# 6

# Maritime civil and industry issues

## Introduction

6.1    The examination of Australia's maritime strategy branched over to a range of matters which are indirectly related to defence issues. This chapter brings together a broad discussion of these matters. For example, Australia's strategic interests are driven, in part, by the need to protect, monitor and control our 200 nautical mile (nm) economic exclusion zone (EEZ). In addition, Australia is reliant on shipping for a large proportion of its international trade. The maintenance of sea lines of communication (SLOCs) are essential to this trade. The first section of the chapter will explain in more detail the importance of Australia's ocean wealth, the maintenance of trade routes, and the role that Defence and other agencies have in monitoring and protection.

6.2    Defence in delivering a maritime strategy may need the support of merchant shipping to achieve its objectives. In particular, merchant shipping is often used to assist with heavy lift and re-supply. The point was made during evidence that there has been a decline in the size of Australia's merchant fleet together with a series of government regulations that are inhibiting the industry. These claims will be examined in the second part of this chapter.

6.3    The final part of the chapter provides a general discussion of issues relating to the Australian defence industry.

# Australia's maritime economic and strategic interests

6.4     Australia's sovereign rights extend to the 200nm EEZ and the edge of the
        continental shelf which can extend out to about 350nm from the coast. In
        addition, Australia's island territories and their EEZ extend from Cocos
        and Christmas Islands in the Indian Ocean to Lord Howe and Norfolk
        Islands in the Pacific Ocean, through to Heard, Macdonald and Macquarie
        Islands and the Australian Antarctic Territory in the Southern Ocean.
        Australia's maritime jurisdictional area comprises more than eight million
        square nautical miles or almost 16 million square kilometres.[1]

6.5     The EEZ is an important source of resources including gas and oil reserves
        and fishing production. Australia, for example, depends upon offshore oil
        production for much of its domestic petroleum production. The Royal
        Australian Navy concluded that 'Australia's EEZ is one of the largest in
        the world and its surveillance and protection are placing increasing
        demands upon national resources.'[2]

6.6     In addition, to the protection and surveillance of the EEZ, Australia's
        international trade is heavily influenced by sea transport. Defence
        concluded that 'Australia is heavily reliant on the maritime environment
        for its national survival and economic well being.'[3] The Royal Australian
        Navy's Australian Maritime Doctrine states:

> The sea remains the primary and far and away the most cost-
> effective means for the movement of international trade, both by
> value and weight. In Australia's case, more than 70 per cent of our
> exports and imports go by sea in terms of value and well over 95
> per cent by bulk. Although Australia is largely self sufficient for
> most resources, it is increasingly dependent upon petroleum
> imports to meet domestic demand, maintenance and expansion of
> export trade, while essential manufactured goods, industrial tools
> and high technology equipment are amongst our imports. Coastal
> shipping not only plays a substantial role in Australia's domestic
> transport network, but its free movement is also essential to the
> survival of many cities and towns in the north.[4]

6.7     Defence reported that 'all of Australia's international trade passes through
        our maritime approaches, most passing through the strategic choke points
        of Southeast Asia' including Malacca, Singapore, Sunda, Lombok and

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1   Royal Australian Navy, *Australian Maritime Doctrine*, 2000, p. 12.
2   Royal Australian Navy, *Australian Maritime Doctrine*, 2000, p. 15.
3   Department of Defence, *Submission 29*, p. 2.
4   Royal Australian Navy, *Australian Maritime Doctrine*, 2000, p. 14.

Sumba straits.[5] Defence concluded that the 'most important trade routes for Australia are those with the countries of the Asia-Pacific region, where the overwhelming bulk of our international trade occurs.'[6]

6.8 The following sections examine some of the challenges of monitoring and protecting sea line of communication, and providing coastal surveillance closer to Australian shores primarily through Coastwatch.

## Sea Lines of Communication (SLOCs)

6.9 In view of the large quantities of trade by volume and value which are transported by sea, the monitoring and security of sea lines of communication (SLOCs) is essential. The threats to SLOCS can be both from military and non-military sources. Military threats include actions arising from conflicts between countries and the use of sea mines. Non-military threats arise from natural disasters, accidents and piracy.[7]

6.10 Some of the key SLOCs in the ASEAN and East Asian region include the South China Sea, the Straits of Malacca, the Straits of Singapore, Sunda and Lombok. It is estimated that over half of the world's merchant fleet sails through these straits and the South China sea. On average, more than 200 ships a day pass through the Straits of Malacca.[8]

6.11 During the inquiry, a range of groups stressed the importance of maintaining the security of SLOCs. The Australian Maritime Defence Council (AMDC) stated:

> As you are aware, the maritime industry is crucial to Australia's transport task for both interstate and international trade and the supply of essential goods. Given Australia's geographic isolation from its major trading partners, uninterrupted and secure sea lines of communication are essential to our economic prosperity and security. In the current strategic environment, the likelihood of armed conflict on Australian soil or in proximate Australian waters appears remote. However, should this occur, there would likely exist a requirement to ensure the supply of raw materials for manufacturing, both domestically and to our allies, in addition to the imperative to sustain Australia's export income.[9]

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5 Department of Defence, *Submission 29*, p. 2.
6 Department of Defence, *Submission 29*, p. 2.
7 Weeks, S., 'Sea Lines of Communication, Security and Access,' in Bateman, S. & Bates, S. (eds.), *Shipping and Regional Security*, CSCAP and Canberra Papers on Strategy and Defence No. 129, Canberra 1998, p. 33.
8 Weeks, S., 'Sea Lines of Communication, Security and Access', p. 33.
9 Rear Admiral Rowan Moffitt, Chairman, AMDC, *Transcript*, p. 82.

6.12    During the public hearings, the focus on SLOCs was not just on how critical they are to the national economy but how best they can be monitored and protected. The Returned and Services League, in relation to the maintenance of SLOCs, commented that 'National strategic weaknesses and the means by which the nation might circumvent, ameliorate or overcome them also need to be included in Australia's maritime strategy.'[10]

6.13    Defence acknowledged the importance of shipping to Australia's economy but placed limitations on the level of protection that could be provided. Defence stated:

> The employment of ADF maritime assets in the protection of shipping would be quite selective. Our efforts would likely be devoted to the protection of strategically important cargoes.[11]

6.14    It was acknowledged by a range of groups that there are significant challenges to providing comprehensive protection of SLOCs. In particular, the types of offensive capabilities that could be used could pose the major problem. Dr John Reeve suggested that in responding to threats to SLOCs it would be necessary 'to have area defence which, in today's naval warfare, involves air warfare capability.'[12] Similarly, Commodore Alan Robertson indicated that Australia 'would be deficient in areas where an aggressor had long-range aircraft and could launch antishipping missiles.'[13]

6.15    Dr Alan Dupont suggested that it was impractical for one country alone to expect that it can monitor and protect SLOCS. Dr Dupont, however, suggested that there was more that could be done through joint operations and regional cooperation. Dr Dupont stated:

> I see a lot more scope for joint operations and regional cooperation to defend sea lanes in South-East Asia, for example. I think there is more that can be done there in terms of counter-piracy. There is a range of things that we can do in conjunction and cooperation with others that will help bring about the sorts of control of the sea lanes that we want, or protection of them. I do not think it is necessary for us to think in terms of projecting our maritime capabilities further afield than that initial area; I think it is beyond our capabilities.[14]

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10    Rear Admiral Ken Doolan (Retd), *Transcript*, p. 332.
11    Department of Defence, *Submission 29*, p. 11.
12    Dr John Reeve, *Transcript*, p. 102.
13    Commodore Alan Robertson (Retd) , *Transcript*, p. 176.
14    Dr Alan Dupont, *Transcript*, p. 143.

6.16  Similarly, Dr John Reeve supported this view with the comment that the protection of SLOCs is 'best tackled at the international level in terms of cooperation with our maritime friends and allies.'[15] Dr Reeve concluded that monitoring and protection of SLOCs 'is a constabulary duty and is not one which can adequately be policed by a single power.'[16]

## Coastwatch

6.17  A range of government agencies have an interest in managing and providing security for Australia's maritime environment. Coastwatch has the responsibility for managing Australia's offshore and coastal surveillance. Coastwatch provides:

> …air and marine based civil and surveillance and response services to a number of government agencies. The aim is to detect, report and respond to potential or actual non-compliance with relevant laws in coastal and offshore regions.[17]

6.18  The key government agencies served by Coastwatch include the:

- Australian Customs Service;
- Australian Federal Police;
- Australian Maritime Safety Authority;
- Australian Quarantine and Inspection Service;
- Department of Foreign Affairs and Trade;
- Department of Immigration and Multicultural Affairs;
- Environment Australia; and
- the Great Barrier Marine Park Authority.[18]

6.19  Coastwatch, in providing its services, employs civilian aircraft contractors, and 'is also able to call upon Defence assets such as P3-C Orion surveillance aircraft and Fremantle Class Patrol Boats, and vessels of the Customs National Marine Unit.'[19]

6.20  The objectives of Australia's maritime surveillance and enforcement regime is designed to achieve the following broad objectives:

- sovereignty enforcement and picture compilation;

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15  Dr John Reeve, *Transcript*, p. 102.
16  Dr John Reeve, *Transcript*, p. 102.
17  Australian Customs Service, *Annual Report 1999-2000*, p. 5 – cited in Joint Committee of Public Accounts and Audit, *Review of Coastwatch, Report 384*, August 2001, p. 1.
18  Joint Committee of Public Accounts and Audit, *Review of Coastwatch, Report 384*, p. 2.
19  Joint Committee of Public Accounts and Audit, *Review of Coastwatch, Report 384*, p. 2.

- sustainment and protection of the EEZ, monitoring of foreign fisheries activity, and licence enforcement;

- detection of illegal trafficking and smuggling of drugs;

- monitoring of the environment and resource protection;

- detection of illegal immigration and refugee protection;

- detection of illegal activity and quarantine breaches;

- enforcement of national marine park protection;

- monitoring any other breaches of Commonwealth or state laws; and

- enhancement of security through regional engagement.[20]

6.21    Defence is a service provider to Coastwatch through the provision of key surveillance assets such as RAAF aircraft and RAN patrol boats. In addition, Defence shares military intelligence with Coastwatch.[21]

6.22    In 2001 the Joint Committee of Public Accounts and Audit (JCPAA) undertook a review of Coastwatch functions. The JCPAA noted that an interdepartmental committee examination of patrol requirements of the Southern Ocean in 1997 concluded that 'Coastwatch or the RAN did not possess any marine vessels capable of undertaking interception and/or surveillance activities' of the region 'on a protracted basis.'[22] In responding to this shortfall, Customs advised that government funding had been provided up to 2003 'to charter a civilian vessel to carry out fisheries enforcement activities.'

6.23    Illegal fishing in the Southern Ocean, particularly illegal fishing of the Patagonian Tooth Fish, is an increasing problem. This was recently highlighted in August 2003 by the 3 900 nautical mile pursuit of the Uruguayan-flagged vessel *Viarsa 1* by the Australian Customs and Fisheries patrol vessel *Southern Supporter.*

6.24    In view of the challenges in patrolling the Southern Ocean, the JCPAA recommended that 'Defence should investigate, with subsequent advice to the Government, the cost of acquiring and outfitting a vessel to patrol the Southern Ocean and other remote areas, and the feasibility of mounting joint patrols of the Southern Ocean with other countries with an interest in the region.'[23] The Government, in its response, supported this recommendation and stated:

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20   Bergin, A., 'Australia', in Bateman, S., & Bates, S (eds.), *Regional Maritime Management & Security*, CSCAP and Canberra Papers on Strategy and Defence No. 124, Canberra 1998, pp. 7-8.

21   Joint Committee of Public Accounts and Audit, *Review of Coastwatch, Report 384,* p. 49.

22   Joint Committee of Public Accounts and Audit, *Review of Coastwatch, Report 384,* p. 110.

23   Joint Committee of Public Accounts and Audit, *Review of Coastwatch, Report 384,* p. 113.

Work is currently being undertaken by Defence and other relevant agencies, to assess the threat and risk to Southern Ocean fisheries and identify the infrastructure necessary to establish response options. As part of that process, and in the context of the Heard and Mcdonald Islands Operational Group, the various response options, including the requirements for a vessel to patrol the Southern Ocean and other remote areas will be produced. This requirement will be the basis on which Defence and other relevant agencies will determine the size, type and characteristics of the required vessel, and therefore its cost.[24]

## Australia's Oceans Policy

6.25    Australia has a detailed *Oceans Policy*. It seeks to promote 'ecologically-sustainable development of the resources of our oceans and the encouragement of internationally competitive marine industries, while ensuring the protection of marine biological diversity.'[25] Volume 2 of the *Oceans Policy* provides detail on specific sectoral measures and, in particular, details the role of defence in protecting Australia's national interests and sovereign rights. The *Oceans Policy* states:

Australia's Strategic Policy defines the defeat of attacks against Australia's territory 'as our core force structure priority'—it is the focus of all our Defence activities. The Strategic Policy also advances the need for strategic control, to ensure that potential aggressors are not able to cross our marine jurisdictions.

It is the Australian Defence Force's (ADF) task to safeguard these areas, to control our maritime approaches and to exercise and protect Australia's sovereignty and sovereign rights.[26]

6.26    The ADF contributes the following range of tasks which contribute to the national *Oceans Policy*:

- preparedness and contingency planning;
- maritime surveillance and response;
- fisheries law enforcement;
- search and rescue;
- hydrographic services; and
- the Australian Oceanographic Data Centre.[27]

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24    JCPAA Report No. 384, Review of Coastwatch, *Response by Government*, 19 September 2002, pp. 4-5.

25    Environment Australia, *Australia's Oceans Policy, Vols. 1*, 1998, p. 2.

26    Environment Australia, *Australia's Oceans Policy, Vols. 2*, 1998, p. 37.

6.27    The Centre for Maritime Policy (CMP) at the University of Wollongong, in evidence to the inquiry, noted that 'although maritime strategy should be congruent with other elements of national policy, *Defence 2000* makes no reference to Australia's *Oceans Policy* that provides a policy framework for considering maritime issues in Australia.'[28]

6.28    The CMP notes that the *Oceans Policy* 'is also significant for maritime strategy because it proposes a leadership role for Australia in helping to ensure that international ocean management regimes are effectively implemented in the oceans around Australia.'[29] The *Ocean Policy* states that 'Australia should provide leadership regionally and internationally in the management of our oceans, recognising the possibility that national activities may have effects on the marine jurisdictions of neighbouring countries.'[30]

6.29    In view of the status and importance of *Australia's Oceans Policy*, the CMP made the point that more recognition was required in Australia's maritime strategy. The CMP stated:

> …our maritime strategy should specifically recognize the significance of maritime interests in the region and the potential for Australia both to play a leadership role, particularly in the South Pacific, and to assist regional countries with building their capacity to manage their own maritime interests. In this way, Australia will make a major contribution to regional stability and help prevent threats arising.[31]

6.30    The CMP, in noting the regional leadership role Australia could play, commented that the 'Pacific Patrol Boat Program is an excellent example of what Australia can achieve with regional leadership and capacity building.'[32] The CMP, however, believed that the 'current program of occasional surveillance flights in the South Pacific by the RAAF, RNZAF, US Coast Guard and French military is a less than adequate response to the needs of Pacific island countries and the region generally for aerial surveillance.'[33] The CMP commented on a possible option that would lead to enhanced regional surveillance:

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27    Environment Australia, *Australia's Oceans Policy, Vols. 2*, 1998, p. 37.

28    Centre for Maritime Policy (CMP) at the University of Wollongong, *Submission 8*, p. 5.

29    Centre for Maritime Policy (CMP) at the University of Wollongong, *Submission 8*, p. 5.

30    Environment Australia, *Australia's Oceans Policy, Vols. 1*, Appendix 1, 1998, p. 40.

31    Centre for Maritime Policy (CMP) at the University of Wollongong, *Submission 8*, p. 6.

32    Centre for Maritime Policy (CMP) at the University of Wollongong, *Submission 8*, p. 6.

33    Centre for Maritime Policy (CMP) at the University of Wollongong, *Submission 8*, p. 6.

> While P3C aircraft are an expensive option for maritime surveillance, we could explore the opportunity for Australia, perhaps in cooperation with New Zealand, to establish a regional air surveillance unit, possibly using Dash-8 aircraft similar to those operated under contract to Coastwatch. Similarly a regional "Oceanguard" could be considered using vessels with better seakeeping and endurance than the existing Pacific Patrol Boats.[34]

6.31    Support for a wider oceans policy that takes into account the needs of countries in Oceania or the South Pacific Ocean has received support from other sources. As part of the visit to New Zealand in April 2003, the committee met with the Institute of Policy Studies and Centre for Strategic Studies. The context of these meetings was noted in the committee's report.[35] In particular, the committee noted that an oceans policy for Oceania was examined by Mr Peter Cozens in a paper presented to a meeting in Canberra of the Council for Security Cooperation in the Asia Pacific (CSCAP) during August 2002. Mr Cozens concluded:

> An Oceans Policy for the countries of Oceania is a matter of great strategic significance. The international dimension includes geo-political implications for the metropolitan powers of Australia, France, and New Zealand in particular. As northern hemisphere nations examine opportunities to exploit primary resources of fish and minerals, there is an obvious consideration to assist the states of Oceania to protect their national interests and sovereign rights as they plainly do not have the infrastructure and resources to do so.[36]

## Conclusions

6.32    Australia's economic exclusion zone is vast and provides a wealth of resources including gas and oil reserves and fish stocks. Defence concluded that Australia is heavily reliant on the maritime environment for its economic well-being. It is a significant challenge for Australia to provide surveillance and protection of its EEZ which is one of the largest in the world.

6.33    In addition to managing our EEZ, Australia is reliant on sea transport and unhindered sea lines of communication (SLOCs) for much of its international trade. In view of the large quantities of trade by volume and

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34    Centre for Maritime Policy (CMP) at the University of Wollongong, *Submission 8*, p. 6.

35    Joint Standing Committee on Foreign Affairs, Defence and Trade, *Report of the 2003 New Zealand Parliamentary Committee Exchange, 6-11 April 2003*, June 2003, pp. 56-59.

36    Cozens, Peter, 'Security in Oceania – An Oceans Policy?' *IPS Policy Newsletter*, No. 71, November 2002, p. 18.

value which are transported by sea, the monitoring and security of SLOCs is essential. It is not possible for one country alone to comprehensively manage and provide security for SLOCS. It was suggested in evidence that more could be done, through joint operations and regional cooperation, to manage the security of SLOCs. The committee agrees with this view and recommends that the Government outline its progress with joint operations and regional cooperation to enhance the security and protection of vessels using sea lines of communication (SLOCs).

6.34    Australia has an Oceans Policy which seeks to promote 'ecologically sustainable development of the resources of our oceans and the encouragement of internationally competitive marine industries, while ensuring the protection of marine biological diversity.' The *Oceans Policy* refers to the role of Defence in protecting Australia's national interests and sovereign rights.

6.35    The point was made in evidence that the *White Paper* makes no reference to the *Oceans Policy*. The committee agrees, that in the context of Australia's defence maritime strategy it is essential to refer to and acknowledge broader maritime issues. It is essential that maritime strategy be explicitly linked with other aspects of national policy. This is an example of why the committee argues for a national security policy in chapter two. In relation to this point, the committee recommends that when the Government develops a new Defence *White Paper*, it should ensure that the maritime strategy includes clear and explicit reference to Australia's *Oceans Policy*.

6.36    While Australia has an *Oceans Policy*, the point was made in evidence that the countries of the South Pacific could all benefit if there was a regional oceans policy. Australia's Oceans Policy notes that 'Australia should provide leadership regionally and internationally in the management of our oceans, recognising the possibility that national activities may have effects on the marine jurisdictions of neighbouring countries.' The committee recommends that the Government provide a report to Parliament outlining its progress with helping to develop a regional Oceans Policy.

## Recommendation 10

6.37    **The committee recommends that the Government outline its progress with joint operations and regional cooperation initiatives which seek to enhance the security and protection of vessels using sea lines of communication (SLOCs).**

**Recommendation 11**

6.38    **The committee recommends that when the Department of Defence develops a new Defence *White Paper*, it should ensure that the maritime strategy includes clear and explicit reference to Australia's *Oceans Policy* and explains its interrelationship with Defence policy.**

**Recommendation 12**

6.39    **The committee recommends that the Government provide a report to Parliament outlining its progress with helping to develop a regional *Oceans Policy*.**

## Merchant shipping

6.40    Merchant shipping has, historically, provided nations with essential capability to support their defence objectives. For example, during World War II, Britain was reliant on merchant shipping for re-supply. During the Falklands War, Britain once again relied upon merchant shipping for the supply of essential equipment and movement of troops. In both of these examples, merchant shipping was targeted by adversaries in order to undermine Britain's war effort.

6.41    In the Australian context, merchant shipping played a role in the ADF's operations in East Timor beginning in 1999. This involved the provision of heavy lift capability for troops, equipment and supplies.

6.42    The Australian-flag shipping fleet consists of around 56 trading vessels of which about 45 are major ocean-going trading ships. The Australian Shipowners Association (ASA) commented that 'most of the Australian-flag fleet is now deployed in domestic trades, the international trading fleet having been for the most part transferred to foreign flags under foreign ownership under which such vessels may or may not be subject to Australian control.'[37]

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37    Australian Shipowners Association, *Submission 10*, p. 2.

## Use of merchant shipping for defence purposes

6.43    Evidence to the inquiry suggested that Australia's declining merchant fleet and crews, and disincentives to expansion, could result in the ADF being over reliant on foreign flagged ships. The consequences of this could include less opportunity to requisition ships, and the need to rely more on foreign flagged ships. The Australian Maritime Defence Council (AMDC) stated:

> The declining levels of indigenous ship ownership and suitably trained personnel may increase Australian reliance upon foreign-owned and crude vessels for heavy sea-lift tasks beyond the capacity of present naval forces. It should, therefore, be recognised that it may be more difficult for the Australian government to requisition foreign-owned assets as compared with domestic.[38]

6.44    Commodore Alan Robertson indicated that he would like to see 'as part of our maritime strategy a revival of Australian coastal and international shipping.'[39] Future Directions International acknowledged the support of merchant shipping to support defence objectives but noted that the issue of foreign flagged shipping was a problem around the world. Future Directions International stated:

> In terms of foreign owned merchant shipping, I think that is an issue. However, these days, flags of convenience predominate all over the world. There are very few nations these days that have a significant shipping line of their own; most shipping is genuinely international and proceeds internationally. The priority for us as a nation is to ensure that we do all we can to provide a secure environment so that trade can flow and prosper. That is a strategic answer, not a local answer, of course.[40]

6.45    The Maritime Union of Australia (MUA) suggested that it was a lack of coherent policy in a range of regulatory areas which was leading to a decline in the Australian merchant fleet. The MUA acknowledged that it was important to provide competitiveness but a variety of industry policy was restricting incentive. The MUA stated:

> You cannot divorce defence from the interests of the merchant navy. There are certainly issues of competitiveness—no-one is questioning that. As the National Secretary of the Maritime Union of Australia, I understand that we have moved on a little and that there is a need for competitiveness. However, competitiveness

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38    Rear Admiral Rowan Moffitt, Chairman, AMDC, *Transcript*, p. 83.
39    Commodore Alan Robertson, *Transcript*, p. 182.
40    Mr Lee Cordner, Future Directions International, *Transcript*, p. 130.

> must be within the parameters of Australian industry, Australian security, Australian regulations, Australian taxation, Australian corporate taxation, Australian employee taxation, the Australian Migration Act and the Australian Customs Act. We are virtually destroying our merchant navy through lack of policy; we are effectively inviting flag of convenience shipping in. There are clear advantages to using those ships in the short term: they avoid tax, they have no corporate accountability and they are only operating from those countries in order to avoid any scrutiny or regulation. All those things give them a short-term advantage in freight rates—but even then, if you measure the advantage their freight rates offer in comparison to Australian shipping freight rates, that advantage is minimal. It is no more than about five per cent.[41]

6.46    Defence indicated that it values having a strong relationship with the merchant navy, however the level of support that should be provided to the industry to achieve a defence benefit is extremely difficult.[42] Defence indicated that, in response to the East Timor operations, it achieved its heavy lift requirements through a successful chartering program. Defence stated:

> The Shipping capacity sought by the ADF was able to be sourced from civilian resources. To support the ADF operation in East Timor, the critical issue was to be able to guarantee strategic lift capacity early in the planning process. To meet planning lead times, charters were generally secured in less than a week. The chartered ships may then not have been required to arrive at the port of embarkation for a further month.[43]

6.47    In relation to the provision of merchant shipping for the East Timor operation, the MUA noted that 'as it turned out, the merchant fleet backup was in part supplied by Indonesian seafarers.'[44]

## Regulatory issues

6.48    A number of groups, in evidence to the inquiry, suggested that a range of government regulations were impeding the shipping industry. The AMDC stated:

> The Australian merchant fleet is relatively small and the number of ships on the Australian shipping register has fallen significantly

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41    Mr Paddy Crumlin, Maritime Union of Australia, *Transcript*, p. 211.

42    Commodore James Goldrick, Department of Defence, *Transcript*, p. 278.

43    Department of Defence, *Submission 37*, p. 1.

44    Maritime Union of Australia, *Submission 12*, p. 2.

during the last decade. The view of the Australian shipping industry is that it remains subject to a legislative regime which renders it uncompetitive with its foreign competition in coastal trade and this is inhibiting investment in new and replacement tonnage.[45]

6.49    The AMDC drew attention to the operation of section 23AG of the *Income Tax Assessment Act 1936*. The AMDC commented that 'Australian seafarers to engage themselves in the international trades and to pay Australian taxation, they do so at a marked disadvantage.'[46] The AMDC stated:

> The impact of section 23AG of the Income Tax Assessment Act is such that the definition of 'foreign country'—that is, where a person can accumulate their requisite 91 days to qualify for the income tax exemptions—does not include the high seas. In comparison, a trained and skilled person can work ashore in a ship management company in Hong Kong for 3½ months and they will get their 91 days to qualify for the exemption. They will be paying tax in Hong Kong also to qualify for the exemption. A master may work on a ferry in Hong Kong harbour and never leave the confines of Hong Kong's—now China's—jurisdictional boundary. That person would also qualify for the 91 days. However, a person operating on an international trading vessel—for example, an internationally trading container ship—passes through the high seas as an inherent part of their trade. Every time that vessel moves into the high seas, the 91-day clock stops ticking. Every time they pass into the territorial waters of the next country they are visiting, the 91-day clock starts ticking again. The consequence of this is that they never get their 91 days.[47]

6.50    The Australian Taxation Office (ATO) confirmed that 'seafarers who work in international waters are not eligible for exemption under section 23AG because their service is not foreign service.'[48] The ATO noted that this view was challenged in the Federal Court which 'confirmed the ATO's view that service aboard a ship in international waters was not foreign service and as such the exemption under section 23AG could not be attracted.'[49] The Treasury stated:

> Section 23AG was introduced to prevent double taxation. Australian residents working in international waters, who do not

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45    Rear Admiral Rowan Moffitt, Chairman, AMDC, *Transcript*, p. 83.

46    Mr Trevor Griffett, Australian Maritime Defence Council, *Transcript*, pp. 85-86.

47    Mr Trevor Griffett, Australian Shipowners Association, *Transcript*, p. 270.

48    Australian Taxation Office, *Submission 40*, p. 1.

49    Australian Taxation Office, *Submission 40*, p. 1.

have access to the section 23AG exemption, are generally not subject to foreign tax on their associated income. In any instance where they were subject to foreign tax, however, they would be eligible to receive foreign tax credits in Australia so as to prevent double taxation. As such, Australian resident seafarers need not rely on section 23AG to prevent the double taxation of their associated income.[50]

6.51 A further regulatory concern relates to the operation of section 12 of the *Shipping Registration Act 1981*. The Shipping Registration Act provides that every Australian-owned ship is to be registered in Australia. The Australian Shipowners Association (ASA) suggested that there may be disadvantages for Australian companies to have to register their ships in Australia. To avoid this, an Australian owned company would have to transfer its business outside of Australia. The ASA commented that in 'this case, both the benefits to Australia of the registration of the ship and the benefit to Australia of the business of ownership of the ship would be lost to Australia.'[51]

6.52 The ASA noted that the recommendations of a 1997 review of the Shipping Registration Act proposed an amendment to section 12 which would make it no longer mandatory for an Australian ship owner to register his or her ship in Australia. The Department of Transport and Regional Services (DOTARS) commented that the 'proposed amendments have not been reflected in a draft Bill due to other priorities in the Government's legislative program.'[52]

6.53 The MUA also notes that the growth of Single and Continuous Voyage Permits (SVPs and CVPs) which are issued by DOTARS have had a detrimental effect upon Australian shipping. Voyage permits are issued in the event that Australian flagged and operated vessels were not available for this domestic trade. The MUA commented that 'it was not the intent for these permits to circumvent or replace Australian shipping as the protection for the involvement of Australian vessels is fundamental to Federal legislation being the Navigation Act.'[53] The MUA stated:

> In summary the growth of SVPs and CVPs effectively translates into loss of control of a key component of the domestic transport sector, and in particular for cargoes like bulk cargoes used in the production of steel and bulk petroleum cargoes which cannot be carried effectively by other modes of domestic transport. The

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50 Treasury, *Submission 42*, p. 1.

51 Australian Shipowners Association, *Submission 10*, p. 8.

52 Department of Transport and Regional Services, *Submission 38*, p. 2.

53 Maritime Union of Australia, *Submission 12*, p. 4.

adverse impact on Australia's strategic national and defence interests should be self-evident.[54]

6.54    In 2000, Maritime Unions made claims to the Federal Court about the issue of SVPs. Justice Kenny of the Federal court dismissed these claims and 'found that the permits were issued in full compliance with the provisions of the Act.'[55]

6.55    The ASA and MUA, in view of their concerns about Australian merchant shipping, both noted that there was a need for a 'shipping policy'. The ASA commented that the 'Australian shipping industry would be happy to cooperate with properly considered and agreed strategic policy obligations that might form part of an overall Australian government shipping policy.'[56] In relation to this point, the ASA commented that it 'is notable that the *White Paper* makes no reference to the role of civilian shipping in Australia's maritime strategy.'[57]

6.56    The MUA noted that in contrast to Australia, the US Government has acknowledged the strategic significance of merchant shipping. The MUA reproduced a key statement from relevant US policy on this matter:

> American commercial crew and US flagged ships are necessary for the national security of our country. They provide the manpower and equipment necessary to transport vital supplies and personnel around the globe in times of national emergency.[58]

6.57    The Independent Review of Australian Shipping (IRAS) commented that the 'experience of the industry is that the Department of Defence has made no overtures in connection with Australia's merchant navy capacity.'[59] IRAS stated:

> Commercial imperatives drive private investment in the shipping industry and there is no discernible influence on those imperatives from a defence point of view. This is made the more puzzling in light of the growing practice of Navy outsourcing a number of its previously traditional tasks which require maritime skills and expertise. These include ship provedoring, port management, crew training and through-life vessel support services.
>
> The Australian shipping industry believes it should and would support a defence requirement in a defence emergency but in the

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54    Maritime Union of Australia, *Submission 12*, p. 5.

55    Minister for Transport and Regional Services, the Hon John Anderson, MP, *Media Release*, Federal Court Finds Against Maritime Unions, 23 June 2000.

56    Australian Shipowners Association, *Submission 10*, p. 3.

57    Australian Shipowners Association, *Submission 10*, p. 1.

58    Maritime Union of Australia, *Submission 12*, pp. 5-6.

59    IRAS, *A Blueprint for Australian Shipping*, p. 8.

absence of any discernable interest from Government in this regard, it is not an issue that influences the shipping industry's investment behaviour.[60]

## Independent Review of Australian Shipping (IRAS)

6.58    During 2002 the Australian Shipowners Association (ASA) sponsored an Independent Review of Australian Shipping (IRAS), co-chaired by the Hon Peter Morris and the Hon John Sharp. The review was completed in September 2003.[61]

6.59    The review commented that 'IRAS was initiated by the industry to identify options to build on the industry's strengths, to propose adjustments so that the industry can grow, and to point to external factors that inhibit the industry's prosperity.'[62] In particular, IRAS sought to 'identify where Australian practices need to be brought into line with international shipping practices.'[63]

6.60    IRAS examined Australian participation in international shipping services and addressed a range of regulatory constraints on Australian operators including the operation of the *Shipping Registration Act 1981* and the *Income Tax Assessment Act 1936*. Some of these concerns were also provided to the committee's inquiry and are discussed in the previous section. IRAS proposed the following measures 'that will address all of the concerns by:

- a simple change to the *Shipping Registration Act 1981* that would remove the prohibition on Australian entities registering ships outside Australia.

- a simple change to the *Income Tax Assessment Act 1936* that would, by solving the dilemma of the meaning of the word "country" not being taken to include the high seas, remove the differential treatment of Australian resident taxpayers who are seafarers vis-à-vis Australian resident taxpayers who are employed ashore.

- an acceptance by all stakeholders in the Australian shipping industry that best international shipping practices are capable of being embraced by Australians and that doing so will create job opportunities and will create opportunities for Australians both at sea and ashore in the future—opportunities that are difficult to envisage without acceptance of change.

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60   IRAS, *A Blueprint for Australian Shipping,* p. 8.
61   Available at the Australian Shipowners Association website:
     http://www.asa.com.au/shippingpolicy.asp
62   Independent Review of Australian Shipping (IRAS), *A Blueprint for Australian Shipping,* September 2001, p. 1.
63   IRAS, *A Blueprint for Australian Shipping,* p. 1.

■ an acceptance by government that the Australian shipping industry is not seeking subsidy or special treatment and that Australian skills, with minor legislative adjustments, can be competitively applied in the global shipping industry so that Australia can benefit from being both a shipper and a shipping nation generating export income.'[64]

6.61    In relation to Australian participation in Australian domestic shipping services, IRAS focused on the regulatory provisions of Part VI of the *Navigation Act 1912* which provides for permits and licences available for vessels, including foreign owned, to participate in the coastal trade.'[65] IRAS stated:

> The interaction of a number of different pieces of legislation causes a competitive disadvantage to Australian operators whose ships operate permanently on coastal trades compared to the less onerous regulatory environment applicable to foreign vessels that work on the coast under permits.
>
> This is clearly anti-competitive and reflects the fact that Part VI of the *Navigation Act 1912* was created when the circumstances of coastal shipping were very different to those of 2003. The impact has been exacerbated by ad hoc steps taken to liberalise the coastal shipping market for non-Australian operators without taking into account the competitive disadvantage imposed on Australian operators. Such vessels are not burdened by the Australian tax system, employment conditions and employees costs.[66]

6.62    In view of these concerns, IRAS proposed that the 'provisions of the *Navigation Act 1912* that regulate the conduct of coastal shipping should be reviewed.'[67]

6.63    In addition to these matters, IRAS also commented on the economic impact of the reduction of the Australian fleet, and the 'looming shortage of persons with prerequisite seagoing qualifications.'[68] IRAS made twelve proposals which seek to improve Australian shipping.

## Port and shipping security

6.64    Port security has heightened significance since the terrorist attacks of 9-11 and the subsequent war on terror. In this environment, port and shipping operations require attention because of their vulnerability to terrorist

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64    IRAS, *A Blueprint for Australian Shipping,* p. 2.
65    IRAS, *A Blueprint for Australian Shipping,* p. 2.
66    IRAS, *A Blueprint for Australian Shipping,* p. 2.
67    IRAS, *A Blueprint for Australian Shipping,* p. 3.
68    IRAS, *A Blueprint for Australian Shipping,* pp. 3-4.

attack. During hearings, the AMDC commented that of 'particular concern to ports currently is their vulnerability to security related incidents'.[69] The AMDC stated:

> …obviously we are very much at the front line of any security initiatives that are taking place. The Australian government has decided that maritime security will be handled primarily by the Department of Transport and Regional Services. They have set up a body internally to handle this and a number of us are members of the various committees. The response that the Australian government will be taking is based on the initiatives agreed to by the International Maritime Organisation last year. That provides for a series of mandatory arrangements and also guidelines for ports and for shipping operations.[70]

6.65    IRAS also addressed the issue of port and shipping security. IRAS noted that on 1 July 2004 the International Ship and Port Facility Code (ISPS) comes in to effect. The ISPS focuses on:

- ensuring the performance of all ship security duties;

- controlling access to the ship;

- controlling the embarkation of the persons and their effects;

- monitoring restricted areas to ensure that only authorized persons have access;

- monitoring of deck areas and areas surrounding the ship;

- supervising the handling of cargo and ship's stores; and

- ensuring that security communication is readily available.[71]

6.66    IRAS noted that many of the ISPS requirements would already be satisfied by effective operators, but the ISPS code 'may require quite a considerable consolidation of security-related contingency and avoidance planning procedures and documentation.'[72] In particular, seafarer identification was a critical part of the ISPS code. Currently, seafarers identity documents do not usually carry photographs. The ISPS will require a seafarers passport. IRAS noted that 'Australia has acted separately to upgrade, in the short term, to a requirement that all seafarers entering Australia carry a passport' which will come into force in November 2003.[73]

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69    Rear Admiral Rowan Moffitt, Chairman, AMDC, *Transcript*, p. 83.
70    Mr John Hirst, AMDC, *Transcript*, p. 89.
71    IRAS, *A Blueprint for Australian Shipping*, p. 28.
72    IRAS, *A Blueprint for Australian Shipping*, p. 28.
73    IRAS, *A Blueprint for Australian Shipping*, p. 28.

6.67    The Australian requirements for security checking of visiting ships
        requires a list of names of the crew to be provided to the Department of
        Immigration and Multicultural and Indigenous Affairs (DIMIA) for
        checking against an alert list. In addition, the majority of visiting ships
        may be inspected by the Australian Customs Service 'but not in every
        case.'[74] IRAS noted some concerns with these security procedures:

>       The weakness of this system is that it depends on the crew listing
>       being accurate. If for whatever reason the names on the crew list
>       are not the real names of the crew and the fake names do not
>       trigger an alert when reconciled with the alert list then they are
>       automatically taken to hold a Special Purpose Visa. Assuming that
>       customs officers inspect the foreign vessel when it enters the
>       country. and assuming they also inspect the crew, it is very
>       difficult for the officers to be sure that the people on the list are the
>       people on the vessel. Additionally, once the initial inspection of
>       the ship is complete, crew are free to go ashore whenever they like.
>       If they do not return, the system relies upon the ship's master to
>       alert the authorities of the missing crew.[75]

6.68    In addition, IRAS noted that the 'increased frequency of SVP's and CVP's
        increases the security risk associated with foreign ships.'[76] IRAS concluded
        that the Government's objective of obtaining the lowest cost transport was
        inconsistent with measures which seek to increase security. IRAS
        commented that seeking 'the lowest cost transport services inevitably
        leads to the increased use of low cost/low quality foreign shipping with
        foreign crews, which in turn has the potential to weaken Australia's
        border protection measures.'[77]

6.69    IRAS reported that the United States was also introducing measures
        which would increase port and shipping security. In particular, the US is
        restricting ships that are assessed as coming from high risk nations or
        manned with crew from high risk nations. In view of these measures,
        IRAS commented that 'Australia is exposed to the very serious risk of
        having our access to the US market cut off or reduced because of our
        dependence on lowest cost foreign shipping with foreign crew, which
        could be assessed as high risk by US authorities.'[78] The MUA raised this
        issue during public hearings:

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74    IRAS, *A Blueprint for Australian Shipping*, p. 29.
75    IRAS, *A Blueprint for Australian Shipping*, p. 29.
76    IRAS, *A Blueprint for Australian Shipping*, p. 29.
77    IRAS, *A Blueprint for Australian Shipping*, p. 29.
78    IRAS, *A Blueprint for Australian Shipping*, p. 30.

> There is a process going on in the United States, and the committee may be aware of it. It is going to be impossible for any seafarer to enter the United States unless they have seafarers' identity. It is about total security. Flag of convenience shipping is now debated in Congress as one of the country's greatest security threats. They are putting more money into their domestic merchant fleet—for reasons I have outlined—and they are now looking to reregulate their international fleet. It is interesting. In a way, what is happening in Australia does not take account of the real issues in shipping that are confronting nations post 9-11.[79]

## Conclusions

6.70    As part of the inquiry into Australia's maritime strategy, the role of merchant shipping was examined. Historically, merchant shipping has played a vital role in supporting defence objectives. During the East Timor operation, the Australian Defence Force (ADF) chartered merchant shipping to support its heavy lift requirements. Defence suggested that it was satisfied with this chartering arrangement.

6.71    The Australian Shipowners Association (ASA) and the Maritime Union of Australia (MUA), however, presented a less optimistic picture of the Australian merchant fleet to support defence objectives. The ASA and MUA both suggested that Australian regulations are creating a disincentive to the growth of the Australian merchant fleet. These groups warned that, in times of national security, Defence would be reliant on non-Australian merchant shipping to support its objectives. The MUA noted that for the East Timor operation, the merchant fleet backup was in part supported by Indonesian seafarers.

6.72    The Independent Review of Australian Shipping through its report, *A Blueprint for Australian Shipping*, has addressed all of these issues and proposed a range of solutions. This report is currently being considered by Government. The committee recommends that the Government, as a matter of urgency, respond to the measures proposed by the Independent Review of Australian Shipping, and state whether or not it intends to introduce an Australian Shipping policy.

6.73    A further concern was raised that port security and merchant shipping is vulnerable to terrorist attack. The MUA suggested that terrorism becomes more of a risk with the increasing use of foreign flagged vessels. The US, for example, will, as part of its port and shipping security measures, restrict access to ships and crews which come from high risk nations. IRAS

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79    Mr Paddy Crumlin, Maritime Union of Australia, *Transcript*, p. 216.

warned that Australia is exposed to the very serious risk of having its access to the US market cut off or reduced because of our dependence on lowest cost foreign shipping with foreign crew. If this situation eventuates it has significant trade implications for Australia.

6.74    The current *White Paper* does not refer to the role of merchant shipping in supporting defence objectives. The committee recommends that, as part of the next Defence *White Paper*, the Government outline the role of merchant shipping and its support for defence objectives.

## Recommendation 13

6.75    **The committee recommends that the Government, as a matter of urgency, respond to the measures proposed by the Independent Review of Australian Shipping, and state whether or not it intends to introduce an Australian Shipping policy.**

## Recommendation 14

6.76    **The committee recommends that, as part of the next Defence *White Paper*, the Department of Defence outline the role of merchant shipping and its support for defence objectives.**

## The Australian Defence Industry

6.77    A critical part of Australia's defence capability is the ability of Australia's defence industry to support defence capability requirements. The *White Paper* stated that 'Australian industry is a vital component of Defence capability, both through its direct contribution to the development and acquisition of new capabilities and through its role in the national support base.'[80]

6.78    Defence seeks to develop Australian industry through policy guidance set out in the Australian Industry Involvement Manual.[81] The Australian Industry Involvement (AII) program is the key tool for maximising the involvement of Australian industry in Defence acquisition projects.

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80    Department of Defence, *Defence 2000, Our Future Defence Force*, 2000, p. 98.
81    Department of Defence, *Australian Industry Involvement Manual*, January 2001.

6.79    The *White Paper* noted that Defence industry:

- repairs and maintains much of the ADF's equipment;

- fuels its aircraft, ships and vehicles;

- provides munitions;

- feeds, clothes, houses and accommodates its people;

- transports those people and their stores;

- fits and tests new weapons and sensors to ADF platforms;

- builds and adapts new weapons to suit our unique needs; and

- helps to train the men and women serving in the Army, Navy and Air Force.[82]

6.80    The *White Paper* noted that it was unrealistic for Australia to aim for industrial self-sufficiency based on the grounds that Australia accounted for only one per cent of world military expenditure. In contrast, the *White Paper* commented that Australia 'needs support in-country for repair, maintenance and provisioning – especially in wartime when the ADF would need urgent and assured supply.'[83]

6.81    In relation to the Defence Capability Plan (DCP), the *White Paper* commented that 'Australian defence industry needs a predictable basis on which to plan.'[84] The certainty provided to the defence industry by the DCP was noted in evidence. Future Directions International stated:

> One of the great things for the defence industry was the Defence Capability Plan. It provided a level of certainty to enable industry to structure itself and look at its opportunities.[85]

6.82    The *White Papers'* concluding remarks about defence industry noted the need for better business practices particularly in the area of Defence acquisition reform.[86] Since the *White Paper* was released, Defence has been subject to further review of its acquisition program culminating in the Kinnaird review.[87] The Kinnaird review made 10 key recommendations which were broadly accepted by Government.[88] In particular, the Government decided to establish the Defence Material Office as a

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82   Department of Defence, *Defence 2000, Our Future Defence Force*, 2000, p. 101.

83   Department of Defence, *Defence 2000, Our Future Defence Force*, 2000, p. 99.

84   Department of Defence, *Defence 2000, Our Future Defence Force*, 2000, p. 103.

85   Mr Lee Cordner, Future Directions International, *Transcript*, p. 129.

86   Department of Defence, *Defence 2000, Our Future Defence Force*, 2000, p. 105.

87   *Defence Procurement Review 2003*, Malcolm Kinnaird, AO, Chairman, 15 August 2003.

88   Senator the Hon Robert Hill, Minister for Defence, *Media Release*, Reforms Relating to the Procurement Process Within the Department of Defence, 18, September 2003, p. 2.

prescribed agency under the *Financial Management and Accountability Act 1997* 'to facilitate its evolution towards a more business like identity.'[89]

## Australia's naval shipbuilding and repair industry

6.83    While evidence to the inquiry was positive about the certainty provided to defence industry by the DCP, concerns were raised about the ship building industry. Future Directions International stated:

> In the naval side of life, of course, because we have had a boom-and-bust ship construction and submarine construction program forever, that has presented considerable difficulties. As you well know, we probably have too many shipyards and too many companies trying to compete for a very small slice of the pie at this stage. That has to be restructured.[90]

6.84    The Australian defence industrial base has been subject to restructuring to stay competitive. The IRS noted that in order to assist defence industry to rationalise 'Defence has developed a strategic alliance approach to defence industry and Defence has identified four key defence industry sectors that have strategic significance to Australia, namely:

- shipbuilding and repair;
- electronic systems;
- aerospace; and
- land weapon systems.[91]

6.85    The IRS concluded that of 'primary importance to a maritime strategy is the naval shipbuilding and repair sector plan that seeks to establish a single prime contractor for naval shipbuilding and repair, as Defence has proposed that there is only enough work to sustain a single shipbuilding prime in Australia.'[92]

6.86    In 2002 Defence released *The Australian Naval Shipbuilding and Repair Sector Strategic Plan* (the NSR strategic plan).[93] The NSR strategic plan describes the Naval Shipbuiliding and Repair sector as experiencing a growth phase during the proceeding 15 years. However, the 'level of Defence's demand for warship construction during the next 15 years will be only half that of the last 15 years.' The NSR strategic plan, therefore, concluded that

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89    Minister for Defence, *Media Release*, Reforms Relating to the Procurement Process Within the Department of Defence, 18, September 2003, p. 2.

90    Mr Lee Cordner, Future Directions International, *Transcript*, p. 129.

91    Information Research Service, *A Foundation Paper on Australia's Maritime Strategy*, p. 39.

92    Information Research Service, *A Foundation Paper on Australia's Maritime Strategy*, p. 39.

93    Department of Defence, *The Australian Naval Shipbuilding and Repair Sector strategic plan*, September 2002.

'Industry restructuring and consolidation is inevitable.'[94] In view of the importance of this matter to Australia's self defence reliance, the NSR strategic plan argues that restructuring cannot be left solely to the industry, through market forces, to resolve.

6.87    The NSR strategic plan suggests that Defence, as a sole customer, has traditionally taken a project-by-project approach to defence acquisition, rather than taking a strategic approach which could help to 'shape and sustain industry capabilities.' Together with this point the NSR strategic plan notes that the previous six major naval projects were awarded to five different companies in five separate locations. The NSR strategic plan commented that taken 'together, these two factors guarantee that the sector as its stands is unsustainable, and that its capabilities and skills are at risk of being lost.' [95]

6.88    In responding to this problem, the NSR strategic plan concluded that 'a single shipbuilding entity model provides the only feasible structural arrangement to meet Navy's new construction capability requirements.'[96] The NSR strategic plan noted that this proposal does have some concerns including the possibility of monopolistic behaviour by the sole supplier. The NSR strategic plans claims that this will be offset by Defence's countervailing power as a sole purchaser. In addition, it is estimated that 70 to 80% of project cost would continue to be competitively subcontracted.[97]

6.89    The Australian Strategic Policy Institute (ASPI), however, did not wholly support Defence's conclusions as set out in the NSR strategic plan, and cautioned against reacting too early to events in the ship building industry.[98] ASPI stated:

> But how serious are these problems really? Concerns about future workload are hard to understand. All of the major firms will have contracts for warship upgrades over the next few years, and around 2008 the Government plans to start a major burst of new naval construction. Eight or nine big ships are due to be built in less then a decade, including three or more highly complex air-warfare destroyers. In fact the demand will far outstrip current

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94    Department of Defence, *The Australian Naval Shipbuilding and Repair Sector strategic plan*, September 2002, p. 3.

95    Department of Defence, *The Australian Naval Shipbuilding and Repair Sector strategic plan,* p. 5.

96    Department of Defence, *The Australian Naval Shipbuilding and Repair Sector strategic plan,* p. 7.

97    Department of Defence, *The Australian Naval Shipbuilding and Repair Sector strategic plan,* p. 9.

98    Australian Strategic Policy Institute (ASPI), *Setting a Course for Australia's Naval Shipbuilding and Repair Industry*, August 2002, p. 3.

industry capacity, and new facilities would be needed to build
such big ships, in such large numbers, so quickly.[99]

6.90    ASPI's projection of naval defence needs over the next decade made it
conclude that 'with so much work coming, it is hard to conclude that the
Government needs to take special measures to help the industry
survive.'[100] In response to the proposal that there be ultimately one prime
level contractor, ASPI warned that:

■ With an effective monopoly, the tier one partner could easily become
inefficient.

■ Without competitive tendering at the prime contractor level it would be
hard to benchmark costs and determine value for money.

■ Although modern partnering agreements work well between some
commercial firms, Defence might lack the commercial skills to protect
the Commonwealth's interests in such an agreement.

■ The Government might lose flexibility to vary the naval shipbuilding
program if it was contractually committed to provide its partner with a
flow of work.

■ An exclusive arrangement with an international technology partner
would limit Australia's defence technology options and negotiating
leverage.

■ The monopoly tier one partner would be in a very strong position in
relation to its subcontractors, many of them small and medium
enterprises. There is a clear risk that power would be abused.

■ The problems in naval ship repair and maintenance would remain
unresolved.[101]

6.91    In contrast to the proposal to have one prime contractor, ASPI suggested
that Government should not seek to force an outcome and instead let
'commercial forces decide how many shipbuilders we can support in this
country.' In addition, ASPI proposed that Government:

■ Smooth out the shipbuilding workload later in the decade, so the
industry does not face a boom and bust cycle.

■ Reform naval repair and maintenance, to better support the ships at sea
and the industry.

■ Sell ASC to the highest competent bidder, allowing new firms to enter
the industry which might be able to bring non-defence work to the
corporation.

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99   ASPI, *Setting a Course for Australia's Naval Shipbuilding and Repair Industry*,  p. 3.
100  ASPI, *Setting a Course for Australia's Naval Shipbuilding and Repair Industry*,  p. 4.
101  ASPI, *Setting a Course for Australia's Naval Shipbuilding and Repair Industry*,  pp. 4-5.

■ Avoid buying Australian-unique systems which seldom offer operational advantages to offset the very high costs and risks they impose.[102]

## Conclusions

6.92    The Australian defence industry has an essential role in capability provision, systems integration, and ongoing servicing and maintenance for the Australian Defence Force. As part of the inquiry into Australia's maritime strategy, *The Australian Naval Shipbuilding and Repair Sector Strategic Plan* was examined. Defence is concerned that with the projected decline in demand for warships the naval shipbuilding and repair sector will face significant restructuring during the next decade. Defence argues that, ultimately, there will only be enough future demand to sustain only one shipbuilder.

6.93    The Australian Strategic Policy Institute (ASPI), in contrast, questions the conclusions reached by Defence and, in particular, does not share the view that future workloads in the industry are a concern. ASPI notes that 'all of the major firms will have contracts for warship upgrades over the next few years, and around 2008 the Government plans to start a major burst of new naval construction.'

6.94    ASPI, in particular, warns against a solution for the naval shipbuilding and repair industry which results in only one prime supplier. This monopoly could result in a range of market dysfunction including inefficiency and an inability to benchmark and determine value for money.

6.95    The committee acknowledges the observations made by ASPI regarding the proposals in the *Australian Naval Shipbuilding and Repair Sector Strategic Plan.* Defence still needs to argue the case for its proposals and it should not be subject to undue urgency in monitoring and assessing the naval shipbuilding and repair sector. While the committee has not examined this issue in great depth, Defence should undertake more analysis of this issue and ensure that it consults widely with the maritime industry and other government departments. The committee will revisit this matter when it conducts the review of the 2003-2004 Defence Annual Report.


Senator Alan Ferguson
Chairman
4 June 2004

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102   ASPI, *Setting a Course for Australia's Naval Shipbuilding and Repair Industry*,  p. 5.