

# **REVIEW OF MARITIME PATROL**

## **MFAT SUBMISSION**

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## EXECUTIVE SUMMARY

Cabinet directed that officials should examine how the civilian requirement for maritime patrol can best be met and whether a military maritime patrol capability should be maintained. This paper reviews the contribution of New Zealand's current maritime patrol capability to the government's foreign and security policy objectives.

### Civilian requirements

Maritime patrol is one part of a multi-layered approach to the **protection of New Zealand's sovereign interests**. The UN Convention on the Law of the Sea (UNCLOS) has given New Zealand rights and obligations in respect of the resources occurring within the EEZ and adjacent continental shelf areas and maritime patrol is important to monitor activity, enforce domestic legislation and protect our interests in those areas. New Zealand faces low-level, but increasingly prominent threats from transborder criminal activities and illegal migration. We need to be able to monitor environmental disasters such as oil spills, as well as the transshipment of hazardous waste. The detection and monitoring of all these threats is a key maritime patrol function.

New Zealand has obligations under international agreements to provide **search and rescue** (SAR) assistance over a vast area characterised by extreme weather and sea conditions. New Zealand also has responsibility, under an agreement with Fiji, for search and rescue in the Nadi SAR area. It would be called upon for assistance in mounting a SAR effort in Antarctica and the Southern Ocean. We cooperate with Australia in SAR. New Zealand's SAR requirements are for a maritime patrol aircraft with high endurance and long reach.

Resource protection, conservation of the environment and maintaining Antarctica's demilitarised and non-nuclear status are key goals of New Zealand's policy towards **Antarctica and the Southern Ocean**. The legal underpinning for actions in pursuit of those goals comes from the Antarctic Treaty System which provides, through the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), for monitoring and inspection of fishing activities. Surveillance requirements are likely to increase over time. New Zealand surveillance is the single deterrent to exploitation of the Ross Sea, for toothfish in particular, by illegal and unlicensed fishing vessels.

New Zealand supports economic and social development in the **South Pacific** with the objective of maintaining a stable, prosperous and secure South Pacific. New Zealand military assets, including P3 Orions, are deployed in support of disaster relief efforts and protection and control of natural resources, especially marine resources. For many Pacific Island Countries (PICs), fisheries are a valued source of revenue, but illegal fishing is a problem for many. New Zealand and Australia provide the bulk of surveillance and patrol activities for the Forum Fisheries Agency and their role is highly valued by PIC Governments. New Zealand has special responsibilities towards the Cook Islands, Niue and Tokelau. There will be some

additional monitoring and surveillance requirements under the Convention on Highly Migratory Fish Stocks in the Central and Western Pacific.

### Military requirements

In addition to being able to monitor the full extent of the area under its jurisdiction, New Zealand needs to be able to deter **breaches of sovereignty** and indicate preparedness to use force in defence of its interests. A military aircraft, such as the P3 Orion, is best suited to this role at the same time as meeting civilian requirements for maritime patrol. The military provide the high level of training and skills needed to fly a plane that can cope with the distances and extreme weather and sea conditions found around New Zealand. An aircraft with the right military capabilities is able to cooperate with military forces from other countries in combating **transnational crime**, and to provide force protection and real-time information in the event of a **protected evacuation** of New Zealanders in emergencies.

In the **South Pacific**, a military maritime patrol capability assists Pacific Island Governments in countering resource poaching and transnational criminal activities. The presence of a military patrol aircraft underlines New Zealand's preparedness to assist in the protection of resources and sovereignty and provides evidence of our engagement in this region. A military capability also maintains New Zealand's ability to conduct military operations in the South Pacific.

New Zealand's military maritime patrol capability is regarded by **Australia** as a significant input into our defence cooperation with Australia. This cooperation is a very important part of our overall relationship with Australia. The Orions, fitted out with military capabilities, are seen as an important force multiplier for the defence of Australia and New Zealand and for keeping New Zealand engaged, with Australia, in maintaining regional stability through the Five Power Defence Arrangements (FPDA). New Zealand's contribution to maritime patrol in the Pacific and the Southern Ocean is highly valued by Australia.

A military maritime patrol capability allows New Zealand to be militarily engaged in maintaining **stability in Southeast Asia**. New Zealand provides an input into the exercises that take place under the **Five Power Defence Arrangements**, and to the defence of Singapore and Malaysia, in the area of maritime patrol (both surface and anti-submarine).

There is a role too for a military maritime patrol capability in New Zealand's pursuit of its **global interests**. Such a capability provides the government with a wider range of options in considering participation in multinational and United Nations responses to emergencies. New Zealand forces and assets that are being deployed to peacekeeping operations overseas will not always be able to rely on protection from other countries, especially while in transit from New Zealand. The existence of a New Zealand force protection capability provides a greater degree of flexibility and security in the deployment of such forces. A maritime surveillance capability configured for military use can provide such protection.

### Conclusion

Maritime patrol is an essential part of protection of New Zealand's sovereignty and resources, and of search and rescue. It substantively supports our relationship with the South Pacific, as

well as our cooperation with Australia under Closer Defence Relations (CDR). Doing away with a military maritime patrol capability would reduce the freedom of action that the government would enjoy in responding to regional and international crises.

## SUMMARY OF REQUIREMENTS FOR MARITIME PATROL

### CIVILIAN REQUIREMENTS FOR MARITIME PATROL

#### *In New Zealand's EEZ and on its continental shelf*

- to monitor and document illegal fisheries activities within the area under New Zealand's jurisdiction;
- to identify and monitor vessels engaged in the exploration or exploitation of seabed resources within the EEZ and on the continental shelf;
- to detect and monitor vessels involved in illegal activities such as drug trafficking and seaborne illegal immigration, both before they enter New Zealand waters, in cooperation with other interested parties, and once they have entered New Zealand waters;
- to reconnoitre and monitor natural and human-induced environmental disasters such as oil spills, and shipments of hazardous waste in areas of interest to New Zealand.

#### *For search and rescue*

- to give New Zealand the capacity to mount SAR operations in a timely way in the far reaches of the New Zealand SAR area, in extreme weather conditions and sea states. This includes the ability to locate vessels or persons in distress, to direct an SAR operation and to drop survival equipment;
- to carry out SAR operations in the Nadi SAR area, and beyond as required by the government;
- to have the capacity to carry out SAR operations in the particularly difficult conditions of the Southern Ocean and Antarctica.

#### *In the Southern Ocean and Antarctica*

- to carry out monitoring and ensure compliance, pursuant to provisions of



**CCAMLR.** Distance, sea states and weather conditions are important factors;

- to monitor illegal, unregulated and unreported fishing of toothfish, given that New Zealand provides the single deterrent to illegal exploitation of the Ross Sea.

***In the South Pacific***

- to provide initial post disaster assessments as the first part of a coordinated New Zealand response to disasters;
- to provide the New Zealand contribution in a FRANZ response to disasters;
- to complement and support the NZ Official Development Assistance (ODA) effort to assist with the development and protection of the regional fisheries resource through the provision of fisheries protection and surveillance flights for FFA member countries and in particular to those countries to which New Zealand has constitutional and legal responsibilities;
- to provide surveillance enforcement consistent with New Zealand's obligations under the UN Fish Stocks Agreement and the Convention on Highly Migratory Species in the Central and Western Pacific. The latter will bring additional monitoring demands.

**MILITARY REQUIREMENTS FOR MARITIME PATROL**

***In defence of New Zealand's sovereignty***

- to provide a force capable of giving full coverage to the New Zealand zone in the extremes of weather and sea states;
- to act as a deterrent to breaches of sovereignty and indicate preparedness to use force in defence of New Zealand's sovereignty;
- to allow cooperation with military forces from other countries in combating transnational crime activities;
- to provide force protection in the evacuation of New Zealanders in emergencies.

***In the South Pacific***

- to enable assistance to be given to PIC governments in countering non-traditional threats to their security - over the distances and in the conditions that prevail in the South Pacific;

- to demonstrate, through the deployment of military assets, New Zealand's preparedness to assist with protection of sovereignty and resources;
- to maintain the ability to conduct military operations in the South Pacific.

*In cooperation with Australia*

- to provide New Zealand input into an Australia/New Zealand Orion capability as a force multiplier for defence of Australia and New Zealand and the northern approaches in particular;
- to maintain New Zealand's input into the shared range of maritime patrol activities required for the South Pacific and Southern Ocean.

*In Southeast Asia, as a contribution to maintaining peace and stability*

- to provide New Zealand input to FPDA exercises (and to the defence of Malaysia and Singapore) in the area of maritime patrol.

*In pursuit of our global interests*

- to give the government a wider range of options in considering participation in multinational and UN responses to emergencies;
- to provide protection to New Zealand forces on deployment to a theatre of operation.

## INTRODUCTION : NEW ZEALAND'S OBJECTIVES IN MARITIME PATROL

Cabinet directed officials to examine and report on New Zealand's maritime patrol requirement in the following terms. Specifically, Cabinet directed officials to examine:

- how the civilian requirement for maritime patrol can best be met; and
- in the light of the Defence Policy Framework (DPF), whether a military maritime patrol capability should be maintained.

This submission reviews the contribution of New Zealand's current maritime patrol capability to implementing the government's foreign and security policy objectives and comments on the likely future requirement for maritime patrol. It is set in the context of the key judgements of the paper "New Zealand's Foreign and Security Policy Challenges", a companion document to the Defence Policy Framework, noted by Cabinet in May 2000, and EAB's "Strategic Assessment 2000".

To take account of the Cabinet direction this submission has been drafted in two sections - civilian requirements and military requirements. It should be recognised however that in a New Zealand context and in the environment in which New Zealand's maritime patrol activities are carried out, this distinction is at times artificial, as the roles often overlap. For this reason there is some duplication between the two sections.

### **Maritime patrol and core foreign policy objectives**

The paper "New Zealand's Foreign and Security Policy Challenges", prepared by the Ministry of Foreign Affairs and Trade, noted that protecting New Zealand's sovereign interests is a primary objective of our foreign and security policy. While New Zealand currently faces no direct military threat, our security is subject to new threats of a non-traditional nature that have become increasingly prominent since the end of the Cold War. Maritime patrol can contribute to core foreign policy objectives through:

- a secure New Zealand including its people, land, territorial waters, Exclusive Economic Zone (EEZ), and natural resources;
- the protection of the environment;
- evacuation of New Zealanders from difficult situations overseas (where, in more demanding scenarios maritime patrol could be used to gather information to support government decision-making);
- support for the Antarctic Treaty System.

In our immediate neighbourhood maritime patrol provides:

- support for economic and social development in the South Pacific;
- a capability to give an effective response to a variety of emergencies in that region (including search and rescue);
- a means of pursuing New Zealand's strategic interest in the stability of the South Pacific; and
- a valued element of our military cooperation with the Australians.

Maritime patrol can make important contributions, beyond our immediate neighbourhood, to some of New Zealand's wider regional and global foreign policy objectives. In the Asia-Pacific region a key objective of foreign and security policy is to allow New Zealand to:

- play an appropriate role in regional security in South East and North East Asia.

Global objectives include:

- the reinforcement of an international rules based system; and
- maintaining New Zealand's stature and influence in the international community - through sound policies on human rights, and meeting collective security responsibilities under the UN Charter.

Notwithstanding the fact that New Zealand faces no direct military threat, our security is subject to new low-level but increasingly prominent threats of a non-traditional nature such as:

- the threat of illegal use or harvest of natural marine resources under New Zealand's jurisdiction, impacting on revenue and on conservation objectives;
- illegal migration - the increasing risk of boat people and the need to intercept them ie locate their vessels well before they make landfall;
- transborder organised crime - particularly drug trafficking using boats;
- terrorism; and
- threats of a similar nature to Pacific Islands for which New Zealand has constitutional responsibility.

New Zealand governments use a wide variety of assets - civilian and military - in pursuit

of their foreign and policy objectives. While these may not be powerful in a global sense, the way they are used in an integrated way makes them more effective. At the end of the line, diplomacy is backed up by the deterrence offered by the possession of and willingness to use credible force to protect New Zealand's sovereign objectives.

It is noteworthy that most of the emerging threats listed above relate in some way to the marine environment. Effective maritime patrol is one of the tools at the Government's disposal for countering them. A maritime patrol capability has a direct relationship with many of the Government's policy objectives and is an important diplomatic tool in meeting them.

In the following sections we look at the main civilian requirements for a maritime surveillance capability in monitoring activity within New Zealand's EEZ, search and rescue and disaster relief, in the context of the government's policy objectives. We then examine how maritime patrol helps to meet the government's objectives in the Southern Ocean and Antarctica, followed by the Pacific. Finally we examine the military role in maritime surveillance against the five key objectives of the Defence Policy Framework.

## **A CIVILIAN REQUIREMENTS**

### **1 PROTECTION OF NEW ZEALAND SOVEREIGNTY**

*Maritime patrol is required in the protection of New Zealand's sovereign interests*

- **to monitor and document illegal fisheries activities within the area under New Zealand's jurisdiction;**
- **to identify and monitor vessels engaged in the exploration or exploitation of seabed resources within the EEZ and on the continental shelf;**
- **to detect and monitor vessels involved in illegal activities such as drug trafficking and seaborne illegal immigration, both before they enter New Zealand waters, in cooperation with other interested parties, and once they have entered New Zealand waters; and**
- **to reconnoitre and monitor human-induced environmental disasters such as oil spills, and shipments of hazardous waste in areas of interest to New Zealand.**

A safe, secure New Zealand is a core foreign policy and security objective. Protecting New Zealand's sovereignty is the key foreign and security policy task. Bilateral and multilateral cooperation in fisheries and the environment, and combating illegal migration and other transnational crimes are an important focus of our foreign policy - the objective of which is to keep New Zealand secure and protect our resources. The ability to monitor what is happening in our immediate area of interest is essential. A maritime surveillance and patrol capability is a fundamental tool in meeting the monitoring requirement.

There are a number of ways in which maritime surveillance can be carried out. We do not attempt to discuss them in any depth here, but simply note that options include:

- suitably equipped reconnaissance aircraft - an aircraft flying at high altitude has a wide coverage);
- Unmanned Aerial Vehicles (UAVs);
- satellites, (expensive and not necessarily precise enough); and
- surface vessels. Ships can stay on station for a long time, although surface vessels are limited in speed and hence coverage of broad areas of ocean.

Ideally a multilayered approach is followed, with each component contributing to a total picture. Currently New Zealand's maritime surveillance is performed predominantly by the RNZAF, which is trained for the task, using the P3 Orion, which is equipped for the task, together with surface surveillance and enforcement.

## **1.1 Marine resources**

Within the different geographic areas where New Zealand has an interest or obligation to undertake marine resource protection - its territorial sea, EEZ, continental shelf, Southern Ocean area of interest, as well as the Pacific, especially the Cook Islands, Niue and Tokelau - different legal frameworks apply.

We discuss the UN Convention on the Law of the Sea (UNCLOS) below. The UN Fish Stocks Agreement and the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific are discussed under the section on the Pacific: they deal with fish within and outside coastal states' EEZs.

### **1.1.1 UNCLOS**

The international legal framework for oceans management is the UN Convention on the Law of the Sea (UNCLOS), which came into effect in 1994. New Zealand ratified UNCLOS in July 1996. UNCLOS defined distinct zones of sovereignty and jurisdiction for coastal States, including New Zealand. The Convention contains a balance of rights and obligations between coastal States and the traditional users of the seas, including maritime transport States and foreign fishers. It therefore provides for preservation of navigational rights in waters under the jurisdiction of coastal States, lays down certain obligations concerning the protection of historic foreign fishing interests in the EEZ, preserves the right to lay submarine cables and pipelines outside 12 nautical miles (nm), provides for the sharing of profits with the international community from exploitation of resources of the continental shelf outside 200 nm, and establishes a consent regime for marine scientific research undertaken by foreign vessels in the waters of a coastal State.

New Zealand is one of the greatest beneficiaries in the world from the UNCLOS process. New Zealand's EEZ is the fourth largest in the world. When the seabed of the continental shelf is fully defined, we could have jurisdiction over as much as 6 million sq km of seabed, or 20-24 times our land area. The relevant areas of maritime jurisdiction are:

- the Territorial Sea of 12 nautical miles, over which the coastal state has sovereignty. (New Zealand's territorial sea area is 169,000 sq km). Foreign vessels have the right of innocent passage in the territorial sea and no fishing rights;
- Contiguous zone extending out to 24 nautical miles in which a coastal state may exercise control in order to prevent infringement of its customs, immigration and health laws;
- Exclusive Economic Zone of 200 nautical miles, in which the coastal state has sovereign rights to explore and exploit, conserve and manage the living and non-living natural resources of the waters, seabed and subsoil. (New Zealand's EEZ area is 4,053,000 sq km). Other states have freedom of navigation and the

freedom to lay submarine cables and pipelines; and

- Continental Shelf comprising the seabed and subsoil extending to the outer edge of the continental margin or to 200 nautical miles from the baselines where the outer edge does not extend to that distance. Parties to UNCLOS are required to deposit the coordinates delineating their continental shelf within ten years of ratifying the Convention - 2006 in New Zealand's case. This will define the extent of the seafloor for which New Zealand has sovereign rights to explore and exploit seabed resources.

In anticipation of the conclusion of UNCLOS, the *Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977* established a 200 nautical mile EEZ and declared New Zealand's sovereign right to explore, exploit, conserve and manage it. Within New Zealand's EEZ, fishing activity can only take place by authorised vessels.

### 1.1.2 *Fishing*

By claiming sovereign rights over the EEZ, New Zealand assumed responsibility for regulating foreign fishing activities in the zone, including preventing unauthorised activities. Vessels suspected of fishing illegally within the EEZ can be boarded and arrested. Vessels attempting to evade arrest can be pursued from the EEZ onto the high seas under the law of hot pursuit.

There is increased pressure on fish stocks in the seas around New Zealand. Given the plundering of fish that has taken place in the northern hemisphere and in other parts of the Southern Ocean pressure on fish stocks is increasing. This is especially true in respect of high value migratory and straddling stocks (eg orange roughy, toothfish and hoki). This will affect our own EEZ, the Southern Ocean and Pacific and Antarctic waters. It is anticipated that unregulated or illegal fishing will increase in these zones. Evasion methods are likely to become more deliberate and refined. The surveillance need is expected to increase.

New Zealand's natural marine resources make a significant contribution to the economy. New Zealand's commercial fisheries are its fourth largest export earner, with a value ranging from \$1.2 to \$1.5 billion a year. The fishing industry estimates that its total contribution to the New Zealand economy is \$4.5 billion. The imperative to be involved in the protection of our EEZ is, therefore, not simply to maintain the sovereign rights of New Zealand. The current, and future, value of our fisheries resource is also a compelling reason.

**Continual monitoring action is required within the New Zealand EEZ to enforce New Zealand's legislation, the *Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977* and the *Fisheries Act 1983*. Because it has a capability to record where a given vessel is and what it is doing at the time, maritime aerial surveillance is a key element in monitoring and documenting illegal activities in New Zealand's EEZ and territorial waters. Such clear documentary evidence is required both to progress a prosecution under New Zealand legislation, or to**



**pursue the responsibility of the foreign flag State through diplomatic channels.**

### **1.1.3 Seabed resources**

New Zealand's EEZ is the fourth largest in the world. The delineation of the outer continental shelf will clarify New Zealand sovereign rights to additional exploitable seabed resources over the medium to long term. Within the EEZ are marine and energy resources currently exploited by a combination of New Zealand and overseas companies. Exploitable levels of mineral and energy resources (including gold, iron sands, phosphates and oil) are also thought to exist in New Zealand's EEZ and continental shelf area. Further exploitation of these resources is likely to be at least twenty to thirty years away, and longer for those resources in less accessible areas.

New Zealand is able to protect and manage seabed resources as a result of UNCLOS and enabling domestic legislation :

- *Crown Minerals Act* 1991 - this is the Government's principal tool for controlling petroleum exploration and minerals mining including on the seabed and subsoils of the territorial sea; and the
- *Continental Shelf Act* 1964 - this applies to the exploration and exploitation of the resources of the seabed and subsoil of the continental shelf beyond the territorial sea. The provisions of the Crown Minerals Act are extended to petroleum prospecting and mining on the continental shelf to the extent necessary. While resources on the continental shelf adjacent to the territorial sea are within exploitation capability, the ability to exploit commercially resources more distant from our shores is some decades away.

**To protect these resources fully, New Zealand needs the capacity to identify and monitor vessels in the areas under its jurisdiction.**

### **1.2 Transnational crime**

New Zealand's security is also placed at risk through the incidence of trans-border crime, and a trend towards targeting this country and the small island states associated with it with operations of increasing sophistication and complexity. South Pacific countries are vulnerable to drugs and money laundering, with repercussions for New Zealand because of their proximity to and close links with New Zealand. Crimes such as drug-trafficking, money-laundering and fraudulent business dealings based on flags of convenience will need to be countered. Distance is no longer protection. The arrest of a yacht in Vanuatu waters earlier this year and concerns expressed by the Cook Islands Government about the possible use of its waters for drug smuggling shows that this risk from transit points within the Pacific is very real. Sizeable drug hauls in Australia, New Zealand and more recently Fiji suggest that we are already a way station, if not a destination, for international drug dealers. As regimes are tightened elsewhere, New Zealand risks being seen as a soft target, especially given our open border with Australia.

**Maritime surveillance is an important tool in detecting and countering illegal activities such as drug-trafficking before their perpetrators reach our territory. A lot of this trafficking is done using small boats. New Zealand needs to work in close cooperation with other countries if efforts to counter transnational crime are to be effective. The requirement for effective maritime surveillance of this threat is likely to increase as the scale of the threat increases.**

### **1.3 Seaborne illegal migrants**

Illegal immigration has taken on new prominence in the region, including trafficking and smuggling of people, and is an area where organised crime is becoming active. New Zealand is at risk from boat landings, as has occurred frequently in Australia and occasionally in New Caledonia. **The Australian experience demonstrates that for New Zealand effective maritime surveillance, including cooperating with neighbouring jurisdictions, eg Australia and France, is important in containing this risk.**

Maritime surveillance is required to give us forward reach in the detection of seaborne illegal migration. We need to know where the would-be immigrants are before they enter our immigration jurisdiction and where they are heading. We need to be able to intercept vessels once these people reach our jurisdiction and eventually to ensure a controlled landing in New Zealand. The conditions of the vessels they travel in is frequently poor, and there may be a need to rescue them. We have international responsibilities through UNCLOS and the Convention on the Safety of Life at Sea, to which we are a Party, to render assistance to such vessels. The recently concluded Transnational Organised Crime Convention's Protocol on the Smuggling of Migrants would require states to cooperate to prevent the smuggling of migrants by sea, strengthen border controls to deter smuggling, and authorises boarding and searching of such vessels, including on the high seas.

### **1.4 Pollution and transshipment of hazardous waste**

**In the event of a major natural or human induced environmental disaster, such as a large oil spill or some other form of contamination eg release of toxic substances, New Zealand needs a capability to reconnoitre and monitor the situation from the air, before any response can be undertaken.** Past Orion patrols in the New Zealand EEZ have reported a variety of offences (garbage dumping at sea, oil spills) and provided photographic evidence to support prosecutions.

This requirement would apply equally to any accident to a vessel transporting nuclear waste outside our EEZ. These shipments take place two or three times each year.

While the New Zealand Nuclear Free Zone, Disarmament and Arms Control legislation, coupled with UNCLOS, does not limit the freedom of any ship of a nuclear weapon state or of any other state to exercise the right of innocent passage (in accordance with international law) through the territorial sea or to sail through the EEZ, an airborne maritime surveillance capability enables us to monitor the transit of surface vessels should

we wish to do so. A military capability would enable us also to monitor submarines.

## 2 SEARCH AND RESCUE (SAR)

*Maritime patrol is required in the context of search and rescue*

- to give New Zealand the capacity to mount SAR operations in a timely way in the far reaches of the New Zealand SAR area, in extreme weather conditions and sea states. This includes the ability to locate vessels or persons in distress, to direct a SAR operation and to drop survival equipment;
- to carry out SAR operations in the Nadi SAR area, and beyond as required by the government;
- to have the capacity to carry out SAR operations in the particularly difficult conditions of the Southern Ocean and Antarctica.

New Zealand has assumed obligations, both legal and political, to provide assistance in respect of search and rescue (SAR) in our territorial waters, our EEZ and beyond. Performance of these obligations depends on maritime surveillance capabilities. Our SAR obligations are covered by a network of Agreements to which New Zealand is a party, both multilateral and domestic.

A global SAR system has been established to provide an effective system so that, wherever people sail or fly, SAR services will be available if needed. This means that we rescue New Zealanders and nationals of other countries in our designated area of operations, and New Zealanders can expect to be rescued wherever they travel worldwide. In broad terms this global SAR system divides most of the globe into regional search and rescue areas (SRRs). The New Zealand Search and Rescue Region (SRR), as endorsed by both the International Civil Aviation Organisation and the International Maritime Organisation, covers approximately 25 million square kilometres and stretches north of the Cook Islands (almost to the Equator) and as far south as Antarctica. It is bounded by the Melbourne, Nadi, Honolulu, Tahiti and Easter Island SRRs.

The regional SRRs complement domestic SARs where established. In the Pacific, as elsewhere, Rescue Coordination Centres (RCCS) or equivalents have primary responsibility for coordinating search and rescue efforts in regional SRRs (see map). These RCCs may call for assistance from neighbouring regions. Lines of demarcation are not rigid.

### 2.1 International agreements: general

Some of the multilateral agreements are in the form of general obligations on all States which are party to them - they do not impose specific responsibilities for a defined area. As such they are less relevant in the maritime patrol context. Those to which New Zealand is a party include:

- *The Convention on International Civil Aviation 1944* - a multilateral agreement which imposes general obligations on States Parties for SAR. Annex 12 of this Convention contains recommended practices on the establishment, maintenance and operation of search and rescue services in the territories of contracting States and over the high seas, and on the coordination of such services between States;
- *The International Convention on Maritime Search and Rescue 1972* - This convention is the most relevant to the maritime patrol function because it defines New Zealand's responsibilities for SAR. As noted above, the New Zealand SRR for the provision of both maritime and aeronautical SAR services, is extensive. The Convention requires parties to establish national machinery for the overall coordination of search and rescue services, including through the establishment of rescue coordination centres, and the provision of facilities and equipment appropriate to the task. Parties are to cooperate in the coordination of their search and rescue organisations and to ensure the closest practicable coordination between maritime and aeronautical services.
- Cooperation under the *COSPAS-SARSAT Agreement* to which New Zealand became a party in 1993, helps in locating where a vessel actually is, so that another vessel can be sent to rescue it. Increasing use of automatic location devices by vessels and aircraft should make searches more efficient. The Agreement provides for a joint satellite programme coordinated by the USA, Canada, France and Russia. Under the agreement, New Zealand is obliged to provide a ground segment, or Local User Terminal (LUT) for a search and rescue satellite system. We have two LUTs in Lower Hutt. The LUTs help establish the location of distress signals and alert the nearest authorities.

## 2.2 New Zealand practice

Domestic legislation incorporating international multilateral and bilateral SAR Agreements that New Zealand is party to includes:

- the *Civil Aviation Act 1990*. This Act provides for the making of orders to implement New Zealand's obligations relating to civil aviation. It requires the NZ Ministry of Transport, through the NZCAA, to establish, maintain and operate a National Rescue Co-ordination Centre (NRCC) for the conduct, control and co-ordination of all SAR operations within and, if necessary, beyond NZ's SRR; and
- the *Maritime Transport Act 1994*. Section 199 of the Maritime Transport Act provides for the establishment of a Rescue Coordination Centre for the conduct of marine search and rescue operations and for the exercise of any powers necessary for the implementation of New Zealand's international obligations relating to marine search and rescue.

The SAR requirements that derive from New Zealand's obligations under the *International Convention on Maritime Search and Rescue* relate to the coordination of the entire operation undertaken by the New Zealand Government, using national or international civil and/or military resources, by private interests, or by vessels in the vicinity. In New Zealand maritime SAR is carried out by a team including the New Zealand Police, the Maritime Safety Authority, the Civil Aviation Authority, the Royal New Zealand Coastguard and the NZDF. A SAR mission is activated upon receiving information relating to an activated emergency locator transmitter or missing or distressed aircraft or surface vessel.

There are three classes of SAR, determined by the nature of the operation. Classes I and II come under the control and responsibility of the New Zealand Police and are primarily "local" operations. Class III operations come under the control and responsibility of the National Rescue Coordination Centre (NRCC), and include SAR operations, other than Class I or II searches, being:

- i all SAR operations associated with activated emergency location transmitters;
- ii all SAR operations associated with missing or distressed aircraft;
- iii search and rescue operations, including those for missing or distressed surface vessels or aircraft requiring the use of national and international civil and/or military resources, or coordination with other states, controlled from the NRCC; and
- iv search and rescue operations begun as Class I or Class II when responsibility is transferred by mutual agreement to the NRCC by the NZ Police. These operations may take place anywhere within the NZ Search and Rescue Region, and occasionally inside the Nadi Search and Rescue Region (see below).

Class III operations, whether close inshore or far out into our SAR area of responsibility, typically involve the NZDF, using the P3 Orion. Orion involvement in inshore SAR indicates that the problem has become too large for smaller aircraft. New Zealand has an RNZAF P3 Orion aircraft on two hours standby for SAR. This has a night surveillance capability. Orions are also needed in SAR where there is a need for high-end range, endurance, speed, resilience and detection capability for long range open ocean SARs; SAR in difficult and often extreme weather and sea states; and close inshore SARs where there is no well defined datum (time and position) of the distressed vessel/aircraft/person. The initial search area can be extremely large and grows exponentially.

**The further out the SAR operation, the more robust the aircraft required to search a given area and the wider the required safety margins. An aircraft with a lesser range and endurance, without the capability to drop survival equipment - flares, marker buoys, liferafts etc. - and to stay in the area for long periods of time while directing rescue vessels to the scene, would not enable coverage of the entire area designated as New Zealand's responsibility under the *International***

***Convention on Maritime Search and Rescue. In practice, as noted earlier, decisions to engage in SAR activities are likely to be flexible in respect of rigid demarcation.***

The ability to cover the whole zone designated under the *International Convention on Maritime Search and Rescue* is important if New Zealand is to provide SAR for scheduled commercial flights and VIP aircraft which transit our Flight Information Region and SAR area (the boundaries are coterminous). Flights on the southern route to South America are a case in point. The ability to carry out SAR effectively puts New Zealand in a position to earn goodwill when this capability has to be used. Conversely, should New Zealand be unable to attempt a rescue far off-shore because it did not have the capability this would reflect badly on us as signatories to relevant international conventions. Our reputation as responsible international citizens would not be enhanced if other countries had to take over responsibilities for SAR in the areas that have been allocated to New Zealand. New Zealanders themselves also have an expectation that rescue attempts will be made wherever they get into difficulty.

### **2.3 Assistance to the Nadi Rescue Coordination Centre**

As noted above, Rescue Coordination Centres may call for assistance from neighbouring regions. Thus, where a regional Rescue Coordination Centre considers external assistance (including RNZAF assistance) to be necessary, that Centre would normally contact the nearest major Rescue Coordination Center which is likely to have additional resources at its disposal. A case in point is the Nadi RCC which coordinates/controls searches within the Nadi SRR. Pursuant to a *NZ/Fiji Intergovernmental Agreement on SAR* which came into force in 1984, the Nadi RCC is authorised to approach the RNZAF direct for assistance. The agreement provides:

- for the provision of search aircraft and staff for such SAR operations as are beyond the scope of Fiji's own SAR resources;
- that the fullest possible use is first to be made of Fiji's own SAR resources before calling on RNZAF assistance;
- that the degree and immediacy of RNZAF assistance shall depend on the availability at any one time of appropriate aircraft and crews in light of other RNZAF activities and commitments;
- that at the request of the SAR Coordinator of the Nadi RCC one or more aircraft may be deployed to search for missing aircraft in the Nadi SRR including the Fiji Domestic SAR area;
- that at the request of the appropriate authorities in Fiji, processed through the Nadi RCC, one or more aircraft may be deployed to search for a vessel within the Fiji Domestic SAR;
- that at the request (processed through the Nadi RCC) of Governments and their agents, or responsible authorities acting on their behalf, or from the Master of a vessel or a ship's agent, one or more aircraft may be deployed to search for a

vessel within the Nadi SRR but outside the Fiji Domestic SAR area. (If a request is sent direct to the RNZAF the RNZAF is to inform the Nadi RCC of the action proposed to be taken in the Nadi SRR);

- that by arrangement between the Fiji and NZ Governments, the RNZAF may provide special SAR aircraft at the time of flights in the Nadi SRR by Heads of State or such other dignitaries as may be mutually agreed upon. In the last 5 years, in response to requests from the Nadi RCC, the RNZAF has undertaken about 25 SAR missions in the Nadi Search and Rescue Region.

The *Agreement* also provides for RNZAF assistance to searches within the Fiji domestic SAR area with the same qualifications and limitations as for those in the Nadi SAR region.

**The *Agreement* imposes a legal commitment on the New Zealand Government and further, a legal commitment that such services will continue to be provided by RNZAF. Were this assistance not to be available in the future, assistance would have to be sought from Australia and or France's South Pacific territories.**

The French and the Australians do have a capability to cover the Nadi SAR area but with some limitations. The French Gardian, which is operated by the French Armed Forces in New Caledonia and has around half the range and less endurance than New Zealand's P3 Orions, has the capacity to effect SAR outside the Noumea Sub-Search and Rescue Region, including in the Nadi SRR of which the subregion is a part. The Gardian has severe limitations in extreme weather conditions. There is also a civilian organisation, Maritime Affairs, with a limited SAR capacity. The Australian P3 Orions would take some 12 hours to reach a search area (compared to five hours for New Zealand) due to the distance from Adelaide to Nadi. Often time can be critical in SAR operations.

New Zealand Search and Rescue missions have been important to other Pacific countries as well. This is part of New Zealand's broader support to Pacific Island Governments (see section 4 below). In Micronesia for example, the patrols are highly valued. Earlier this year, an Orion flight located three missing Marshallese fishermen and guided a rescue vessel to their location.

## **2.4 Antarctic Search and Rescue**

As noted earlier the *International Convention on Civil Aviation* allocates New Zealand responsibility for conducting aeronautical and maritime search and rescue in an area stretching from almost the equator to the South Pole. Under a US/NZ arrangement, McMurdo Air Traffic Control provides air traffic control in the Antarctic area, but assistance would be required from NZ in the event of a SAR activity needing to be mounted. For this role, long range and endurance in search aircraft are prerequisites.

From the beginning of February each year all United States transportation aircraft have left the Ross Sea region and no regular flights land in Antarctica until September.



Thereafter the capability of mobilisation for search and rescue operations relating to vessels (including tourist vessels) in the Ross Sea area rests entirely on the combined effort of New Zealand's aerial surveillance together with surface rescue. Fishing and tourist vessels are active until mid-March. As fishing and tourism to Antarctica increase, New Zealand's aerial surveillance capability is a principal initial response to possible risks of loss of life. **Without a long range robust maritime surveillance capability, New Zealand could not meet the international obligations we have undertaken in respect of SAR in the southernmost extension of our SAR region of responsibility.**

## **2.5 Cooperation with Australia**

An Arrangement between the Government of Australia and the Government of New Zealand for the Coordination of Search and Rescue was signed with Australia in 1997 detailing close cooperation between the two countries on SAR. This imposes a political, rather than legal requirement on New Zealand. New Zealand is a member of the Australian SAR Consultative Council, we exercise jointly with the Australians, and the Australians assist in the operation of the New Zealand COSPAS-SARSAT Local User Terminals.

### 3 SOUTHERN OCEAN AND ANTARCTICA

*Maritime patrol is required in the pursuit of our interests in the Southern Ocean and Antarctica*

- to carry out monitoring and ensure compliance, pursuant to provisions of CCAMLR. Distance, sea states and weather conditions are important factors;
- to monitor illegal, unregulated and unreported fishing of toothfish, given that New Zealand provides the single deterrent to illegal exploitation of the Ross Sea.

#### 3.1 New Zealand interests

Antarctica's unique status and environment are reflected in the specific legal, political and policy issues associated with it. New Zealand, a claimant state, has an involvement and interest in Antarctica which enables it to play a role in relevant international fora which far exceeds its size and status. Its ability to shape policy and attitudes towards Antarctica contributes to broader foreign policy goals and policy objectives, especially with regard to:

- resource protection;
- conservation and the environment; and
- the security and defence of New Zealand and its environs.

New Zealand has a number of strategic objectives in Antarctica. It believes that active and responsible stewardship will promote New Zealand interests by:

- maintaining New Zealand's long-term interest in and commitment to the Ross Dependency, where we have a territorial claim;
- keeping Antarctica as a neutral and non-aligned neighbour;
- enhancing New Zealand's economic opportunities within the parameters of the Antarctic Treaty System;
- enhancing New Zealand's leadership in the governance of Antarctica; and
- promoting Antarctica as a natural reserve devoted to peace and science.

#### 3.2 International legal framework: Antarctic Treaty System

Seven states, including New Zealand, have claims in Antarctica and we are one of the 43 parties to the *Antarctic Treaty* 1959, which contains an accommodation on sovereignty and declared that Antarctica would be used for peaceful purposes only. The New Zealand Government considers that, constitutionally, the Ross Dependency is part of the “Realm of New Zealand”, but, along with other claimants to parts of Antarctica, has agreed to hold its claims to the Ross Dependency in abeyance. The Antarctic Treaty is complemented by a number of additional conventions, including the *Sealing Convention* 1978, the *Convention on the Conservation of Antarctic Marine Living Resources* (CCAMLR) 1982 and the *Environmental Protocol* to the Antarctic Treaty. Together they form the Antarctic Treaty System (ATS).

New Zealand demonstrates its sovereignty in Antarctica, inter alia in the following ways:

- through the application of New Zealand law to the Ross Dependency;
- by maintaining permanent scientific facilities and personnel to conduct research;
- by taking an active role in the conservation and protection of the Antarctic environment - New Zealand legislation requires that all activities in the Ross Dependency have prior Ministerial approval. New Zealand is currently taking a leading role in international negotiations on liability and protected areas;
- through the use of national resources, such as military aircraft or ships, for logistic support of the scientific effort; and
- through the protection and utilisation of marine living resources of the Ross Sea (where for example since the 1920s New Zealand issued whaling licences for the area to New Zealand nationals and vessels).

CCAMLR, to which New Zealand is a party, is responsible for the conservation and management of the marine resources in CCAMLR waters, including the waters off the Ross Dependency. CCAMLR protects New Zealand’s rights as a claimant, and also the rights of non-claimants. Although Australia has established an EEZ around its Antarctic territory, which is applied in respect of Australian nationals, New Zealand has not taken this step. The *Territorial Sea and Exclusive Economic Zone Act* contains a specific provision for the promulgation of this EEZ should we at some future stage decide to proceed. Such an EEZ would cover some 2.3 million sq km.

Antarctica’s strategic significance is primarily environmental and economic. Although there are significant oil reserves below 60 degrees South, including in the Ross Sea, the difficulties of extracting it would be severe, and the Protocol on Environment Protection to the Antarctic Treaty now prohibits all mining on the Antarctic continent. With the exception of fisheries, Antarctic resources currently therefore remain more potential than actual. However, should valuable resources be discovered and the technology to exploit them be developed there could be pressure on the ATS to renew the present mining ban when that becomes possible in 2048.

The current situation regarding mining on Antarctica's continental shelf is less clear. Some Treaty Parties (eg US and other non-claimants) take the legal view that this is not subject to the mining ban and potentially forms part of the Common Heritage of Mankind. In the event that the New Zealand law against mining in Antarctica were either disregarded or activity were conducted by others not subject to that law, a monitoring capability would be important.

**A capability for surveillance and protection is essential to support New Zealand's policy objectives in the Southern Ocean and Antarctica for the reasons set out below. This would become increasingly so in the event that New Zealand decided to assert its latent Antarctic claims to an EEZ off the Ross Dependency or its inherent rights to the resources of the continental shelf. New Zealand continues to have a political and security interest in monitoring the demilitarised and non-nuclear status of the Antarctic continent, one of our nearest neighbours.**

At present, the ATS is robust and effective. But as Antarctica becomes more accessible, there is increased pressure on the Antarctic ecosystem, particularly resulting from tourism and fishing. The treaty processes provide a framework for regulating and managing those pressures, but implementing the arrangements requires suitable monitoring and enforcement resources operated in a national base in an extensive and climatically hostile environment.

### **3.3 Fisheries management and conservation under CCAMLR**

There are two marine species in particular in Antarctic waters that are found and exploited in commercial quantities:

- krill - which is a resource estimated to be around several hundred million tonnes; and
- toothfish - the size of this resource is unclear.

Fishing in Antarctic waters is regulated by CCAMLR, a major plank of the Antarctic Treaty System. CCAMLR was established in 1982 in response to widespread concerns about the potential vulnerability of the Southern Ocean to Russian fishing for krill and its potential effect on the Antarctic ecosystem.

CCAMLR aims both to conserve Antarctic marine living resources and to permit their rational use. It applies to all marine living resources south of the Antarctic Convergence - the outer limit of the Antarctic ecosystem - which makes it slightly larger than the area covered by the Antarctic Treaty. It also encompasses the waters around several islands over which the existence of sovereignty is not disputed (eg Kerguelen, Herd and McDonald and South Georgia). It established a Commission, based in Hobart, and an advisory Scientific Committee. The role of the Commission is to administer the Convention, including setting levels of total allowable catches.

Under CCAMLR each party is obliged to "take appropriate measures within its competence to ensure compliance with the provisions of this Convention" (Article XXI)

and to “exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to the objective of this Convention” (Article XXII).

CCAMLR has a limited compliance control system, consisting of reporting procedures, and nationally designated inspectors. It has no separate enforcement mechanism. This is the responsibility of States which licence fishing vessels and designate inspectors. States then report to Commission meetings about their activities. CCAMLR does not apply to States (or their vessels) which are not party to the Convention. The nationals and companies of some member states therefore use vessels flagged with non-Convention states in order to escape the application of CCAMLR measures.

Pursuant to these CCAMLR provisions New Zealand undertakes monitoring and compliance activities in the Ross Sea, and our national legislation prohibiting fishing without a permit applies to New Zealand nationals wherever they may seek to fish in the Southern Ocean. Other CCAMLR Parties however clearly do not always demonstrate such a political will to ensure compliance. IUU vessels routinely run for a port where legal obligations do not reach. (In the case of the waters of the Ross Dependency this would likely be either South American or Indonesian ports, or Mauritius.)

**Military and other surveillance is conducted only by South Africa, France, UK, NZ and Australia, but not all parties have the long distance capability which is required for effective surveillance in the Southern Ocean. Practical support for the intention of CCAMLR thus requires a clear and visible effort on the part of New Zealand to demonstrate our determination to deal with illegal toothfishing. A primary tool for monitoring and deterrence is aerial surveillance.**

### **3.4 Illegal fishing in the Southern Ocean**

Illegal/unregulated fishing in the Southern Ocean divides into three categories:

- Illegal fishing by New Zealand flagged vessels or nationals, over which New Zealand has jurisdiction;
- foreign fishing (ie vessels flagged in CCAMLR States) in breach of CCAMLR, where we have power to board and inspect, and then report back to CCAMLR;
- fishing by any other vessels which is unregulated but not illegal (ie flagged by non-CCAMLR Parties).

Recent years have seen widespread public concern about the vulnerability of Patagonian toothfish, a newly discovered and very valuable Antarctic fish species. The total allowable catch of toothfish that has been set under CCAMLR by parties to the Convention is over 12,000 tonnes, with the largest reported IUU catch estimated to be in excess of 20,000 tonnes. The Ross Dependency waters contain significant stocks of the related Antarctic Toothfish species.

The markets for toothfish in the US and Japan show an unsatisfied demand. However

little is known of the species' resilience to exploitation or the level of its sustainable harvest.

There is currently a "gold rush" occurring for toothfish in Antarctic waters. Both unregulated and illegal fishing continues in areas where there are still commercially viable stocks. Pressures to move into the waters south of New Zealand are increasing as other alternatives are fished out.

Stocks around South African and French sub-Antarctic islands have been heavily depleted by IUU vessels. Poachers have moved on to yet more inaccessible areas.

**An increased expectation of access to fishing grounds in New Zealand's immediate environment, combined with increased pressures on existing stocks, will have an adverse impact on the resource available to the New Zealand fishing industry. Unregulated or illegal fishing is likely to increase in areas of concern to New Zealand. Evasion methods are likely to become more deliberate and refined as these pressures grow. In the meantime the pressure on the CCAMLR arrangements, to which we are a party, and under which we have responsibilities, is increasing.**

The New Zealand fishing industry is developing its exploratory fishing for toothfish and Government policy is to continue low-level fishing. Considerable public opinion has been expressed in favour of a moratorium on all fishing for toothfish. Ministers have specifically committed to reassessing this option next year. Any such moratorium would require enhanced surveillance.

At the most recent CCAMLR Commission meeting in October 2000 the Commission noted that several members were now conducting fishing patrols within the CCAMLR area and endorsed the idea that members develop further cooperative surveillance arrangements to assist in taking effective action against activities undermining the Convention.

### **3.5 Current New Zealand surveillance and enforcement activity in Antarctica**

Maritime surveillance in the Southern Ocean can be conducted from the air or by sea. Sea surface surveillance in the Southern Ocean has a number of limitations (time and distance and low speed). Notwithstanding distance, air surveillance has a number of comparative advantages eg speed and area of coverage - even if the endurance of each mission is not as great as that of a ship. A long distance maritime surveillance aircraft can make a significant number of flights over a given time period to different parts of the Southern Ocean. While a ship could visit many of those same parts, it would take much longer to get there and to cover an area. Its reach would of course be extended by helicopter use. The most effective means of achieving the objective is a combination of air and sea surveillance.

**As far as aerial surveillance is concerned, the requirement is for an aircraft that can operate as far South as the Ross Sea and collect intelligence on IUU vessels**

**working in the area or making runs to safe havens. The main requirements for safe operation of aerial surveillance in the Southern Ocean and Antarctica include; speed, endurance, range, and appropriate sensors and command and control systems. The Antarctic area is unique for its distance from aircraft operating bases, its often extreme weather conditions, and the nature of its airstrips. (For instance, in the Ross Dependency area, McMurdo Field can accommodate wheeled aircraft at two times in each summer season. Outside that time ski-equipped aircraft are required. Winter season flights are not normally possible). A four-engined aircraft is required to meet necessary safety margins.**

Aerial surveillance is currently provided by the RNZAF P3 Orion. Antarctic operations for the current Orion fleet must be conducted from Dunedin to allow for useful on-station periods. There are currently limitations on the Orions' capability, for example the inability of the P3 to communicate information on IUU activity back to its controlling authority in a timely fashion because of limitations with HF radio, resulting in long delays in processing the information the P3 has gathered.

New Zealand has and is using surface surveillance. HMNZS Te Kaha visited the Southern Ocean in the 1998/99 summer season and this year the NIWA vessel Tangaroa will visit. It has a limited ice class, however and there are not inconsiderable risks associated with its proposed hydrographic voyage and visit to a small area of the Ross Sea. For more effective surface fisheries surveillance in the Southern Ocean, a sufficiently ice strengthened vessel would be required. The United States deploys such vessels and it is possible that one could be leased, expensively, from there.

While the ideal aircraft for surface surveillance would be a dedicated ice-strengthened capability, a frigate capability in lieu is a cost effective back stop for immediate surveillance needs. A serious naval presence also has undoubted deterrence value. But, as noted before, any surface capability would need to be maintained in conjunction with aerial surveillance because the surface vessel's speed and radar range is very limited in comparison with the high speed and high radar range of the surveillance aircraft.

The 1998/99 summer season saw the first ever dedicated New Zealand maritime patrols to the Ross dependency waters, dubbed Operation Mawsoni. This resulted from serious concerns that IUU poachers would inevitably seek toothfish from this area given its high market value. The frigate Te Kaha was deployed to the Southern Ocean and some 13 P3 Orion sorties were flown. Although no illegal fishing vessels were detected, the operation demonstrated that New Zealand had the will and the capacity to conduct resource protection activities in the Southern Ocean. Improved intelligence assessments can contribute to better understanding of activities in the area and improve targeting of scarce surveillance resources. Assessments alone however are not enough, being only part of a multi-layered approach to maritime patrol. Surveillance resources are required to investigate and validate.

**Despite the limitations on New Zealand's surveillance effort the New Zealand capability to conduct effective surveillance in this hostile environment is the single deterrent to exploitation of the Ross Sea by IUU vessels. The resource is valuable,**

**New Zealand has a long standing interest in the area (political, scientific, economic and conservation) and our surveillance is widely known among global industrial toothfish interests.**

### **3.6 Future surveillance requirements**

New Zealand is likely to be faced with expanded demands for maritime surveillance in the Southern Oceans and Antarctica. While it is unlikely that surveillance and enforcement will have to be used specifically to support New Zealand's territorial claim and interests, (although this capacity underpins the constitutional status of the Ross Dependency as part of New Zealand), it is likely that there will be continued and even increased threats of illegal fishing in the Southern Ocean, particularly in view of unsatisfied demands of Japanese and North American consumers for toothfish and more generally the depletion of fisheries in the Northern Hemisphere.

The most effective capability is provided by aerial and surface monitoring working together. New Zealand experience with Operation Mawsoni was that the P3 Orion and frigate provided a good level of capability across the range of tasks that were identified. The Orion provides a quick response and reasonable level of endurance, while the frigate provided a high level of presence, with an ability to board and inspect vessels if required.

If New Zealand does not provide surveillance in the waters of the Ross Dependency, no other country has the national interest to protect this resource on New Zealand's behalf.

### **3.7 International cooperation and coordination in the surveillance of Antarctica**

This is not to say that in the broader Antarctic area there is not an overlap of the interests of a large number of countries. New Zealand continues to devote diplomatic resources to multilateral Antarctic negotiations and coordinated governance activities.

Although it may be possible to work closer together with others on maritime surveillance of the Southern Ocean and Antarctica to coordinate and strengthen the protection of this area of our national interests, the distances involved require a national focus on the Ross Sea only. Moreover the area of the Ross Sea and surrounding sea are so remote that, to have sufficient reach, surveillance flights of these areas must be conducted from Dunedin.

Enhanced cooperation could include sharing intelligence such as passing on information about the movements or patterns of particular vessels, or developing cooperative surveillance involving coordinated aerial or surface surveillance, or sharing information gained through national surveillance activities. Steps are being taken to develop a network of enforcement agencies and a combined intelligence sharing regime could result between states with interests in resource protection in the Southern Ocean.

**Such efforts however will not diminish the New Zealand maritime surveillance**



requirement, because a cooperative arrangement would depend on the preparedness of member governments to commit resources. The advantage to New Zealand would rather be a developed responsibility for the resources of the wider Southern Ocean area, resulting in all States giving support to conservation and political values.

## 4 SOUTH PACIFIC

### *Maritime patrol is required in the South Pacific*

- to provide initial post disaster assessments as the first part of a coordinated New Zealand response to disasters;
- to provide the New Zealand contribution in a FRANZ response to disasters
- to complement and support the NZ Official Development Assistance effort to assist with the development and protection of the regional fisheries resource through the provision of fisheries protection and surveillance flights for FFA member countries and in particular to those countries to which New Zealand has constitutional and legal responsibilities;
- to provide surveillance enforcement consistent with New Zealand's obligations under the UN Fish Stocks Agreement and the Convention on Highly Migratory Species in the Central and Western Pacific. The latter will bring additional monitoring demands.

For a wide range of reasons, including history, proximity, community ties and longstanding constitutional, diplomatic, defence, environmental and economic links the Pacific will continue to occupy a central place in New Zealand's foreign policy.

### 4.1 New Zealand objectives

As noted at the beginning of this paper, a key foreign policy objective is stability and security in the Pacific. To that end, and in discharge of our constitutional and broader obligations as an international "good citizen", New Zealand provides support for economic and social development in the region.

The Pacific connection is an important factor in New Zealand diplomacy. We commit a large proportion of our diplomatic resources to the region. We are active in regional institutions. The Australians will also remain key players, and the Pacific is an area where we will continue to work very closely with Canberra, Japan, the EU and other countries that are also significant donors. Northern hemisphere capitals look to us for expertise and leadership on Pacific affairs.

**Pacific Island countries (PICs) face a generic problem of inadequate resources - human, fiscal or economic - to deal with nation-building and developmental tasks. For some the outlook is not promising. Others are better equipped by virtue of their political, economic, natural or social circumstances. An important part of New Zealand's policy in the Pacific is fostering the economic viability of small, fragile economies.**

PICs can be expected to experience continuing difficulty asserting or maintaining control of natural resources, especially marine resources, and many will have to deal with the environmental, economic and social implications of unsustainable or poorly managed exploitation of their natural resources. Ecosystems are delicately balanced, especially in the smaller islands. Most countries are vulnerable to natural disasters such as cyclones, and some are vulnerable to the threat of rising sea levels.

New Zealand has long used its military assets, including the P3 Orions, to support its broad policy objectives in the Pacific. Specifically, they assist with surveillance of the EEZs, post disaster reconnaissance/surveillance and search and rescue. Pacific aerial surveillance locates and identifies fishing activity, merchant traffic, pollution, military movement and disaster assessment throughout the region.

The surveillance also provides presence, shows intent and allows New Zealand to build a picture of activities in the South Pacific and take measures to pre-empt illegal activities observed there from taking place in New Zealand waters.

#### **4.2 Disaster relief**

New Zealand regards itself as a “good neighbour” in the Pacific. As a result, New Zealand has for many years assumed responsibility for providing assistance to the Pacific in respect of disaster relief. We are trying to foster greater self reliance in mitigation and the development of better and faster relief mechanisms within the region. The region is, however, starting from a fairly low base. Some Pacific countries have very little capability of their own to manage a large-scale disaster, as was evidenced with Cyclone Nina in Solomon Islands in 1993 or the 1999 earthquake and tsunami in Papua New Guinea.

**The contribution of a surveillance aircraft to disaster relief is to provide the initial post disaster reconnaissance flights. Current government policy provides for the affected government to ask for or for the New Zealand government to volunteer such a flight. The requirement is for a long-range aircraft that can conduct aerial surveillance and reconnaissance without landing, if necessary. In current practice the P3 Orion is used for this work. The advantages of the P3 Orions are several:**

- since in most circumstances they pick up local Ministers and officials as well as New Zealand officials, this provides the local authorities with a bird’s eye view of the disaster affected areas; which contributes to the local disaster committee’s assessment/decision making processes. They also take photos (video and still) which are developed and delivered to both the island country and New Zealand;
- in those few cases where landing at a local airport to pick up Ministers and officials is prevented by disaster damage to the airfield, P3s with their range and endurance, can operate from a neighbouring island or country - air dropping film for pick up by local authorities;
- such flights provide a useful initial component of the New Zealand disaster relief response, coordinated by MFAT, but relying on NZDF assets (eg P3s for initial

reconnaissance flights, C130s for relief flights, helicopters airlifted in for in-country delivery flights).

In an effort to maximize the effectiveness of disaster relief in the Pacific region, New Zealand entered into a trilateral disaster relief co-ordination arrangement with Australia and France, commonly known as FRANZ - signed in Wellington on 22 December 1992. The FRANZ statement explicitly recognizes that it is “essential to maintain pragmatic, flexible arrangements” to allow for quick and efficient responses to disasters in the Pacific, including a flexible maritime aircraft capability able to respond to a range of different emergencies (earthquakes, tropical cyclones, volcanic eruptions) over a vast geographical area.

FRANZ government officials meet regularly at the technical level to review operational requirements and exchange information to ensure the best use of their resources for relief operations after cyclones and other natural disasters in the region. The last FRANZ Co-ordination held in Canberra in May 2000 reaffirmed the importance of the FRANZ mechanism in assisting countries in the Pacific in the event of a natural disaster.

FRANZ is valuable in avoiding unnecessary duplication and encouraging a greater level of cooperation and communication between FRANZ partners. At the same time, its effectiveness rests on a shared commitment to respond sympathetically to disaster relief requirements in the Pacific region and an expectation that the parties will continue to be in a position to deploy appropriate resources to meet these requirements. A lessening of one party’s commitment to the agreement would mean that the other two would be obliged to take on additional duties, assuming they had the capacity and will to do so. This could risk undermining the benefits of the improved cooperative relationship sought under the FRANZ agreement.

#### **4.3 Aeromedical evacuations**

For many years New Zealand has provided an emergency aeromedical evacuation service to countries in the South Pacific region. Life threatened patients who cannot be treated in Pacific Island countries are covered. Until July 1997 this service was provided, in response to requests from island governments’ medical authorities and on the basis of medical assessment involving the patient’s doctor and RNZAF medical staff, by the RNZAF alone. Since July 1997 the task (which in each case is still subject to the request and medical assessment procedures) has been shared with a commercial aeromedical ambulance service which looks after what are called “ODA eligible” cases. The RNZAF remains a life line for those life threatened patients of any nationality who do not fall within this “ODA eligible” category. P3s have often been used for the purpose.

#### **4.4 South Pacific fisheries**

The PICs enjoy the benefits of very large EEZs, through which migrate Highly Migratory Stocks (HMS), principally tuna. For many PICs, offshore fisheries resources

are particularly valued both for local fisheries activities and as a source of access fees from distant fishing nations. They are one of their few means of generating economically viable export revenue. Indeed, for some PICs, fisheries and tourism are virtually the sole means available to them to generate foreign exchange earnings. In the case of Tokelau, for example, revenue generated from US fishing in Tokelau's EEZ under the US Tuna Treaty in 1999/2000 amounted to US\$0.5 million. The PICs, together with Australia and New Zealand, have formed a regional grouping, the Forum Fisheries Agency (FFA), to provide assistance to PICs to manage this resource for their benefit.

Illegal fishing is a problem for many of the PICs, whose dependence on their marine resources is much greater than New Zealand's. World fisheries are declining, and the incidence of illegal and unregulated fishing is on the increase. The catch effort in global fishing grounds has created pressures, some severe, on many commercial species during the past decade. The current harvesting capacity of the world's fleet far exceeds the estimated biological sustainability of most commercial species, yet the demand continues to grow. Access problems in some key EEZs, decreased catch of traditional high value white fish and the overall shortfall in global catch have increased pressures on stocks. The massive overcapacity in the global fishing industry, particularly in the Northern Hemisphere, means that European fishing fleets (in particular) are seeking access to new fishing grounds in the Southern Hemisphere, especially those of the eastern Indian Ocean and in the EEZs of the PICs. In these they will compete directly with the traditional distant water fishing nations (Japan, Korea, Taiwan, the US and more recently China) for access to the resource.

New Zealand puts considerable Official Development Assistance (ODA) funding into the development and protection of the regional fisheries resource, both bilaterally and through our position as a major donor to the Forum Fisheries Agency. We also fund the work of:

- SPC - the Pacific Community - a non-political organisation which provides technical assistance aimed at encouraging and promoting the economic and social development of the region. Its work programme covers important sectors such as agriculture, marine resources, health and community education;
- SOPAC - the South Pacific Applied Geoscience Commission - established in 1972 to assist in the assessment, exploration and development of mineral and other non-living resources in the marine jurisdiction established under UNCLOS; and
- SPREP - the South Pacific Regional Environment Programme was formally launched in 1980 to assist South Pacific countries and territories to protect and improve their shared environment and manage their resources to enhance the quality of life for present and future generations.

In addition we also fund a range of bilateral and regional projects which underpin the fisheries and wider environmental resource of the region.

**New Zealand's surveillance work complements and supports the NZODA effort. Some PICs have a very limited capacity, predominantly surface, to patrol their EEZs (some of which cover a very large area - see map). Others are wholly dependent on external surveillance. By contributing to the surveillance and protection of fisheries resources in the South Pacific, New Zealand helps to sustain one of the few sources of income for these states. This supports our primary policy objectives in the region. Operating in the Pacific and working with the FFA in Honiara can also help to detect and deal with potential threats to fisheries resources within New Zealand's EEZ.**

Fisheries patrols by RNZAF Orions in the Pacific demonstrate that New Zealand takes its responsibilities seriously and will give substantive support to the economic aspirations of these countries. There is a deterrence effect, and a visible sign to other countries of a New Zealand interest. The fact that these patrols are conducted by a military aircraft, although working primarily in a civilian capacity, reinforces this message.

#### **4.5 Support for the Forum Fisheries Agency**

New Zealand is a member of the Forum Fisheries Agency, which was established in 1979 to promote regional cooperation and coordination in respect of fisheries policies. New Zealand provides 37% of the core budget for the FFA. In the 2000/2001 financial year, New Zealand funding for FFA (both core budget and extra-budgetary funding) was NZ\$900,000. The FFA's objective is to secure the maximum benefits from the fishery resources of the region for the peoples and for the region as a whole. While the focus is especially on the developing Pacific countries, the larger states, New Zealand and Australia also benefit from the regional cooperation that the FFA provides, because it enhances the PICs' ability to develop their own economic resources. This kind of regional cooperation among the PICs is important as a stabilising influence for the region as a whole.

One of the FFA's key responsibilities is to encourage regional cooperation in maritime surveillance and enforcement. As a developed country member of the FFA, New Zealand regularly undertakes fisheries protection and surveillance missions using the NZDF and the P3 Orion across a range of Pacific countries - Fiji, Samoa, Cook Islands, Tonga, Niue, Vanuatu, Tuvalu, Tokelau, Kiribati, Marshall Islands, Federated States of Micronesia, Palau, Philippines, Solomon Islands and Papua New Guinea.

At present New Zealand conducts about 10 P3 Orion missions per year, usually of five days duration. A historical estimate exists that up to 30 percent of vessels encountered are not on the licence lists for Pacific nations' EEZs. On a single sortie over Kiribati waters earlier this year, ten boats engaged in illegal fishing were spotted. Fisheries surveillance flights emplane local fisheries enforcement officials who provide local knowledge and who in turn benefit from inspecting a large area of ocean from the air. This effort is an attempt to meet some South Pacific surveillance requirements but it is not able to meet all such requirements since the task has to compete for funds against NZ's other maritime patrol requirements. The NZDF, using the P3 Orion, covers all

the FFA countries at least once per year, with more emphasis on the eastern side of the region.

The Australians conduct about 9 missions per year of about 11 days duration, with more emphasis on the west. Although the Australians spend more total days per year, we believe that on balance we provide more (and better) patrolling coverage. There are a number of reasons for this, including that our radar covers a wider area (although this will not be the case once the Australians have completed their upgrade) and that almost all our flight time is spent at patrol altitude, whereas the Australians spend a significant portion conducting high level transits.

These patrols have led directly to the apprehension of illegal fishers. Of the 311 cases detailed in the FFA Violations and Prosecutions Database database, 44 are linked to original sightings by aerial surveillance patrols provided by the RNZAF (11) and RAAF (33). Of the 11 sightings by the RNZAF, 3 were in the New Zealand EEZ while the remainder were in Niue (2), Kiribati, (1), Tokelau (1), Tuvalu (1), Nauru (1), Vanuatu (1) and Cook Islands (1). The database is patchy on outcomes for these cases but for at least five some compensation for the PIC concerned is recorded.

**But more importantly, the surveillance flights have a deterrent effect, and it is safe to assume that, in the absence of such patrols the incidence of illegal activity would increase. Given the increasing pressure on fishing resources and the reliance on the fishing industry for economic well-being, any reduction in surveillance effort from NZ would increase PICs' vulnerability. As noted earlier, it would also potentially impact on the protection of our own EEZ. Conversely, as noted above, an increase in New Zealand's effort would be appreciated and decrease PICs' vulnerability.**

Further, the FFA has stated their belief that having recourse to monitoring and enforcement mechanisms means that the FFA can be more confident in pursuing their objectives in discussions with the Distant Water Fishing Nations (DWFNs). The increasing confidence of FFA members can be seen in the development of their negotiating positions throughout the process of establishing the *Convention on Highly Migratory Fish Stocks in the Central and Western Pacific*. The FFA began this process some years ago making very little substantive input into the discussions. By the end of the negotiations, they had clear ideas of their objectives and how they wanted to pursue them. Having the ability to enforce the decisions they make contributes to this increase in confidence. This example illustrates again how maritime surveillance contributes directly to increased prosperity and so stability for the Pacific (in this case through increased revenue) and thus to one of New Zealand's foreign policy objectives.

The FFA has recently established a Vessel Monitoring System (VMS) which enables the Agency and member PICs to monitor the activity of vessels licensed to fish in their EEZs. The VMS works in a similar way to New Zealand's VMS by requiring an Automatic Location Communicator (ALC) to be installed on board every vessel licensed to fish in the area, and monitoring their positions in Honiara. This information is readily available to FFA members. With the VMS in operation, PICs are able to

pinpoint particular areas where illegal fishing by licensed vessels appears to be taking place. They can consequently make more efficient use of maritime surveillance patrols. While the VMS can give an indication that illegal activity may be taking place, maritime patrols are still necessary in order to gain the specific evidence necessary to bring a particular case to court. Furthermore, since VMS may not be operated by illegal fishers, VMS alone is not an adequate surveillance tool.

There is also some indigenous capability for resource protection. A sizeable Australian aid project several years ago provided some of the Pacific countries (eg Vanuatu, Tonga, Samoa, the Cook Islands) with patrol boats, known as Pacific Patrol Boats, but this is only a limited capability. For example it is of virtually no use in surveillance of the Northern Cook Islands Group and in particular of the area of high seas between the Northern Cook Islands Group and the Line Islands of Kiribati, which is considered locally to be a particular risk as a potential haven for poachers seeking to fish illegally in both Cooks and Kiribati waters. This area is more than 1,400 kilometres north of Rarotonga. Moreover the high operating costs associated with these boats limit the time they are able to spend at sea. They are therefore valuable principally as an adjunct to aerial surveillance, ie to intercept a vessel spotted from the air.

Tonga has also developed an air wing under the Tonga Defence Force with a Beech 18 aircraft capable of undertaking localised surveillance and able to be used as a training aircraft. This aircraft has a very limited range and endurance by comparison with the P3 Orion, though it has a limited radar system.

Orion aerial surveillance in the South Pacific is coordinated with local activities, including the VMS and the Pacific Patrol Boats. Information from the VMS can indicate that illegal activity may be taking place, a surveillance flight can confirm whether or not this is the case and gather information and knowledge to an appropriate evidential standard for diplomatic and political action, and, within reason, the patrol boat can apprehend the offending vessel. The three instruments working together can provide the evidence that leads to successful prosecutions, which are the basis of the deterrence effect. The multilayered effort is far more effective than any one element on its own. Conversely, if one element of the package is removed, the other elements are substantially weakened.

#### **4.6 Bilateral constitutional responsibilities**

New Zealand has constitutional responsibilities for the Cook Islands, Niue and Tokelau, and a special relationship with Samoa. Protecting and enhancing their economic prosperity is a core foreign policy objective. Because of the constitutional relationship, it is understood by other players in the region that New Zealand will be the principal port of call for assistance for these countries.

##### **4.6.1 Cook Islands**

The *Cook Islands Constitution Act 1965* refers in general terms to assistance with the conduct of defence and foreign affairs. In keeping with the evolution of the Cook



Islands' separate international personality, these responsibilities today would only be exercised in response to a specific request from the Cook Islands for assistance, eg for disaster relief surveillance/reconnaissance flights or for search and rescue purposes. Nevertheless, the expectation that New Zealand assistance would be available to discharge these responsibilities is deeply and widely entrenched in the Cook Islands.

#### **4.6.2 Niue**

The *Niue Constitution Act* includes similar general references to defence and foreign affairs, as well as a reference to New Zealand providing "necessary economic and administrative" assistance to Niue.

In practice, New Zealand has undertaken regular maritime patrol flights over the Cook Islands and Niue EEZs, as well as providing other aerial support requested from time to time, eg for disaster relief or search and rescue purposes.

#### **4.6.3 Tokelau**

New Zealand has special constitutional responsibilities for Tokelau, including responsibilities, as a member of the United Nations, for assisting Tokelau towards self-government and meeting the needs of Tokelau at the national level. Tokelau is included within the boundaries of New Zealand and is administered under the *Tokelau Act 1948* and its amendments. Due to New Zealand's commitment to assisting Tokelau to a greater degree of self-government and economic self-sufficiency, New Zealand statute law does not apply to the territory unless expressly extended to Tokelau. In practice this is not done without Tokelau consent.

Authority and interest in the EEZ around the area of Tokelau has been devolved by means of the *Tokelau (Territorial Sea and EEZ) Act* in 1977. Foreign fishing vessels seeking to fish in Tokelau's EEZ can be licensed under the *Tokelau (EEZ) Fishing Regulations* of 1988. Access fees for EEZ fishing have provided significant revenue for Tokelau in recent years (eg US\$0.5 million was earned last year under the US Tuna Treaty).

Moves by Tokelau over recent years towards economic and political self-reliance have been accompanied by assurances from New Zealand that the process would not be hurried beyond a pace Tokelau was comfortable with. As part of this process, agreement was reached in October 1998 between the Minister of Foreign Affairs and Trade and the Tokelau Council of Faipule to provide supplementary ODA assistance for the next five years to support efforts towards self-government. At the time this agreement was reached, it was stated explicitly that this supplementary ODA was only part of a "wider relationship" between New Zealand and Tokelau. Maritime surveillance and fisheries protection were cited as examples of this wider relationship.

As it advances towards greater self-reliance in a number of areas, Tokelau has an expectation that it will be able to continue to rely on traditional New Zealand support in other areas. Monitoring of its extensive EEZ is an important part of this assistance and

is something that Tokelau has no capacity to provide by itself. As elsewhere in the Pacific, this assistance has had direct benefits for Tokelau. For example an RNZAF Orion patrol in 1999 found, identified and photographed a foreign vessel fishing illegally in Tokelau waters. As a direct result of the Orion patrol, that vessel was suspended from the FFA regional register of vessels and has left the region.

#### 4.6.4 Samoa

Under the Treaty of Friendship with Samoa, which set out the nature of the special relationship the two countries would maintain following Samoa's independence in 1962, New Zealand undertook to "consider sympathetically" requests from Samoa for "technical, administrative and other assistance". Pursuant to this special relationship, New Zealand has, in the past, received requests for search and rescue assistance from the Samoan authorities via the Nadi Rescue Coordination Centre which have involved maritime patrol activities. New Zealand has also responded willingly to requests for disaster relief (and this has often involved RNZAF P3 Orion surveillance reconnaissance flights followed by C130 disaster relief flights).

#### 4.7 Regulation of Highly Migratory Species outside EEZs

Recently two multilateral framework agreements have been negotiated to assist in the conservation of highly migratory species such as tuna in the areas of international seas between EEZs. They are:

- The *UN Fish Stocks Agreement*; and
- the *Convention on Highly Migratory Fish Stocks in the Central and Western Pacific* (commonly known as the WCPFC).

**Both of these agreements have implications for the future maritime patrol need, as they both contain arrangements for cooperation in monitoring vessels beyond the New Zealand EEZ. Both agreements contain a general obligation to assist developing States, which in the WCPFC includes monitoring, control and surveillance. New Zealand has signed both of these agreements, and although they are not yet legally in force, New Zealand is obliged not to defeat their object or purpose.**

##### 4.7.1 *UN Fish Stocks Agreement.*

The *Fish Stocks Agreement* aims to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks beyond areas of national jurisdiction by expanding upon the relevant provisions of *UNCLOS*. The *Fish Stocks Agreement* is unique in that it provides for:

- a limited regulatory regime for the high seas beyond national jurisdiction; and
- the establishment of subregional arrangements to ensure that fish stocks are conserved, including by establishing cooperative mechanisms for monitoring,

control, surveillance and enforcement. This allows Government representatives of one state to board and inspect on the high seas the vessels of other states within the regional arrangement or which are party to the Agreement.

The *Fish Stocks Agreement* will come into force once 30 countries have ratified it. It seems likely that this will occur in the next year. New Zealand has not yet ratified the Agreement, but should have the necessary administrative systems in place to do so at the end of March 2001.

The *Fish Stocks Agreement* has two major implications for New Zealand:

- it clarifies and further defines New Zealand's rights and duties to take, and to cooperate with others in taking, conservation measures in respect of highly migratory stocks and straddling stocks in New Zealand's EEZ and the high seas; and
- it requires New Zealand to take... "such measures as may be necessary...to ensure that New Zealand-flagged vessels fishing on the high seas comply with regional and subregional management measures".

In practice this will in future impose an additional monitoring, surveillance and enforcement requirement in areas outside, but adjacent to New Zealand's EEZ - in areas within our immediate area of interest; the South Pacific and Southern Oceans. In order to undertake monitoring through cost-effective means it will be important to ensure VMS is put on all fishing vessels in the region and on our own vessels wherever they are. But there may also be a need for supplementary maritime surveillance patrols to travel greater distances to conduct and sustain resource protection operations and to cover larger operational areas.

#### ***4.7.2 Convention on Highly Migratory Fish Stocks in the Central and Western Pacific***

This Convention, concluded in 2000, applied the general principles established in the *Fish Stocks Agreement* to the Pacific region. The Pacific Islands Forum in Kiribati in October 2000 described it in the Communique in the following terms: "The Convention will establish a legally binding conservation and management regime to ensure, on a cooperative basis with distant water fishing partners, the maintenance of a sustainable fishery for highly migratory species in the region, as well as enhance the economic security of coastal states, particularly those whose economies are highly dependent on this resource."

Among the functions of the Commission envisaged in this Convention are:

- the establishment of cooperative mechanisms for effective monitoring, control, surveillance and enforcement of Commission decisions; and
- the compilation of data required to underpin the Commission's resource

management work.

The detail of monitoring, surveillance and data collection regimes required under the Convention is to be worked through as part of the Preparatory Conference process. New Zealand is the depository for the Convention and is to host the first Preparatory Conference meeting early next year.

The requirement to manage this resource over a wide area - generally (due to species being highly migratory): the Central Pacific, within the EEZ of FSM south to PNG and Vanuatu, and West to the Philippines) - will bring additional monitoring requirements for all Parties. Defining the optimum frequency of surveillance will be driven by the need to know of the 'shape' of fishing activity in the region. Once that is known, the 'sampling rate' can be dramatically reduced to a level that maintains the knowledge of that changing shape of activity. Superimposed on top of that is a requirement for more focused and directed monitoring of specific activities and enforcement responses, all the while providing presence and deterrence.

The Convention specifically recognises the special requirements of developing State parties (and in particular small island developing states) and envisages financial and technical assistance to help these parties, inter alia, with monitoring, control, surveillance, compliance and enforcement. New Zealand's responsibilities in this area will continue to be met through assistance to FFA members.

#### **4.8 Response of the Pacific to the New Zealand role**

New Zealand's supportive role in maritime surveillance is clearly greatly valued by the region. The Orion surveillance flights are a highly visible and practical demonstration of New Zealand's engagement in the region. Their versatility has enabled regional authorities to make full use of the opportunity they provide, by eg attaching personnel to surveillance flights for training purposes.

The importance of the fisheries resource and assistance with monitoring and compliance has been a recurrent theme at gatherings of Pacific leaders. In 1997, Forum Leaders welcomed the efforts of the FFA to enhance maritime surveillance given the role such surveillance plays in assisting Pacific countries to manage their fisheries resource and enforce sovereignty. Leaders at the 31st Pacific Islands Forum in Tarawa last month reiterated the importance they attach to fisheries issues, in particular the sustainable management of the region's tuna resource for future generations, and called upon all FFA Members and fishing nations to implement the FFA's Vessel Monitoring System. The Cook Islands have recently commented on the expanding role for fisheries surveillance under new regional fisheries arrangements.

#### **Conclusion**

While some Pacific countries have a limited maritime surveillance capability, it does not meet the need. The regional institutions, with support from NZ, have some limited capability. There is nevertheless a continuing expectation on the part of our Pacific neighbours that New Zealand and Australia will provide support for resource protection

activities, search and rescue, disaster relief and development assistance.

Meeting this expectation is consistent with the range of interests New Zealand has in the Pacific. These go beyond those we have with any other region in the world and embrace political, security, economic, diplomatic, environmental, human rights and constitutional obligations. And, with the substantial challenges facing the Pacific region - as well as the meagre local resources available to deal with these - there is a proportionately greater call on New Zealand, as one of the region's bigger players, to provide such assistance. It is in New Zealand's direct interest that the Pacific be a secure neighbourhood and that Pacific countries' economic prospects be advanced through enhanced utilisation of their limited resource base, including their maritime resources. Maritime patrols, conducted by the RNZAF P3 Orions, make a significant contribution both to PICs and in support of New Zealand's direct interests in the region.

## **B MILITARY REQUIREMENTS**

The Defence Policy Framework sets out a number of key objectives. These include the enforcement of sovereignty as well as the regional and international security dimension. A military role in maritime surveillance would enhance each of these, for the reasons set out below. Government's objectives are:

- to defend New Zealand and to protect its people, land, territorial waters, EEZ, natural resources and critical infrastructure;
- to meet our alliance commitments to Australia by maintaining a close defence partnership in pursuit of common security interests;
- to assist in the maintenance of security in the South Pacific and to provide assistance to our Pacific neighbours;
- to play an appropriate role in the maintenance of security in the Asia-Pacific region, including meeting our obligations as a member of the FPDA; and
- to contribute to global security and peacekeeping through participation in the full range of UN and other appropriate multilateral peace support and humanitarian relief operations.

We discuss these objectives below in the context of Cabinet's directive to examine whether a military maritime patrol capability should be maintained. It should be borne in mind, as already noted, that there is often an overlap between the civilian and military objectives.

## 1 DEFENCE OF SOVEREIGNTY

*A military maritime patrol capability is required in defence of New Zealand sovereignty*

- to be able to give full coverage to the New Zealand zone in the extremes of weather and sea states;
- to act as a deterrent to breaches of sovereignty and indicate preparedness to use force in defence of New Zealand's sovereignty;
- to allow cooperation with military forces from other countries in combating transnational crime activities;
- to provide force protection in the evacuation of New Zealanders in emergencies.

Defence of sovereignty - the protection of New Zealand's interests including its maritime interests - is a key task. The Defence Policy Framework identifies a number of roles and tasks for the NZDF in defending sovereignty at home and in its neighbourhood. It states that within New Zealand and its neighbourhood, the NZDF will be used to:

- ensure the sovereignty of our territorial waters and our rights and interests in our EEZ;
- protect our interests in the Southern Ocean and Ross Dependency;
- counter any threat posed by terrorism or acts of sabotage; and
- provide support in civil defence and other emergencies.

### 1.1 New Zealand waters and the EEZ

There are two key aspects to the defence of sovereignty. These are:

- to defend New Zealand's rights in its EEZ; and
- to protect New Zealand's marine resources.

As we noted in the section on civilian needs, the maritime patrol requirement is likely to increase, because:

- Once New Zealand's continental shelf is delineated under UNCLOS in 2006 the acknowledged area over which New Zealand has responsibility relating to

exploitation of the seabed and to control marine scientific research will increase;

- it is likely that, as global fisheries resources become increasingly depleted, pressure on New Zealand's EEZ, the Southern Ocean and Pacific Oceans will increase, and so will illegal fishing;
- the threat from transnational crime and illegal immigration is increasing, and there will be ongoing SAR and disaster relief requirements;
- a new requirement to patrol beyond intra-zonal areas of high seas will arise when the *Fish Stocks Agreement* and *Convention on Highly Migratory Fish Stocks in the Central and Western Pacific* enter into force; and
- those agreements may require New Zealand to provide further assistance to the PICs in fisheries surveillance.

In order adequately to cover the surveillance aspects of the full range of sovereign interests, New Zealand's future maritime capability must therefore, in addition to a purely local capability, have an ability to:

- sustain itself and perform effectively over extraordinarily long ranges - up to 2500 nautical miles from New Zealand - in the furthest reaches of the zone there are no alternative airports;
- and in severe weather conditions;
- have the speed to reach the area of operations before a suspected offender has moved on;
- have endurance to sustain itself there while collecting evidence, carrying out a SAR search or reporting on damage; and
- have appropriate sensors and command and control systems.

These requirements severely restrict the list of options for the long-range work.

Moreover the difficult conditions across much of the New Zealand area of responsibility, and the vast distances involved, point to the need for specialised skills and equipment.

Currently the Government uses the P3 Orion as the principal means for maritime surveillance in the Southern Ocean, complemented by information from fishing vessels, intelligence and, from time to time, surface surveillance vessels.

The Orion is operated by the RNZAF, because it is a military aircraft, and the military has the training and skill level to do so. A military aircraft such as the Orion has the advantage of the capability and the flexibility to perform a range of tasks ranging, on a continuum, from the purely civilian to the quasi-military to the purely military. Thus, as



well as monitoring breaches of New Zealand's zone of responsibility it can take enforcement action. For example it is able to pursue and collect from the air data on surface activity that is of evidential standard for subsequent police or diplomatic action. As a military asset, it gives a strong message to offenders who are attempting to evade law enforcement. In the early stages of the establishment on our EEZ, it was used to demonstrate the capacity and the will of the New Zealand Government to defend its zone.

The Orion is used in a number of countries for aerial maritime surveillance. Although it is frequently used for civilian tasks, as in New Zealand, it is intended to be operated by military users. Approval of the United States Government, from which the aircraft were procured, would be required before the aircraft could be sold to a commercial user. By having a military capability, New Zealand has at its disposal a suite of options in responding to breaches of sovereignty. Conversely, not to have this flexibility would limit the options for prosecuting our national interests in the event of a serious breach of sovereignty.

A military capability in aerial maritime surveillance also goes to the demonstration of government commitment to upholding sovereignty. Using a military capability, in military livery, serves two valuable purposes:

- as a deterrent
- as a statement of intent

**There is no higher deterrent to would-be wrongdoers than a visible military presence. This has been documented overseas in respect of drug smugglers off the United States coast.**

Similarly, there is no greater statement that a country means business than when it is prepared to back its statements with the threat of use of force, if necessary. This was an important calculation in Operation Mawsoni, where the Government mounted a series of Orion patrols into the Southern Ocean, backed by the frigate Te Kaha, in defence of government fisheries conservation objectives. (Te Kaha will be even better equipped for this role with the addition of twin engine Seasprite helicopters). Although no illegal fishers were found during that particular operation, the exercise achieved the twin political objectives of deterrence and a demonstration of intent. The long range aerial military patrol capability is a crucial part of the ability to back up suspected illegal activities in our area of responsibility with evidence and the flexibility to make a graduated response to the highest levels (military enforcement).

**From a foreign and security policy point of view a military enforcement capability is the strongest deterrent available to any state. It demonstrates a government commitment to uphold its sovereign rights in respect of access to our zone and access to resources. There is no clearer demonstration of Government intent than its use of military assets in support of diplomatic goals.**

#### 1.1.1 Transnational crime

Transnational crime is becoming global in reach, as demonstrated by the interest the UN is taking, and by other global and regional initiatives to address the problem. Activities against transnational crime are now no longer limited to national jurisdictions. At the top end of the collective effort a military capability is required, because;

- a long range is required to counter the threat to New Zealand;
- a linkage is required into the intelligence systems of other interested parties (of the sort that only a military platform can provide);
- there is an increasing need for a capability that can threaten to, or can use, real force and
- the issue is one of national security.

**Military assets are used inter alia by the Canadians, Australians, British and Americans to combat transnational crime activities. All of these countries use a military platform as part of their efforts to counter transnational crime because of the national security interest in countering such activities and the key contribution information gathered from aerial surveillance can make to the national decision making process.**

### 1.1.2 Emergencies

A military platform can also be important in situations where New Zealanders might need to be evacuated. The P3 Orion's specialised military equipment may be needed, particularly in hostile circumstances, to gain knowledge important to the success of the evacuation mission. With the threat from so-called asymmetric warfare, where unsophisticated use of force, as in a terrorist action, can cause a lot of damage, a military aerial patrol capability offers protection to New Zealand assets and ships involved.

Military maritime patrol aircraft are required in these circumstances. Not to have them assumes that we will always be working in a benign environment, or that someone else will protect our other military assets while they deploy. Neither of these assumptions is a safe one. While the evacuation of Solomon Islands was below the threshold where air surveillance was required, and the initial New Zealand deployment to East Timor relied on Australian air cover, it would not be safe to assume that all such missions in the foreseeable future will take place in similar environments, or that other countries will necessarily be in a position to protect New Zealand military assets as they deploy.

**Aerial surveillance provides the information needed quickly to take the best decisions. Not to have this capability would limit our freedom of action in future responses to direct and indirect threats to New Zealand interests, in a way that may be inimical to the desired outcome.**

## 2 THE PACIFIC

*A military maritime patrol capability is required in the Pacific*

- to enable assistance to be given to PIC governments in countering non-traditional threats to their security - over the distances and in the conditions that prevail in the South Pacific;
- to demonstrate, through the deployment of military assets, New Zealand's preparedness to assist with protection of sovereignty and resources;
- to maintain the ability to conduct military operations in the South Pacific.

*New Zealand's Foreign and Security Policy Challenges* noted the central place of the Pacific in New Zealand's foreign and security policy, the fragility of Pacific societies and the lack of independent means to protect themselves. The Pacific Island countries (PICs) are our neighbours. We have common interests that can best be pursued through partnership.

While the Pacific does not face an external defence threat in the conventional sense, the PICs face the same criminal threats we face - transnational financial scams, drugs, illegal immigration/people smuggling and resource poaching. Most local police and military forces, where they exist, do not have the capacity to deal with these problems. While, as noted before, we are constitutionally bound to assist the Cook Islands, Niue and Tokelau, it is also in New Zealand interests to assist other PICs to maintain a stable society and to prevent these low-level threats from taking a hold or having an impact in our neighbourhood. We do this in a range of ways, including by developing strong links between New Zealand organisations such as Customs and Police and their Pacific Island counterparts.

In the Pacific there is a considerable overlap between purely civilian and military tasks. Because of the multiplicity of tasks - fisheries surveillance, criminal activity, illegal migration, disaster relief, SAR and evacuation, operations in the past have been on a "whole of Government" basis, with the military aircraft doing a variety of tasks for various agencies on any one sortie (and able to accommodate new tasking at very short notice to follow up on developing situations); and reporting to a range of New Zealand-based agencies as well as local Pacific agencies. By having trained crew (and frequently civilian observers) on any one flight, the potential synergies are maximised for the benefit of so that national responses.

**The distances involved require a maritime surveillance aircraft with maximum range and endurance. It may need to fly vast distances to fulfil any one of the variety of necessary tasks. Particularly in the event of a disaster, it cannot rely on being able to land and take off again.** The current use of the P3 Orion:

- enables New Zealand to cover the vast distances required;
- offers a valuable deterrent to illegal activities in waters of interest and concern to New Zealand;
- enables us, via post disaster surveillance/reconnaissance flights to make early and accurate assessments of disaster damage. A particular feature of the P3 Orion is its utility in the initial reconnaissance stage immediately after a cyclone or other disaster, in which weather conditions are often still too poor to allow other aircraft to function effectively. Orion sorties enable needs assessments that guide the level and direction of the early stages of the relief effort;
- offers the advantage of interoperability with other FRANZ partners using military assets in disaster relief (apart from the question of compatibility, there is a question how comfortable France and Australia would be in coordinating their assets with a New Zealand civilian response);
- underlines our engagement with the region - it is a visible concrete indicator of the New Zealand Government's commitment to each and every Pacific Island country; and
- provides regular contact with Pacific Island Governments, maintains our influence and improves our standing.

The past two decades have seen a series of emergencies in the region which have called for intensive political and diplomatic management from New Zealand governments, usually working with Australia, and have in some cases carried major economic and security risks. Current trends are not good. We should assume that there are further problems to come which will require further close involvement by New Zealand, including on the military level.

Several of the emergencies of the recent past have involved major civil violence and bloodshed (PNG, Bougainville, Vanuatu, Fiji, Solomon Islands, New Caledonia). Evacuation of New Zealanders and other expatriates including service assisted evacuations has been necessary on several occasions. There has been an expectation in the region and further afield that Australia and New Zealand would carry the main burden of response or assistance. And in the South Pacific there are strong policy reasons for having a national capability to do core tasks.

Given current indicators there is a strong prospect of further emergencies on the pattern of the 1980s and 1990s. On top of this, we can expect major natural disasters which will demand New Zealand assistance and require deployment of military resources and capabilities.

In terms of New Zealand interests it is important that New Zealand governments have military options available to respond to South Pacific emergencies. Situations we could

face include:

- collapse of civil authority leading to unchecked violence (this has long been the nightmare for PNG)
- a need to evacuate or protect New Zealand and other expatriates placed at risk by a civil emergency
- a request from a friendly government for assistance for protection in the face of threatened overthrow by force (as in Vanuatu in 1988) or to help control civil violence
- a request to provide peace brokering or peacekeeping assistance (Bougainville and Solomon Islands being examples).

In the more difficult scenarios we would be extremely wary of military involvement. Protection of New Zealand citizens may be very difficult. But the New Zealand public will as a minimum expect that resources currently going into defence will provide the option of responding to a regional emergency. Although most scenarios would involve combined Australian and New Zealand effort it is also important that New Zealand have some independent capacity.

*New Zealand's Foreign and Security Policy Challenges* argues that:

- The capabilities highlighted in recent debate on defence priorities (army capabilities and associated naval and air support, including maritime surveillance) would form the core of a New Zealand response in most South Pacific scenarios that could be imagined.
- The ability to perform core military tasks in the South Pacific should be a primary point of reference for future NZDF capability development.
- The NZDF will also be expected to provide support for resource protection activities, search and rescue, disaster relief and development assistance.
- Interoperability and close operational links with the Australian Defence Force, along with complementary capabilities, will remain essential.

Aerial surveillance and reconnaissance gives New Zealand knowledge of the environment that we may commit forces to, and activities within that environment. Maritime patrol with appropriate sensors can provide extremely valuable data, information and knowledge to political decision-makers, strategic and operational planners and timely guidance to forces going into harm's way. Maritime patrol is a vital tool to assess risks and identify opportunities.

## **Conclusion**

In the Pacific, the use of a military aircraft for maritime patrol provides a secure, flexible, multifunctional information-gathering and response capability. The use of a

military platform enables the Government to respond across the breadth of Pacific contingencies, whether routine or emergency, and at any point along the continuum from the purely civil to the predominantly military. The use of New Zealand military assets has engendered goodwill with Pacific Governments, helped maintain contact with them and has in turn enabled us to secure their cooperation and support in other fora such as the United Nations and, closer to home the Pacific Islands Forum.

### 3 AUSTRALIA

*A military maritime patrol capability is required in the context of our defence relationship with Australia*

- to provide New Zealand input into an Australia/New Zealand Orion capability as a force multiplier for defence of Australia and New Zealand and in particular the northern approaches;
- to maintain New Zealand's input into the shared range of maritime patrol activities required for the South Pacific and Southern Ocean.

Australia remains our most important bilateral partner in economic, political, migration and defence terms. Defence co-operation is important for the wider relationship. Our defence ties with Australia are at alliance level. The military relationship, defined under the Closer Defence Relationship (CDR), means closely aligned (though not identical) strategic outlooks, and a commitment to assist each other in times of trouble. East Timor, Bougainville and Solomon Islands are recent high-profile examples of where ANZ strategic interests have coalesced. In East Timor the RAAF's Orion was the first aircraft to provide surveillance and force protection and to feed into Australian planning.

We have shared interests with Australia in maintaining core capabilities, including maritime surveillance, for responding to South Pacific contingencies, the illegal harvesting of marine resources in the oceans of the region, and illegal immigration.

Maritime patrol has long been a significant element in our defence co-operation with Australia. Maritime patrol is currently a major operational tool in this partnership. These responsibilities include the FRANZ agreement on cooperation in disaster relief in the Pacific and bilateral agreements on the coordination of SAR and on cooperation on illegal migration. (For a fuller description of these arrangements see the Pacific section of the civilian part of this paper).

The defence of Australia, and in particular of the air/sea gap (between Australia and the countries to its north) is central to Canberra's defence strategy. New Zealand adds a force multiplier to the Australian effort.

**The maritime patrol capability offered by the P3 Orions is seen as an important contribution to CDR (along with blue water naval capability, airlift and light infantry). The Orions provide, in the CDR context, a menu of capabilities to which the Australians accord high value for the following reasons:**

- New Zealand has 6 P3 Orions; the Australians 19. Appropriately equipped NZ Orions can add significantly as a force multiplier to Australia especially in the

air/sea gap;

- The Orions, particularly with the potential future loss of the air combat capability, ensure that the NZDF retains some air based combat capability (eg via the Harpoon missiles); this is important to the defence of the region as well as contributing to the overall Australia/New Zealand effort;
- The Five Power Defence Arrangements (FPDA) are an important vehicle for both Australian and New Zealand engagement in the South East Asian region. Orions are important contributors to the FPDA, particularly in light of any future loss of New Zealand's air combat capability;
- Australia notes the number of regional military forces which are building up submarine fleets, including submarines for use in littoral and archipelagic waters;
- any diminution of New Zealand's maritime patrol capability in the Pacific and Southern Ocean would require Australia to attempt to develop the capacity to cover the gap.

## **Conclusion**

The Trans-Tasman relationship is our most important. The defence component of it cannot be separated out from the rest and the attitude of the Australians will be formed by their view of New Zealand's contribution across the full range of the partnership. The collective defence of Australia and New Zealand is an important component of Australia-New Zealand defence relations and, within that, New Zealand's maritime patrol capabilities are important, for the above reasons. Without interoperable P3s, the RNZAF would be a significantly less valuable partner for regional/subregional "coalition" security activities, and the burden of defending Australia, New Zealand and the Pacific Island countries would fall more heavily on Australia.



## 4 SOUTH EAST ASIA

*A military maritime patrol capability is required in the Southeast Asian context*

- to provide New Zealand input to FPDA exercises (and to the defence of Malaysia and Singapore) in the area of maritime patrol.

One of the five key objectives in the Government's Defence Policy Framework is

- "To play an appropriate role in the maintenance of security in the Asia-Pacific region, including meeting our obligations as a member of the FPDA" (Five Power Defence Arrangements).

New Zealand's well-being is tied to the economies of Asia. The growth of New Zealand's economic and trade relationship with countries in the Asia-Pacific has reshaped the balance of our global economic and trade interests. Our major trading partners are now in the Asia-Pacific region. Those relationships are now mature trading relationships, and the long-term prospects are good. Maintaining and improving access to those markets is an important part of our diplomatic and trade effort in the region. Growth in migration from Asian countries in recent years has added a new dimension to our relations with the region. New Zealand's small size, cultural traditions and geographical position on the margins of Asia mean we have to try hard to develop constituencies and maintain relevance to our larger Asian neighbours.

For a trading nation such as New Zealand, economic links must be underpinned with political, security and other ties. The stability of the Asia-Pacific region is crucial for New Zealand's well-being. Conflict in the region runs counter to our interests. Our interest is to have a prosperous and dynamic region. Conflict has the potential to disrupt trade and depress demand in some of our key markets. Unimpeded passage through the region's shipping lanes and air routes is crucial to the smooth conduct of trade and commerce. Regional conflicts can also create destabilising refugee flows. There are a number of trouble spots in the region, some of which could flare up and destabilise the regional and in some cases the global picture.

The scale of New Zealand interests argues that we should do what we can for the stability of the region. We are not a large player. But we have been part of the regional picture over a long period. We are a member of the major regional institutions, for example ASEAN and the ASEAN Regional Forum (ARF - a forum established in 1993 for working on problems that could threaten regional stability). We have treaty links with some Asian countries. We have a good regional network and good standing.

### 4.1 Five Power Defence Arrangements (FPDA)

The FPDA was signed in 1971, with a membership of Malaysia, Singapore, the United Kingdom, Australia and New Zealand, in the wake of the British decision to withdraw its armed forces east of the Suez. Although not a treaty, it has as its main objectives:

- a security arrangement for the defence of Malaysia and Singapore. The FPDA is the sole active multilateral military security arrangement in the region and it provides an important contribution to the sub-region's security architecture; and
- to provide continued support and assistance to the training and development of the armed forces of Malaysia and Singapore. In later years this training has developed into mutually beneficial exercises.

The Arrangements contribute to the security of the strategically important Malacca Straits, the South China Sea to the east and the Andaman Sea to the north west.

Although the FPDA is moving towards more joint activities and gradually enhancing the role of land forces in the major exercises, its main focus is air defence and maritime (joint naval/air) cooperation, training and inter-operability. The annual main exercise, STARDEX, and the triennial major exercise, FLYING FISH, are both maritime exercises. Maritime training activities consist of strike aircraft, ships, and surveillance. New Zealand provides Skyhawks, frigates and Orions for these exercises.

#### **4.2 New Zealand's interest in the FPDA.**

The Five Power Defence Arrangements builds on the defence links New Zealand established with Singapore and Malaysia during the Malayan emergency and confrontation with Indonesia. It is New Zealand's only multilateral defence commitment in the South East Asian region (as it is for Australia), one of our longest standing and most successful links with it, and a practical demonstration of our commitment and engagement to the region. New Zealand's active participation in the FPDA:

- signals our willingness to contribute to the security of the region;
- underlines in a practical way the commitment we have made through the ASEAN Regional Forum (ARF) to confidence building and military to military cooperation;
- serves directly New Zealand's broader foreign policy objectives in respect of advancing New Zealand's interests in the Asia-Pacific region;
- responds to regional expectations that New Zealand will play a role; and
- supports our alliance commitments to Australia in pursuit of common security interests.

#### **4.3 Role of the P3 Orion in the FPDA**

The FPDA is an arrangement, not a treaty or an alliance. According to the FPDA document, it provides for “national and multi-national training and exercises directed towards joint operations in an emergency”. New Zealand’s P3 Orion contribution directly supports this commitment and the main focus of the FPDA of air defence and maritime exercises.

The maritime patrol and surveillance undertaken by aircraft such as the Orions plays a vital role in any major naval operation. In FPDA exercises the P3 Orion executes its primary military roles of surface surveillance and anti-submarine warfare. The aircraft also undertakes strike direction, acts as a communications link between the tactical air control centre and deployed forces and provides an airborne SAR resource. In concert with the Maritime Patrol assets of the other offshore partners the RNZAF Orions form an integral part of the 24 hour maritime patrol coverage required by the exercises.

The aircraft’s contribution in these roles in exercises is particularly valued. Australian and New Zealand Orions, as well as British Nimrod patrol aircraft, carry the bulk of the load because of their range and endurance. New Zealand’s provision of these aircraft therefore:

- provides an opportunity for New Zealand to offer a meaningful and valued contribution to FPDA exercises; and
- consequently satisfies a founding precept of the FPDA.

In the medium term New Zealand’s Orion contribution to FPDA exercises is likely to increase in value because of the growing sophistication of the exercises and the predicted growth of submarine ownership in the region.

**FPDA exercises offer New Zealand a platform for engagement with the region. The training opportunities that flow from our participation in the Arrangements are beneficial.** These have been stated by the Prime Minister to be one of the principal strengths in our membership. In her 26 May address to the Institute of International Affairs, the Prime Minister said “We will maintain full participation in the FPDA because we believe that it is helpful for armed forces’ training and preparedness, and that the agreement plays an important part in Malaysia-Singapore relations”.

#### **4.4 Value of the FPDA**

##### **4.4.1 *Bilateral relations***

New Zealand’s relationships with Singapore and Malaysia are our most developed in South East Asia. The two countries are also our most important economic partners in the region. Our bilateral defence links with those two countries, which are sustained through the FPDA, are a key part of New Zealand’s overall relationship with these countries.

##### **4.4.2 *Regional relations***

New Zealand's participation in the FPDA is valued also by other regional partners.

Flowing from our FPDA commitments New Zealand has extended assistance with capacity building in maritime surveillance to the Singapore Armed Forces, the Royal Brunei Armed Forces and the Philippines.

### **Conclusion**

New Zealand's participation in the FPDA is a key objective of the Defence Policy Framework. Given the overwhelming emphasis placed on maritime patrol in the FPDA, New Zealand's ability to participate in a meaningful manner would be limited, without Orion support, to frigates. A new role for New Zealand would need to be developed around another capability, which could force the FPDA to change the nature of the exercises it undertakes.

The Orions are currently a significant New Zealand contribution to the FPDA and are of particular, and probably growing, value to the local partners. But our assessment is that a reduced role for New Zealand in the FPDA would reduce our standing within the FPDA and with the region in general.

## 5 GLOBAL INTERESTS

*A military maritime patrol capability is desirable in pursuit of global interests*

- to give the government a wider range of options in considering participation in multinational and UN responses to emergencies;
- to provide force protection to New Zealand assets on deployment to a theatre of operation.

### 5.1 UN and other collective responsibilities

NZDF capabilities are used in the Asia-Pacific or further afield as a contribution to UN and other collective activities. Our contributions will primarily take the form of participation in peacekeeping operations, although we have to bear in mind (as with Timor) contributing in situations where there is a possibility of combat involvement.

We have longstanding obligations under the UN Charter, including Chapter VII, which the Government regards as fundamental to its defence policy.

- We have taken part in Chapter VII operations not only in the region (East Timor, for example) but around the globe.
- Chapter VII operations are not limited to land operations: they could easily involve maritime contingencies.
- They may also involve enforcement of sanctions under Article 41.
- While the Government has decided to give immediate priority for capital investment to critical army needs, and to air and sea lift, maritime capabilities are an important part of an integrated capability that would be militarily useful in responding to UN or other collective action.

**A military capability in maritime patrol would give the New Zealand Government a wider range of options in considering requests to participate in multinational responses. The command and control, intelligence, reconnaissance and surveillance functions of a military aircraft such as the P3 Orion gives the Government information which could be used in peacekeeping or military enforcement actions worldwide.**

New Zealand may be able, in a multinational operation such as a UN peacekeeping operation, to rely on other countries' ability to provide the protective envelope for a deployment of ground forces. But prior to New Zealand assets joining the collective pool in a theatre of operation, New Zealand is likely to have to provide its own force protection while troops and assets are in transit from New Zealand. New Zealand has

indicated to the United Nations that possible contributions to peace support operations under the United Nations Standby Arrangements System could include up to two Orions.

## CONCLUSION

This report has looked at maritime patrol in the context of the government's foreign and security policy objectives. Other Government agencies have responsibility for the day to day work of maritime patrol. In this report the Ministry of Foreign Affairs and Trade has looked at the need for maritime patrol, and considered what would happen if that capability were curtailed. While they are interlinked, we have looked at civilian and military requirements separately.

Several broad conclusions have emerged on the requirement for maritime patrol:

- maritime patrol is an essential part of **protecting New Zealand's sovereignty** in the broadest sense **and our interests in the Southern Ocean and Antarctica**. Lack of knowledge about activities in our zone would make it difficult to enforce sovereignty and in control over the area under New Zealand jurisdiction. Maritime patrol is essential for search and rescue. Without an airborne capability, other methods - satellite surveillance, intelligence, surface patrol - do not in themselves provide an adequate coverage of the surveillance need;
- at issue is whether there are parts of the maritime surveillance coverage that New Zealand could drop. We have come to the conclusion that there are not - stretched as we are, to drop commitments in the areas of interest to us would have adverse consequences for New Zealand;
- in the **area under New Zealand jurisdiction** :
  - the need for maritime patrol is increasing not diminishing. There are **new challenges**, such as illegal migration, drug running and small scale terrorism that present an increased threat;
  - pressure on world fisheries means that the overcapacity of the Northern Hemisphere fishing industry is having a spillover effect on **fisheries** of direct interest to us, such as the Southern Ocean, the Pacific and potentially the NZ EEZ. In practical terms, not to support the international fisheries agreements would be to allow pressure on our own fisheries to build, and potentially to allow our own resource to be destroyed;
- there are good reasons for not reducing our commitments to maritime patrol in our **near neighbourhood** :
  - we have assumed certain **obligations**, including under international treaty, to undertake resource management and protection, conservation, search and

rescue and disaster relief work. We also have constitutional requirements to assist the Pacific Islands in defence and foreign affairs;

- it would send negative signals to the **Pacific** about our commitment to assist their nation building, and conversely signal to others who may be interested in them for nefarious purposes that we are unconcerned. There will be additional requirements for surveillance when new fisheries agreements governing catches in the high seas come into force. The Pacific is presenting a new, unstable face with the potential need for increased attention from New Zealand. Military assets will continue to be important here, potentially in direct defence of New Zealand citizens.
- we would signal to **Australia** that we do not take border control seriously. More importantly, the Australians would perceive a reduced commitment on New Zealand's part to the trans-Tasman defence relationship;
- we would be unable to meet our obligations to the **FPDA** and would reduce our standing with Singapore and Malaysia;
- we would be unable to meet fully our obligations in respect of **search and rescue**, in the event New Zealanders or citizens of other countries strike trouble when overflying or sailing through our areas of responsibility. It would be a double standard that would be hard to justify;
- **security involves more than defence**, and has international as well as domestic dimensions. In an interdependent world New Zealand's interests depend on engagement in a wide range of activities - the work we do on sustainable development, emergency relief and disaster assistance, search and rescue, international trade, support for the rules-based multilateral system and international law, human rights, disarmament and arms control. This leads to two further conclusions on the **reduction of current maritime patrol activities**:
  - the political downsides of a reduced maritime patrol capability are hard to quantify in dollar terms, except perhaps where fisheries are concerned. **There would be financial savings** from not doing some of the patrol activity currently carried out in the furthest reaches of the our area of interest;
  - **but the costs to New Zealand's other interests** of not meeting these obligations would be greater.
- New Zealand has an existing national capability (the RNZAF Orions) that makes a useful contribution to our overall foreign policy and security objectives. Without an independent capability to meet the need, we would be more reliant on others. As such, our **freedom of action** would be potentially compromised and our **international standing** diminished. For a country committed to upholding human rights and fundamental freedoms, and to playing a role as a good international citizen in a troubled world, the ability to employ military force remains (with all the obvious caveats) an important foreign policy instrument and crisis management tool.



- The **RNZAF's P3 Orions** constitute an effective surveillance/reconnaissance platform for a variety of civilian and military tasks. With a life expectancy of 20 plus years (following their recent wing upgrade), they would be difficult and very expensive to replace. Any replacement would have to have the P3 Orions' capabilities;
- a military capability used for civil purposes retains the option of a **graduated response**. Military assets can be used for military or civilian purposes or for both military and civilian purposes. A aircraft of this sort is a requirement if we are to ensure full coverage of the outermost reaches of New Zealand's jurisdiction as well as our interests in Antarctica and the Southern Ocean and our search and rescue obligations. It enables New Zealand to support its small South Pacific neighbours in their own efforts to protect their resources and sovereignty. In the event of New Zealand finding itself obliged to take military action, either in our own region or further afield, the absence of the military maritime capability would narrow the options available to the Government.

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