21st Century', *Navy Review*, Vol. 89, no. 2, pages 103-110.

Green, Julia, (2001), 'Australian Maritime Boundaries: the Australian Antarctic Territory', *Marine Policy*, No 25.

Grotius, Hugo, (1604), 'The Freedom Of The Seas, Or The Right Which Belongs To The Dutch To Take Part In The East Indian Trade', translated by Ralph Van Deman Magoffin, in James Scott's ed., *Carnegie Endowment for International Peace*, Oxford University Press, New York, 1916.

Grove, Eric, (1994), 'Navies and Low Intensity Conflict', *DSR: Defence & Security Review*, 1994, pages 100-105.

Grove, Eric, (1995), 'Sea power in the twenty first century: the 1995 ANI Vernon Parker Memorial Oration', *Journal of the Australian Naval Institute*, Volume 21, Number 3, August / October 1995, pages 8-12.

Grove, Eric, (1995), 'A Century of Seapower', *Jane's Navy International*, Volume 100, Number 6, November / December 1995, pages 39-74.

Grove, Eric, (1997), 'The Royal Australian Navy: vehicle for regional engagement', *Maritime Studies*, Number 97, November/December 1997, pages 1-4.

Grove, Eric, (1998), 'The security of shipping: a global perspective', *Maritime Studies*, Number 99, March/April 1998, pages 24-27.

Grove, Eric, (1999), 'Navies play their part in Peace Support Operations', *Jane's Navy International*, 1 March 1999, Volume 104/002.

Helton, Arthur, (1996), 'The Legal Dimensions of Preventing Forced Migration', in *Cooperation and Conflict in the Former Soviet Union: Implications for Migration*, RAND Conference Report.

Hirsh, M., (2002), 'Bush and the World', *Foreign Affairs*, Vol 81, No 5, September 2002, pages 1-8.

Hopkins, K., (1982), 'The transport of staples in the Roman Empire' in Garnsey & Whittaker (eds), *Trade and Staples in Antiquity (Greece and Roman)*, Budapest.

Hoffmann, Stanley, (2002), 'Clash of Globalisations', *Foreign Affairs*, July/August 2002.

Hu, Nien-Tsu Alfred & Oliver, James, (1988), 'A Framework for Small Navy Theory: The 1982 UN Law of the Sea Convention', *Naval War College Review*, Spring 1988, pages 37-48.

Ignatieff, Michael, (2003), 'The Challenges of American Imperial Power' *Naval War College Review*, Spring 2003, Volume LVI, Number 2, pages 53-63.

Jain, B.M., (2001), 'Globalisation and regionalisation in international relations and foreign policy: A critique of existing paradigms', *Journal of Diplomacy and Foreign Relations*, Volume 3, Number 1, 2001.

Jervis, Robert, (2003), 'The Compulsive Empire', *Foreign Policy*, July/August 2003.

Jon, Joon-Soo, (2003), 'East Asian Shipping Ownership', in Andrew Forbes (ed), *The Strategic Importance of Seaborne Trade And Shipping*, RAN Sea Power Centre, Commonwealth of Australia, Canberra.

Joyner, Christopher C., (2000), 'The international ocean regime at the new millennium: a survey of contemporary legal order', *Ocean & Coastal Management*, Number 43.

Kay, Stuart, (2003), 'East Timor and maritime boundary delimitations' in Heath, Rachael & Snushall, Barry (eds), *Protecting Maritime Resources: Boundary delimitations, resource conflicts and constabulary responsibilities*, Papers in Australian Maritime Affairs No 11, Commonwealth of Australia, pages 51-61.

Kaufmann, Chaim D. and Pape, Robert A., (1999), 'Explaining Costly International Moral Action: Britain's Sixty-Year Campaign Against the Atlantic Slave Trade', *International Organisation*, Autumn 1999, pages 631-668

Kirby, Steve, (2003), 'Folly, or a Freedom Fight?', *The Canberra Times*, 31 December 2003, page 4.

Klare, Michael, (1990), 'Wars in the 1990s - Growing firepower in the Third World', *Atomic Scientists*, May 1990, Volume 46, Number 4, pages 9-13.

Kurth, James, (2002), 'The War and the West', *Orbis*, Volume 46, Number 2, Spring 2002, pages 321-331.

Lambert, Andrew, (1995), 'The Shield of the Empire 1815-1895', in John Richard Hill (ed), *The Oxford Illustrated History of the Royal Navy*, Oxford University Press, Oxford.

Laughton, Sir John Knox, (1879), 'The Scientific Study of Naval History', *Journal of the Royal United Services Institution*, 18, 1879, pages 508-527.

Lkenberry, G.J., (2002), 'America's Imperial Ambition', *Foreign Affairs*, Vol 81, No 5, September 2002, pages 1-8.

Mack, Andrew, (1995), 'Strategic Security Issues', in S. Bateman and R. Sherwood, Allen and Unwin, (eds), *Australia's Maritime Bridge Into Asia*, Allen & Unwin, Sydney.

Maley, William, (2004), 'Reasons for keeping troops in Iraq don't stand close analysis', *The Canberra Times*, Wednesday 31 March 2004.

Mallaby, Sebastian, (2002), 'The Reluctant Imperialist: Terrorism, Failed States, and the Case for American Empire', *Foreign Affairs*, March/April 2002, Volume 81, Number 2, pages 2-7.

Mason, David, (2003), 'The Origins of the Roman Imperial Navy', *Roman Britain and the Roman Navy*, Tempus Publishing Ltd, Gloucestershire.

McCaffrie, Jack, (2004), 'The New Maritime Security Environment', in Kerr, Glenn (ed), *Australian Maritime Issues 2004*, Papers in Australian Maritime Affairs No. 12, Commonwealth of Australia, Canberra, pages 47-52.

McElroy, Seamus & Mills, Landell, (1992), 'Failure to resolve marine boundary disputes raises tensions in SE Asia', *Marine Policy*, November 1992.

McFarlane, J., (1995), 'The Potential for Illegal Activity', in Jack McCaffrie (ed), *Managing the Offshore Estate*, Australian Defence Studies Centre, University College, Australian Defence Force Academy, Canberra.

McLennan, Bruce, (2002), 'The Maritime Constabulary Role in Australia: threat or opportunity?', *Maritime Studies*, Number 125, July / August 2002, pages 1-14.

McRae, Dave, (2004), 'The Pirates of Malacca', *The Diplomat*, April/May 2004, pages 10-15.

Menhinick, Richard, (2004), 'Sea Control and Surface Combatants', in Kerr, Glenn (ed), *Australian Maritime Issues 2004*, Papers in Australian Maritime Affairs No. 12, Commonwealth of Australia, Canberra, pages 5-7.

Miller, P.D., Admiral USN, (1993), 'Both Swords and Plowshares: Military Roles in the 1990s', *RUSI Journal*, April 1993.

Monk, Paul, (2002), 'Maritime power and the augmented Indies', *Maritime Studies*, Number 126, September / October 2002, pages 10-15.

Nye, Joseph, (2002), 'The new Rome meets new barbarians', *The Economist*, Volume 362, Number 8265, 3 March 2002.

O'Brien, Mike, (2002), 'Morality in Asymmetric War and Invention Operations', *RUSI Journal*, Volume 147, Number 5, October 2002, pages 40-44.

O'Rourke, Ronald, (2004), 'Transform and roll out: the USN's approach to change', *Jane's Navy International*, Volume 109, Number 3, April 2004.

Parfit, Michael, (1995), 'Diminishing Returns: Exploiting the Ocean's Bounty', *National Geographic*, November 1995.

Pao-Min, Chang, (1990), 'A New Scramble for South China Sea Islands', *Contemporary Southeast Asia*, Volume 12, Number 1, June 1990.

Radford, Phil, (2004), 'Gunboat diplomacy', *The Diplomat*, April / May 2004.

Rhodes, Edward, (1999), '...From the Sea and Back Again: Naval Power in the Second American Century' *Naval War College Review*, Spring 1999, Volume L11, Number 2.

Richmond, Admiral Sir Herbert W., (1939), 'The Importance of the Study of Naval History', *Naval Review* 27, May 1939, 201-18, reprinted in *Naval Review* 68, April 1980, pages 139-150.

Rimmer, Peter J., (2001), 'A Cul-de-sac off Main Street: Transport', in Christopher Sheil (ed), *Globalisation: Australian Impacts*, University of New South Wales Press, Sydney.

Roberts, John, (1991), 'Oil, the Military and the Gulf War of 1981', *RUSI Journal*, Vol 136 Spring 1991, pages 11-16.

Rohan, G., (1937), 'Fisheries a Valuable Resource', in D. MacKinnon and Dick Sherwood (eds), *Policing Australia's Offshore Zones Problems and Prospects*, Centre for Maritime Policy, University of Wollongong, Wollongong.

Rothwell, Donald, (1998), 'The Antarctic Treaty System and the Southern Ocean', in Sam Bateman and Donald R. Rothwell, (eds) *Southern Ocean Fishing Policy Challenges for Australia*, Centre for Maritime Policy, University of Wollongong, Wollongong.

Ryan, Alan, (2002), 'The Strong Lead-nation Model in an ad hoc Coalition of the Willing: Operation Stabilise in East Timor', *International Peacekeeping*, Vol.9, No.1, Spring 2002, pages 23-44.

Ryan, Paul, (2003), 'Heard and McDonald Islands and illegal fishing', in Heath, Rachael & Snushall, Barry (eds), *Protecting Maritime Resources: Boundary delimitations, resource conflicts and constabulary responsibilities*, Papers in Australian Maritime Affairs No 11, Commonwealth of Australia, pages 69-78.

Sakhuja, Uijay, (2000), 'Maritime Order and Piracy', *Strategic Analysis*, Volume 24, Number 5, August 2000, pages 923-938.

Scholte, Jan Aart, (1997), 'The Globalisation of World Politics', in Steve Smith & John Baylis (eds), *The Globalisation of World Politics*, Oxford University Press, Oxford.

Scott, Bruce R., (2001), 'The Great Divide in the Global Village', *Foreign Affairs*, January/February 2001, Volume 80, Number 1.

Seller, Hanns-Frank, (2002), 'A New Security Policy', *Maritime Strategies in Asia*, White Lotus Press, Thailand.

Sprout, M.T., (1952), 'Mahan: Evangelist of Sea Power' in E.M. Earle (ed), *Makers of Modern Strategy*, Princeton.

Sherwood, Dick, (1994), 'The Utility of Navies in Peacetime', in G. Cox (ed) *Issues in Maritime Strategy: Presentations of the Royal Australian Navy Maritime Studies Program*, Commonwealth of Australia, Directorate of Publishing Defence Centre, Canberra.

Sherwood, Dick, (1994), 'Maritime Developments in the Asia/Pacific Region' in Greg A. Cox (ed) *Issues in Maritime Strategy*, Commonwealth of Australia, Directorate of Publishing Defence Centre, Canberra.

Sherwood, Dick, (2000), 'Oceans governance and its impact on maritime strategy', in Wilson & Sherwood, *Oceans Governance and Maritime Strategy*, Allen & Unwin, St Leonards, NSW.

Smith Jr, Edward A., (1998), "...From the Sea": The Process of Defining a New Role for Naval Forces in the Post-Cold War World', in Trubowitz, Goldman and Rhodes (eds), *The Politics of Strategic Adjustment: Ideas, Institutions, and Interests*, New York, Columbia University Press.

Smith, Mike Lawrence & Uttley, Matthew R.H., (1999), 'Tradition and Innovation in Maritime Thinking', in Andrew Dorman, Mike Lawrence Smith and Mathew R.H. Uttley, *The Changing Face of Maritime Power*, MacMillan Press Ltd, England.

Steele, J., (2002), 'The Bush doctrine makes nonsense of the UN Charter', *The Guardian*, 7 June 2002.

Sutton, Gerald, (2000), the 'Introduction' to D. Wilson and R. Sherwood, *Ocean Governance and Maritime Strategy*, Allen & Unwin, St Leonards, NSW.

Symonds, Phil, (2003), 'Australia's extended continental shelf', in Heath, Rachael & Snushall, Barry (eds), *Protecting Maritime Resources: Boundary delimitations, resource conflicts and constabulary responsibilities*, Papers in Australian Maritime Affairs No 11, Commonwealth of Australia, pages 79-90.

Taulbee, James Larry, (1998), 'Mercenaries and Citizens: A Comparison of the Armies of Carthage and Rome', *Small Wars and Insurgencies*, Volume 9, Number 3, Winter 1998, pages 1-16.

Thomas, Trevor, (2001), 'Coast Guard V Coastwatch – Who's right?' *Australian Defence Business Review*, Vol. 20, no. 15, 28 September 2001, pages 10-13.

Till, Geoffrey, (1999), 'Sir Julian Corbett: Ten Maritime Commandments', in Andrew Dorman, Mike Lawrence Smith and Matthew R.H. Uttley (eds), *The Changing Face of Maritime Power*, MacMillan Press Ltd, Hampshire, England.

Till, Geoffrey, (2001), 'Maritime Trade Introduction', in *Seapower at the Millenium*, Sutton Publishing Ltd, United Kingdom.

Till, Geoffrey, (2003), 'A Changing focus for the Protection of Shipping' in Andrew Forbes (ed) *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific*, Papers in Australian Maritime Affairs, No 10, Australian Sea Power Centre, Department of Defence, Canberra.

van Creveld, Martin, (1992), 'The Structure of Strategic Studies' in D. Ball and D. Horner (eds), *Strategic Studies in a Changing World: Global, Regional and Australian Perspectives*, Australian National University, Canberra, Chapter 5.

van Creveld, Martin, (1992), 'High Technology and the Transformation of War Part II', *RUSI Journal* December 1992, page 62.

van Creveld, Martin, (1996), 'The Fate of the State', *Parameters: Journal of the US Army War College*, Volume XXVI, Number 1, Spring 96, pages 4-18.

van Creveld, Martin, (2000), 'Through a Glass, Darkly—Some Reflections on the Future of War', *Naval War College Review*, Volume 53, no. 4, pages 26-44.

van Creveld, Martin (2002), 'The Transformation of War Revisited', *Small Wars and Insurgencies*, Volume 13, Number 2, Summer 2002, pages 3-15.

von Ranke, Leopold, (1833) 'The Great Powers', in Theodore H. von Laue (ed) *Leopold Ranke, The Formative Years*, Princetown University Press, Princetown.

Wallerstein, Immanuel, (2002), 'The Eagle Has Crash Landed', *Foreign Policy*, July/August 2002, pages 60-68.

Walsh, James, (1991), 'Global Beat', *Time*, 1 April 1991, pages 21-25.

Walsh, M., (2002), 'Unilateral Damage', *The Bulletin*, 2 October 2002.

White, M. (2002), 'M/V Tampa Incident and Australia's Obligations – August 2001', in *Maritime Studies*, 122, January/February 2002, pages 7–17.

Williams, Clive, (2002), 'Australia's Evolving Maritime Border Threat Environment' in Martin Tsamenyi and Chris Rahman (eds) *Protecting Australia's Maritime Borders: The MV Tampa and Beyond*, Wollongong Papers on Maritime Policy No 13, Centre for Maritime Policy, University of Wollongong, Wollongong.

Wijkman, P.M., (1982), 'Managing the Global Commons' *International Organisation*, vol. 36, no. 3, page 512.

Woodard, C., (1999), 'Antarctica: Endless Détente', in *Bulletin of the Atomic Scientists*, Vol. 55, Number 1, January/February 1999.

World Wide Web Sites

<http://www1.umn.edu/humanrts/...>

http://37.1911encyclopedia.org/G/GE/GENTILI_ALBERICO.htm

http://38.1911encyclopedia.org/R/REGULUS_MARCUS_ATILIUS.html

<http://42.1911encyclopedia.org/S/SA/SAMNITES.html>

<http://94.1911encyclopedia.org/B/BA/BARTOLUS.htm>

http://96.1911encyclopedia.org/B/BY/BYNKERSHOEK_CORNELIUS_VAN.htm

<http://152.122.41.10.wvmta/chap1.htm>

<http://www.abc.net.au/4corners/...>

<http://www.abc.net.au/btn/australians/...>

<http://www.abc.net.au/pm/content/...>

http://www.acmarst.com/parl_sub/...

<http://www.aei.org/publications/...>

<http://www.aic.gov.au/publications/...>

www.amnesty.org.au/refugees/...

<http://ancienthistory.about.com/cs/people/...>

<http://www.antdiv.gov.au/information/...>

www.antiquemapsandprints.com/scans/...

www.aph.gov.au/library/pubs...

<http://www.apsanet.org/...>
www.apologeticsindex.org/...
<http://www.apsanet.org/...>
http://www.archeologia.com/roman_navy/...
<http://www.asoc.org/general/...>
www.atimes.com
<http://www.au.af.mil/au/...>
<http://www.austhink.org/...>
http://www.auswaertiges-amt.de/www/en/aussenpolitik/vn/antarktis_html#2
www.barca.fsnet.co.uk/...
<http://www.bartleby.com/...>
<http://bulletin.ninemsn.com.au/bulletin/eddesk...>
<http://www.budget.gov.au/2005-06/...>
<http://www.carlisle.army.mil/ssi/pubs/people...>
<http://www.carmensandiego.com/products/...>
<http://www.ccamlr.org/pu/E/...>
http://cdserver2.ru.ac.za/cd/011120_1/Aqua/Marine%20Fisheries/...
<http://www.cecaust.com.au/main.asp?act=dos&sub=publications...>
www.cgsc.army.mil/carl/resources/csi/...
www.chinfo.navy.mil/navpalib/cno/proceedings.html
<http://www.clausewitz.com/...>
www.cpps-int.org/english/santiagodeclaration2002
<http://www.crystalinks.com/romenavy...>
<http://www.coi.gov.cn/...>
<http://www.d-n-i.net/creveld/...>
<http://intranet.defence.gov.au/janes/...>
<http://www.defenselink.mil/execsec/...>
<http://www.defence.gov.au/...>
www.deh.gov.au/coasts/...
<http://www.dfat.gov.au/facts...>
<http://www.dotars.gov.au/transsec/docs/...>
<http://www.ecoturismocanarias.com/canarias/...>
<http://www.ehistory.com/world/articles/...>
<http://www.encyclopedia.com/...>

<http://www.etan.org/news/...>
www.exwar.org
<http://www.factmonster.com/ce6/history/...>
www.factnet.org/cults/aum_shin_rikyo/...
<http://faculty.biu.ac.il/...>
www.fao.org/...
<http://www.fish.wa.gov.au/...>
<http://www.fpri.org/...>
www.ga.k12.pa.us/academics/...
<http://www.geocities.com/enriquearambum/...>
<http://www.globalpolicy.org/wtc/terrorism/...>
<http://www.globalsecurity.org/military/...>
<http://www.greenpeace.org.au/oceans/...>
<http://www.guardian.co.uk/...>
<http://heraklia.fws1.com/contemporaries/...>
www.historybookshop.com/articles/...
<http://www.historymole.com/...>
www.ibiblio.org/pha/policy/...
<http://www.icfconsulting.com/Publications/...>
<http://I-cias.com/e.o/hannibal.html>
<http://www.ict.org.il/articles/...>
<http://www.immi.gov.au/...>
<http://www.imo.org/Newsroom/...>
<http://www.infoplease.com/...>
<http://www.intfish.net/cases/fisheries/...>
<http://intranet.defence.gov.au/navyweg/...>
www.jmr.nmm.ac.uk/server/...
<http://www.kfki.hu/...>
http://www.kwabs.com/spanish_claim_.html
www.law.uga.edu/...
<http://www.lib.utexas.edu/maps...>
<http://www.luminarium.org/encyclopedia/...>
<http://lwdc.sor.defence.gov.au/cal/Publications/...>
www.meta-religion.com/World_Religions/...

<http://www.ndu.edu/inss/books/...>
www.nobel.se/literature/...
<http://nrs.harvard.edu/...>
www.marine.csiro.au/.../oceansourneedtoknow.html
<http://www.marinelog.com/DOCS/...>
<http://www.mcn.org/...>
www.metimes.com/...
<http://www.mlssa...>
http://www.nrel.gov/otec/mineral_extraction.html
www.navy.gov.au/spc/...
<http://www.ndu.edu/inss/books/...>
www.nwdc.navy.mil/Concepts/Sea_Power_21/...
www.newadvent.org/...
<http://www.nwc.navy.mil/press/Review/...>
www.oceanlaw.net/texts...
<http://odur.let.rug.nl/-usa/...>
<http://www.parliament.the-stationery-office.co.uk/...>
<http://proquest.umi.com/...>
<http://www.publicaffairs.noaa.gov/oceanreport/...>
www.premier.vic.gov.au/...
www.redlist.org
<http://www.roman-empire.net/army/leg-fleet.html>
<http://www.sacredspiral...>
<http://www.san.beck.org/EC24-RomanExpansion.html>
<http://www.saradouglass.com/prestjohn.html>
<http://www.scieng.flinders.edu.au/...>
<http://www.sea-ex.com/...>
<http://www.smh.com.au/aticles/...>
<http://www.sms1835.no/...>
<http://www.sourcewatch.org/...>
<http://www.spartacus.schoolnet.co.uk/...>
<http://www.State.gov/...>
<http://streamer.rug.ac.be/cdlaw /...>
<http://www.ssnp.com/hannibal>

<http://www.sundaymail.co.uk/...>
www.sunspot.net/news/nationworld/...
<http://www.tear.org.au/resources/...>
<http://www.terraquest.com/va/science/geography/...>
www.TheIntegratedDeepwaterSystem...
<http://www.thesydneyinstitute.com.au/...>
<http://www.traffic.org/toothfish/...>
<http://www.una.ac.cr/...>
<http://www.univ.trieste.it/...>
http://www.un.org/Dept/los/convenmtion_agreements/...
<http://www.un.org/Depts/dpko/... /unprofor.htm>
www.un.org/aboutun/charter/...
<http://www.unrv.com/provinces/...>
<http://www.u-s-history.com/...>
<http://usinfo.state.gov/usa/infousa/facts/...>
http://www.uvm.edu/~sgutman/The_Strategy_of_Pre-emption.html
<http://www.washingtonpost.com/...>
<http://www.weforum.org/...>
www.whitehouse.gov/nsc/print/...
www.whitesharktrust.org/...
<http://www.wisdomquotes.com/...>
www.yale.edu/lawweb/...
<http://www.yoto98.noaa.gov/yoto/meeting/...>