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**ENHANCING THE NAVAL MANDATE FOR LAW ENFORCEMENT:  
HOT PURSUIT OR HOT POTATO?**

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## **Abstract**

In April 2004, the federal government promulgated *Securing an Open Society: Canada's National Security Policy*. This long-awaited document called for greater emphasis to be placed on Canada's maritime domains in the post-911 security environment. This paper argues that the Canadian Navy's role should be expanded for domestic maritime enforcement in support of safeguarding national security and the exercise of Canadian sovereignty. After describing the Navy's significant presence in Canada's maritime zones and the increasing reliance on the Navy by other government, the issues that shape attitudes towards employment of armed forces for law enforcement tasks are identified and challenged. A simple model for executing an enhanced role is proposed. The model does not suggest that the Navy should shift its primary emphasis from preparing for combat at sea to coast guard duties. Rather, it is an appeal for powers that would enable the Navy to act upon violations detected while carrying out its fundamental military role. Doing so would allow the Navy to leverage its presence at sea, and contribute to realizing the goals articulated in Canada's national security policy, specifically to provide maritime security for Canadians in an effective integrated manner.

## Introduction

On April 6, 1995, twenty-eight days after the arrest of the fishing trawler *Estai* on the Grand Banks, the *Toronto Sun* carried a provocative front page that displayed a periscope photograph of a Spanish stern trawler at close range. Published during the so-called "Turbot Crisis," the newspaper story conveyed the notion that Canadian submarines were enforcing Canada's contested jurisdiction over fish stocks on the continental shelf. This dispute brought fisheries and sovereignty issues into focus for Canadians. Moreover, the reporting of this unusual employment of a submarine was, for many Canadians, their first indication that their navy played an active role in the enforcement of domestic and international law in Canada's maritime zones and approaches.



**Figure 1. Periscope Photo on Front Page**

Source: *Toronto Sun* (Toronto), 6 June 1995. Image was captured by author through periscope low-light television camera.

While Canada's Navy has always been active in the nation's maritime affairs, there is a case to be made for expanding the naval role in domestic maritime enforcement in support of safeguarding national security and the exercise of Canadian sovereignty. The aim of this paper is to outline that case, and to suggest why a more comprehensive role is both practical and necessary. The Canadian Navy maintains a significant presence in Canada's maritime zones, and should have all the legal tools required to enforce Canadian law in those areas. This is not to suggest that the Navy would shift its primary emphasis from preparing for combat at sea to coast guard duties. Rather, it is an appeal for powers that would enable the Navy to act upon violations detected while carrying out its fundamental military role. Other government departments have become increasingly reliant on the Navy during a decade of government-wide retrenchment. The issues that shape attitudes towards employment of armed forces for law enforcement tasks also need to be identified and challenged. Finally, a simple model for executing this new role will be proposed. But first, it is necessary to examine what the Navy's enforcement role is at present.

### **Naval Contribution to Maritime Enforcement**

During the past decade all federal departments and agencies have suffered the consequences of reduced budgets. Those with maritime enforcement mandates, namely Fisheries and Oceans Canada (DFO) and the Canadian Coast Guard (CCG), have experienced significant pressure in the operation and maintenance of aging fleets in the face of increased demand for patrol activities in the post-911 maritime security environment. Dr. James Boutilier, testifying before the Senate Committee on National Security and Defence, identified the lack of sufficient resources to execute the maritime security piece:

At the national level, virtually all of the organizations involved directly or indirectly in maritime security appear to have significant capacity problems. The escalator phenomenon prevailed during the 1990s fewer and fewer dollars chasing greater and greater responsibilities.<sup>1</sup>

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<sup>1</sup> Testimony of Dr. James A. Boutilier, before the Standing Senate Committee on National Security and Defence, Issue 19 – Evidence 9 June 2003 <<http://www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/defe-e/19evb-e.htm>> (7 February 2005).

Senator Colin Kenny, in his 2004 Senate committee report *The Longest Under-Defended Borders in the World*, complained that the Canadian Coast Guard (CCG), the Canadian Navy, and by extension the Royal Canadian Mounted Police (RCMP), were not defending Canada's coasts in "any meaningful way."<sup>2</sup> While many argue that Senator Kenny has overstated the situation, the reality is that no single government department or agency on its own can assure the safety, security, or sovereignty of Canada, especially in the post-911 environment with the greater visibility that these issues have received.<sup>3</sup> Thus, any additional contribution the Navy can make, either by itself or in partnership with other government departments, could enhance significantly Canada's ability to exercise national sovereignty.

At present, the Navy's contribution to domestic maritime enforcement is the maintenance of a comprehensive surveillance and domain awareness capability, routine support to departments with enforcement mandates, and being prepared to apply coercive force in emergent crises. Over the past decade on the Atlantic coast, Canadian naval vessels spent between 1500 to 2500 days at sea per year, many of them on overseas deployments, but the majority of them within the Exclusive Economic Zone (EEZ) enveloping the Maritime provinces and Newfoundland. While many of the sea days were devoted to training and exercises, they provided many "eyes on the water" and constituted a distinct federal presence in Canada's maritime approaches.<sup>4</sup> In recent years, the trend for naval vessel days at sea has been a decreasing one due to a reduction in the size of the naval fleet, and annual budgetary constraints. See Table 1.

In addition to its at-sea presence, the Navy is already an active participant in fisheries enforcement through a Memorandum of Understanding (MOU) negotiated between the Department of National Defence (DND) and Fisheries and Oceans Canada

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<sup>2</sup> Canada. Report of the Standing Senate Committee on National Security and Defence. *Canada's Coastlines: The Longest Under-defended Borders in the World*. October, 2003. pp. 108-109.

<sup>3</sup> Kelly E. Williams, "The Canadian Navy: In the Vanguard of Canadian Foreign and Defence Policy," in *The Canadian Navy and the New Security Agenda: Proceedings of the Maritime Security and Defence Seminar, Toronto, 26-27 April 2004*, ed. Ann L. Griffiths (Halifax: Dalhousie University, 2004), 9.

<sup>4</sup> Presence is essential in a vast Atlantic EEZ of 1.4 million km<sup>2</sup> where, for example, it was estimated that 534 fishing vessels and 1137 merchant vessels were operating in March 2005. Lieutenant-Commander Sid Green, Maritime Security Operations Centre Halifax, personal email (24 May 2005).

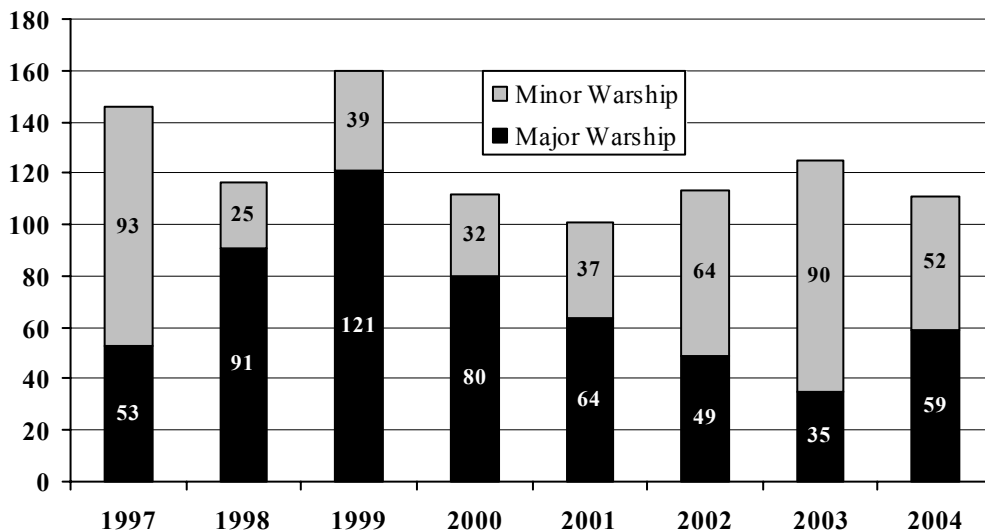
TABLE 1

NAVAL VESSEL TOTAL DAYS AT SEA - ATLANTIC

Vessel Type	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Destroyer <sup>5</sup>	659	512	367	284	157	254	166	178	115	205	128
Frigate	794	827	753	718	718	552	620	839	824	636	735
Submarine	264	275	242	228	169	85	58	25	0	88	76
Minor Warship <sup>6</sup>	664	531	562	521	741	592	611	600	608	634	607
Other types	133	110	118	103	100	57	117	168	90	16	0
Totals	2514	2255	2042	1854	1885	1540	1572	1810	1637	1579	1546

Source: Maritime Forces Atlantic Sea Operations staff, 2004.

Navy and Air Force to DFO and sets the number of ship-days and flying-hours allocated to surveillance and fisheries enforcement in waters of Canadian jurisdiction. Naval vessels and maritime patrol aircraft with DFO Conservation and Protection Officers embarked conduct fishery patrols in the inshore and offshore maritime zones; essentially they provide the means to transport fisheries officers into areas of fishing activity so that the appropriate authorities can monitor, inspect and arrest, if necessary, persons violating domestic and international law. Figure 1 shows the annual number of sea days allocated

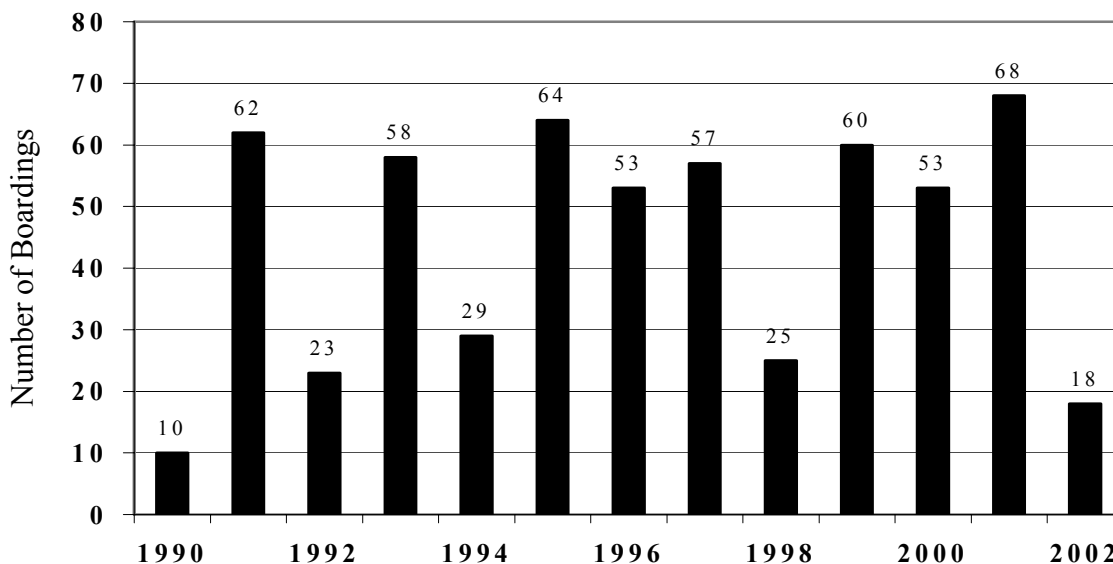


**Figure 2. Naval Fisheries Patrol Sea Days - Atlantic**  
Sources: Maritime Forces Atlantic Sea Operations staff, 2004.

<sup>5</sup> Destroyer totals include *Annapolis*-class and *Improved Restigouche*-class destroyers prior to 1999.

<sup>6</sup> Minor warship totals include *Kingston*-class Maritime Coastal Defence Vessels (MCDV) and, prior to the year 2000, HMC Ships *Anticosti*, *Cormorant*, and *Moresby*, as well as Gate vessels used for naval reserve

to DFO support; note the reduction of fishery patrol days by major warships in 2002 and 2003, the years that Canadian major warships were deployed to the Arabian Sea on Operation Apollo.



**Figure 3. Boardings by Fisheries Officers Embarked aboard Naval Ships - Atlantic**

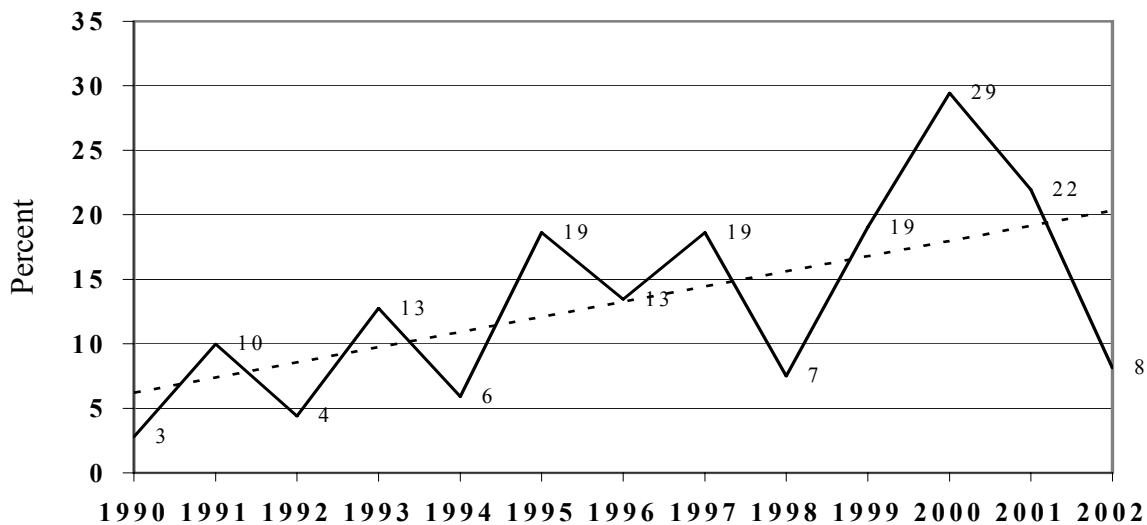
Source: Fisheries and Oceans Canada, Newfoundland Region, 2002. Data extracted from Fisheries and Oceans CFIN System (Canadian Fisheries Information Network.)

Over the past several years DFO has, in fact, begun to rely increasingly on the Navy for support, notably since DFO reduced its offshore enforcement fleet to just two large vessels. While the number of boardings carried by DFO officers embarked aboard naval vessels remains relatively constant (Figure 3), the overall percentage of boardings instigated by fisheries officers embarked in naval vessels is increasing.<sup>7</sup> Figure 4 depicts this upward trend.

Historically, the Navy has focussed its fisheries patrol effort on the Grand Banks of Newfoundland, although periodically patrols are conducted along the Hague Line on Georges Bank. As a result, naval presence during fishery patrols has taken on distinct patterns. Figure 5, which covers the years from 1980 to 1996, shows a concentration of patrol effort on the Tail of the Grand Banks, with increased presence on the routes to and from Halifax and St. John’s. The focus on the Tail was due in large measure to the

<sup>7</sup> Boardings are referred to as “inspections” in DFO parlance.



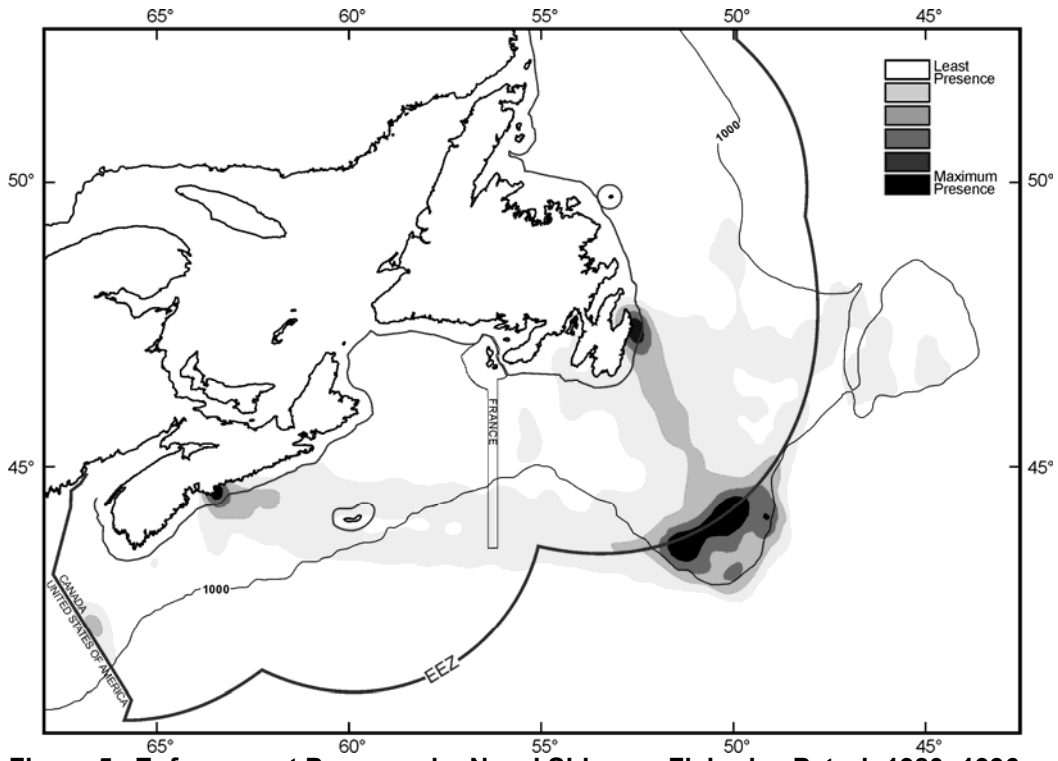


**Figure 4. Navy's Percentage of Total DFO Boardings for Newfoundland Region**

Sources: Derived from data supplied by Fisheries and Oceans Canada, Newfoundland Region, 2002. Data extracted from Fisheries and Oceans CFIN System (Canadian Fisheries Information Network.)

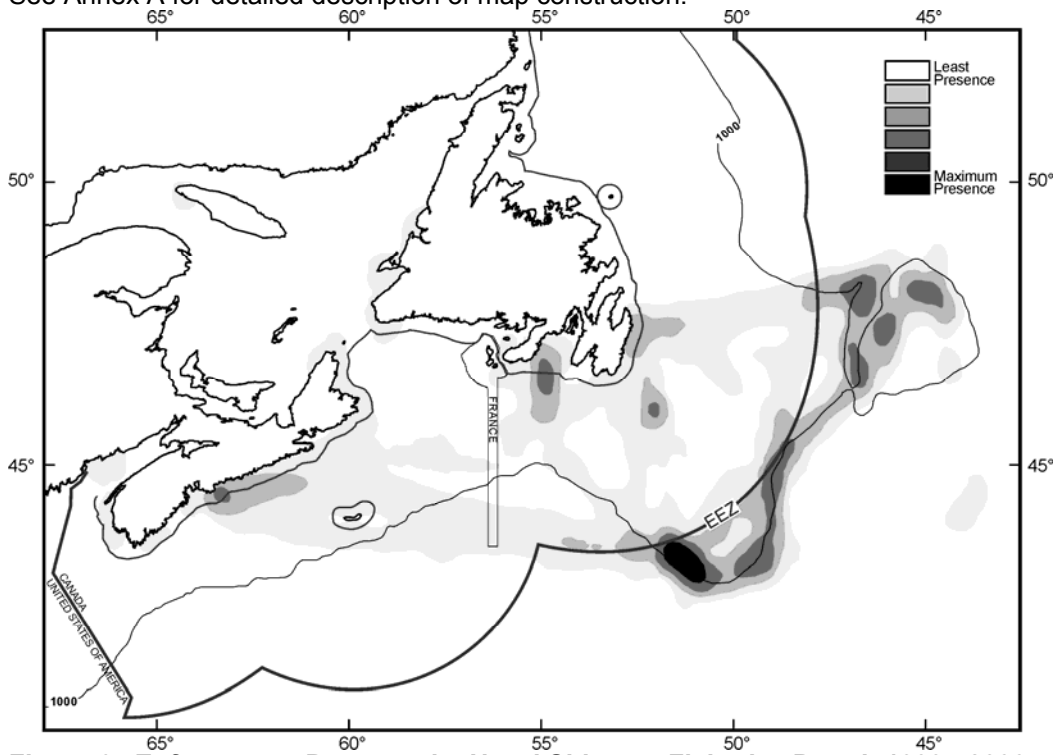
plethora of foreign vessels attracted to this particularly abundant fishing ground, and then later in the 1990s to the requirement to enforce the moratorium imposed on the Tail as a result of plummeting groundfish stocks. Figure 6 captures the shift in concentration away from the Tail where, by 1999, there was only a small total allowable catch allocated by the North Atlantic Fisheries Organization. The shift was towards the Flemish Cap where other species such as shrimp were and still are commercially viable.

Figures 7 and 8 depict the coverage and, by extension, the presence of maritime patrol aircraft in Canada's eastern maritime zones during two separate 30-day periods. The lack of coverage of the Grand Banks shown in Figure 6 reflects the mission planners' appraisal of predicted weather patterns, traditional fishing activity, and expected commercial traffic over the Christmas holiday period.



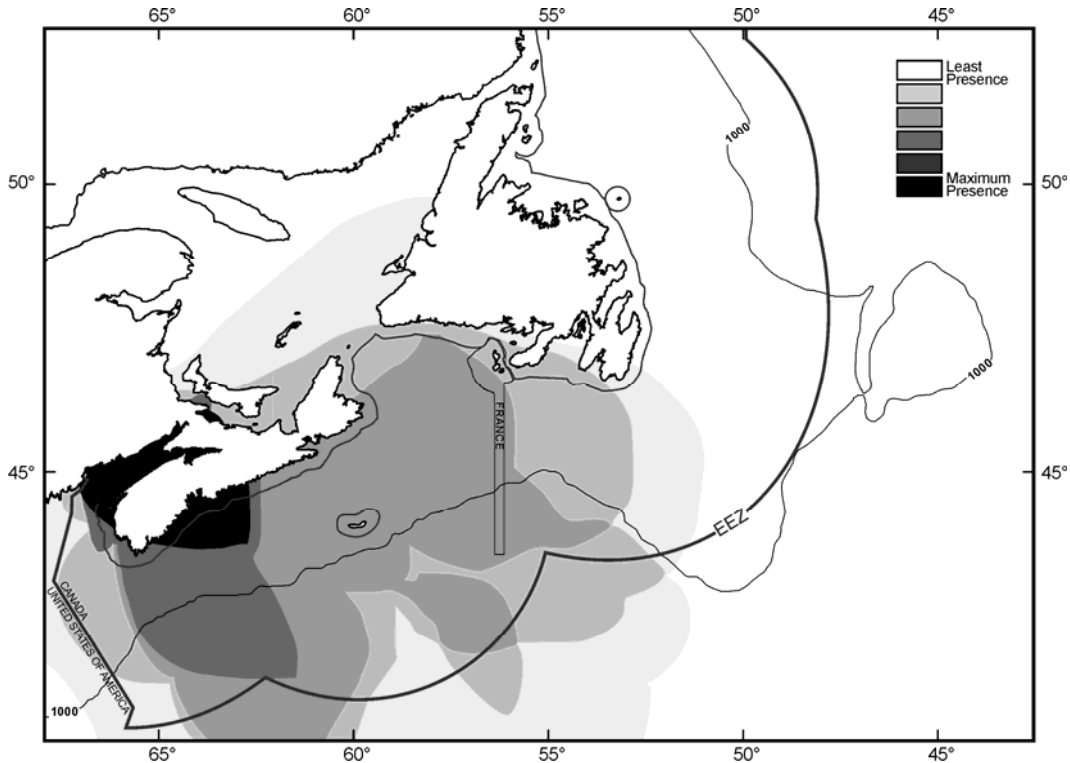
**Figure 5. Enforcement Presence by Naval Ships on Fisheries Patrol: 1980 -1996**

Source: Derived from data contained in 59 ships' logs stored at the National Archives of Canada. See Annex A for detailed description of map construction.

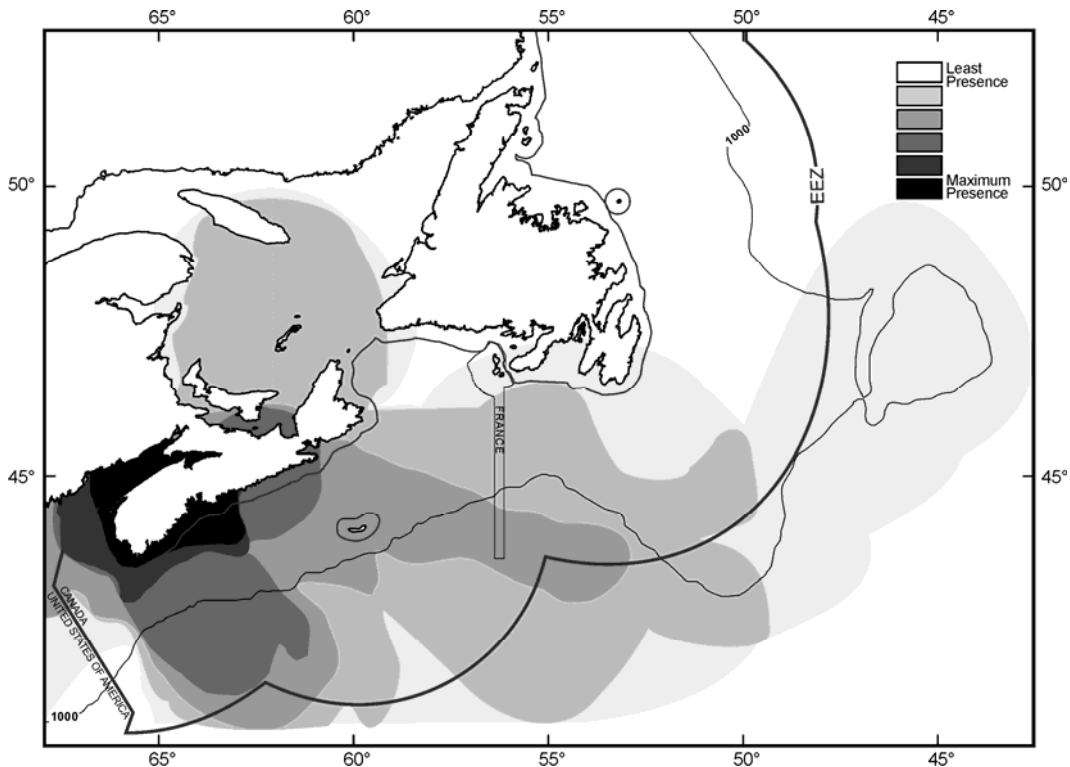


**Figure 6. Enforcement Presence by Naval Ships on Fisheries Patrol: 1999 - 2000**

Source: Derived from data collected by 13 naval vessels. See Annex A for detailed description of map construction.



**Figure 7. Presence of CP-140 Aurora Maritime Patrol Aircraft: 15 Dec – 15 Jan 2003**  
 Source: Derived from data supplied from 14 flights. See Annex A for detailed description of map construction.



**Figure 8. Presence of CP-140 Aurora Maritime Patrol Aircraft: 15 Jan – 15 Feb 2004**  
 Source: Derived from data supplied from 18 flights. See Annex A for detailed description of map construction.

The preceding paragraphs and figures show that the Canadian Navy is fully engaged in safeguarding national security and the exercise of Canadian sovereignty. In a period when patrol activities by other government departments has been waning, the Navy continues to maintain a not insignificant “on-the-water” presence in Canada’s maritime zones. The Navy’s tendency to revisit areas of high activity and traffic density coupled with its sophisticated modern sensor capability predisposes its vessels to detect breaches of domestic and international law. However, at present, unless a peace officer from another government department is embarked, there is little recourse open to a naval vessel other than to report it to the appropriate law enforcement authority and to wait for action to be taken by another department. Why then, has Canada been so reticent to take the next step, as have many other nations, to employ the Navy in enforcement of federal statutes in all Canadian maritime zones in a more primary manner than relegating it to a support role, as is the current situation?

### **Reticence to Use Armed Forces for Domestic Enforcement**

There is no simple answer to this question. However, an explanation can be found in a number of separate but related issues. Public perceptions of the Army and a general unease with the use of the Army for law enforcement on land have influenced how constabulary naval roles are viewed. At heart is the public’s apparent inability to distinguish between the Army and the Navy in terms of domestic operations. In addition, some also question whether law enforcement is truly a legitimate use of the Canadian Forces in the first place. Lastly, there are those who argue that constabulary duties are non-traditional, detract from the status of a navy, and erode its warfighting capability. These arguments will be examined in further detail and, in so doing, it will become evident that these concerns do not present such an insurmountable obstacle as may first be thought.

### **The Army and Law Enforcement**

As instruments of national power, most Western armed forces have been conceived and maintained to execute state policy abroad, although they can be employed domestically in certain situations where their unique military attributes can be employed with great effectiveness. The skills and aptitudes derived from training for combat make

armed forces highly suitable to assist local authorities in dealing with dangerous or violent confrontations. Equally, armed forces are a natural pool of disciplined, highly trained talent to assist in times of disaster.<sup>8</sup>

While armed forces may seem suited for the execution of domestic policy, in practice democratic governments constrain the internal use of their militaries, usually to avoid potential political fallout and to maintain the legitimacy of their democratic governance. Canada is no exception, and this tradition has its roots in British legal heritage, imported to British North America before Confederation.<sup>9</sup>

It is argued that the perceived unwillingness to employ the Canadian Army in law enforcement roles during modern times comes from long-standing prejudices resulting from misuse of the Army in foregone times. Stephen Haines observes that the British *Bill of Rights* of 1688 is the point of departure for an analysis of civil-military relations in the British Isles and, by extension, the Dominion of Canada. This Act rendered the Army subordinate to Parliament and restricted its use by the Crown.<sup>10</sup> Haines notes also that the *Bill of Rights* of 1688 makes no reference to the Royal Navy, a powerful arm of the state during that particular period of empire building. Clearly, it was not viewed as a threat to the domestic political structure of the era. After the *Bill of Rights* a series of Acts followed to provide statutory authority and funding for armed forces to operate on land.<sup>11</sup>

For well over two centuries, the army remained an important tool in the execution of domestic policy largely because it was the only organized body of men that the Crown could call upon for its coercive ends. Consequently, well into the nineteenth century, soldiers were employed to maintain public order, notwithstanding the potential risk to liberty. However, the activities of working class movements during the Industrial Revolution often instigated riots and demonstrations, and frequently necessitated the use

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<sup>8</sup> Stephen W Haines, "The Provision of Military Aid to Civil Authorities in Britain's Maritime Domain" (Ph.D. thesis, University of Aberdeen, 1992), 210.

<sup>9</sup> *Ibid.*, 213.

<sup>10</sup> E.C.S. Wade and A.W. Bradley, *Constitutional and Administrative Law* (London: Longman, 1985), 406.

<sup>11</sup> P. Rowe, "The British Soldier and the Law," in *The Defence Equation: British Military Systems – Policy, Planning, and Performance since 1945*, ed. M. Edmonds (London: Brassey's, 1986), 175-190; quoted in Stephen W Haines, "The Provision of Military Aid to Civil Authorities in Britain's Maritime Domain" (Ph.D. thesis, University of Aberdeen, 1992), 214.

of the Army to maintain public order. Over time, public figures in Great Britain began to question the means employed to maintain law and order and the appropriateness of the use of the Army for this purpose. This evaluation coincided roughly with the creation of Great Britain's fledgling police forces, first in Scotland, then Ireland, and then in England. The *Metropolitan Police Act* of 1829 created an unarmed force of civilians that was based on the long established and generally accepted appointment of constable. These specific prerequisites were aimed at reducing public concern that a centrally controlled police force might pose the same threat to public liberty that had previously been the case with the Army.<sup>12</sup>

These attitudes towards the use of the army in the domestic context ultimately migrated to Canada, where the nation's inaugural police force came into being in 1841 at Kingston, Ontario. Thereafter, across the country the concept of law enforcement by civilian authorities became institutionalized. Notwithstanding, the Army was used on many occasions since the birth of the nation in 1867 to prior to the Second World War, in order to quell disturbances, to suppress election disorder, and to put down uprisings such as the Riel Rebellion of 1885. Many of these were not, as we would say today, public affairs successes. For example, the federal government enacted the *Military Service Act* of 1917 to permit conscription of men for service in Europe during the First World War. Opposition in Quebec divided the country along linguistic lines. When protests against conscription turned violent in Quebec City 1 April 1918, troops were used to quell the riots. Four persons were killed and 70 were wounded when military forces opened fire. Some argue that the memory of this action remains with the population today, resulting in resentment towards using the Canadian Army to quell civil disorder.<sup>13</sup>

To gauge more recent public attitudes about the most intrusive use of military force in the domestic context, only four instances of Aid of the Civil Power by Canadian military

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<sup>12</sup> F. Gregory, "The British Police System – With Special Reference to Public Order Problems," in *Police and Public Order in Europe*, J. Roach and J Thomaneck (London: Croone Helm, 1985), 37.

<sup>13</sup> Serge Durflinger, *Les Pirs Canayens: French Canadian Recruitment during the First World War*, 27 September 2001 <[http://www.civilisations.ca/cwm/disp/dis001\\_e.html](http://www.civilisations.ca/cwm/disp/dis001_e.html)> (7 February 2005). See also Canadian Military History Gateway, *Military Service Act*, 21 June 2004 <<http://www.cmhg.gc.ca/flash/glossary/default-en.asp?organization=&t=1&osubject=&ss=1&Ntx=mode%20matchall&resourcetype=&Ntt=military%20service%20act&Ntk=siResource&subject=&x=36&y=9&letter=M&page=3>> (7 February 2005).

forces have occurred since 1945.<sup>14</sup> In 1969, the Army was called out during the Montreal general police strike. A year later in 1970, the FLQ crisis resulted in the invoking of the *War Measures Act* and the callout of the Army again to maintain order in the province of Quebec. The third instance was the 1976 case of a sniper in Alberta, and the most recent experience with Aid to the Civil Power was gained in 1990, again in Quebec, with the Oka crisis.

It is difficult to determine real public sentiment toward use of the Army for law enforcement purposes. In the case of both the FLQ and Oka crises, the armed forces were praised for the calm and disciplined manner in which they contained the crisis and prevented escalation.<sup>15</sup> If there is truly lingering resentment towards use of Canadian Forces for law enforcement tasks, it is difficult to explain why visible military assistance is requested for major politically-charged events such as the G8 ministers' conferences in Kananaskis and Halifax, or the Summit of the Americas in Quebec City. Reticence in regard to employing the Army in law enforcement roles directly relates to the issue of naval enforcement, and raises the issue of legitimate use of armed forces in such a role.

#### Legitimacy of the Canadian Forces for Law Enforcement

Contrary to what many might wish to think, law enforcement is indeed a legitimate function of the Canadian Forces. Parliament has clearly indicated both its acceptance and expectation that the armed forces have a role in law enforcement in certain circumstances. This statutory basis can be found in the *National Defence Act*. This Act codifies the principles for control of the armed forces, as well as providing the legal framework for the provision of military support to provinces or other government departments for maintaining public order.<sup>16</sup>

Parliament has two major expectations in relation to the armed forces and law enforcement. Firstly, the Canadian Forces must be capable of a broad spectrum of

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<sup>14</sup> Aid to the Civil Power is a type of domestic operation in which military forces are called out to suppress a riot or disturbance of the peace because it is beyond the civil authorities to control.

<sup>15</sup> Speech by Superintendent A. Antoniuk to RCMP officers at RCMP Training Academy, Regina Saskatchewan, 27 September 1990; Desmond Morton, *Understanding Canadian Defence* (Toronto: Penguin, 2003), p. 158.

<sup>16</sup> *National Defence Act*, R.S.C. 1985 c. N-4. Part XI.

provision of services in both crisis and non-crisis scenarios. Through the *National Defence Act*, Parliament empowers the Minister of National Defence or the Governor-in-Council to authorize the armed forces to “perform any duty involving public service,” including the “provision of assistance in respect of any law enforcement matter.”<sup>17</sup> At lower levels is the form of routine support to community activities. This type of domestic operation is, by far, the most frequent undertaken by the Canadian Forces and pertains to non-crisis provision of services. Humanitarian assistance, including ground search and rescue, aid to civil disasters such as floods and fires, environmental emergencies, and other humanitarian situations such as missing persons and mercy flights are also covered by this section of the *National Defence Act*.

The “provision of assistance in respect of any law enforcement matter” clause in Section 273.6 of the *National Defence Act* also encompasses what is known as assistance to law enforcement agencies (ALEA).<sup>18</sup> Within this category, support from the armed forces runs the gamut from the benign, such as provision of ranges or training areas for police use, to situations in which a disturbance of the peace is occurring or about to occur and armed forces personnel or equipment may be needed for support.

Section 273.6 also sets the conditions for armed forces support to federal penitentiaries for assisting in the suppression of prison disturbances. As well, the *National Defence Act* provides authority for the earlier mentioned MOUs with DFO, RCMP, and Environment Canada. These MOUs provide the legal basis for the Navy to assist the other federal departments to enforce narcotics, fisheries and environmental laws through use of naval assets for surveillance, information sharing, and interdiction support.

Secondly, Parliament expects that the Canadian Forces be capable of taking responsibility for restoring public order when necessary, that is, coming to the aid of the civil power. Pursuant to the *National Defence Act*, military “service” can be furnished “in any case in which a riot or disturbance of the peace, beyond the powers of civil authorities to suppress, prevent or deal with and requiring that service.”<sup>19</sup> The Chief of the Defence

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<sup>17</sup> *National Defence Act*, R.S.C. 1985 c. N-4. s. 273.6.

<sup>18</sup> *Ibid.*

<sup>19</sup> *National Defence Act*, R.S.C. 1985 c. N-4. Part XI.



Staff is accorded the discretion to determine the scope and nature of military “service” in these situations. Under aid of the civil power, armed forces members possess the powers and duties of “constables” but remain under military command and control.

From time to time in certain domestic operations, Canadian Forces members are afforded peace officer status. This status is situationally dependent and exists only for as long as it is required for duty. Peace officer status provides both legal status and legal protection to service members while carrying their legal duties. Notwithstanding this status, members of the armed forces remain under military command at all times.

Aid of the civil power is a “service” that some might argue is the most controversial since it conjures up in the public’s eye images of soldiers with rifles patrolling Canadian streets and, as far as some are concerned, the idea of a police state with the threat of concomitant suspension of civil liberties. Sean Maloney asserts that employing military forces domestically is a “politically provocative act, one that carries much weight regardless of the situation.”<sup>20</sup> Further, argues Mathew Hammond, the use of military forces for law enforcement purposes obfuscates military and civilian roles, undermines civilian control of the armed forces, and is not an appropriate use of resources.<sup>21</sup> Notwithstanding this criticism, the reality is that the concept of the police state has never been acceptable in Canada, and the infrequent requisitions for aid to the civil power are always undertaken as means of last resort. Moreover, as stated earlier, recent examples of armed forces employment in aid to the civil power met with overall approval.<sup>22</sup> More importantly though, Parliament has demonstrated through various legal instruments that it both accepts and expects Canada’s military to play a role in law enforcement but that role will be subject to tight political control.

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<sup>20</sup> Sean M. Maloney, “Domestic Operations: The Canadian Approach,” *Parameters* (Autumn, 1997): 135-152.

<sup>21</sup> Matthew Carlton Hammond, “The Posse Comitatus Act: A Principle in Need of Renewal,” *Washington University Law Quarterly* 75 (No. 2, Summer, 1997) <<http://law.wustl.edu/WULQ/75-2/752-10.html#fn160>> (6 February 2005).

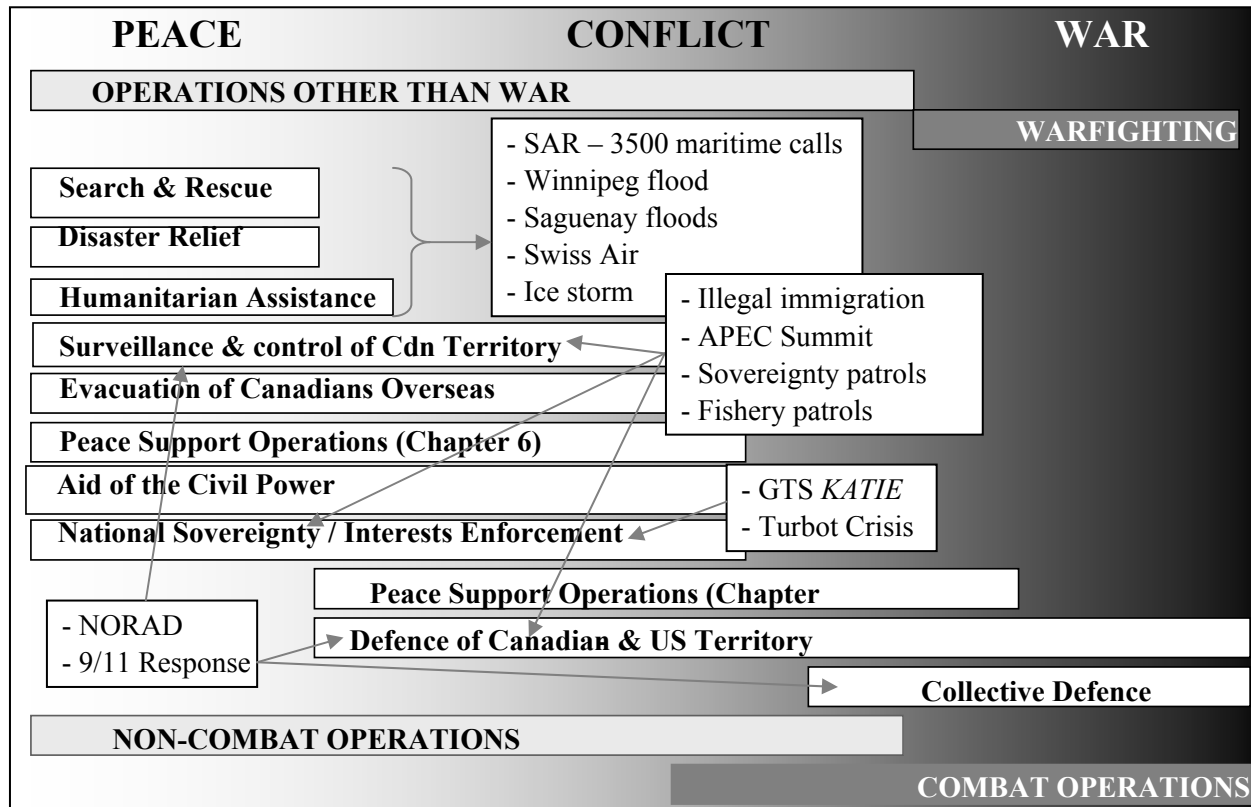
<sup>22</sup> Speech by Superintendent A. Antoniuk to RCMP officers at RCMP Training Academy, Regina Saskatchewan, 27 September 1990; Desmond Morton, *Understanding Canadian Defence* (Toronto: Penguin, 2003), p. 158.

Do constitutional issues prevent the Navy, as opposed to the Army, from enforcing Canadian law? Understanding that this enforcement would take place offshore in Canada's maritime zones, a review of the *Constitution Act* indicates otherwise. Section 91 of the Act states that "the exclusive Legislative Authority of the Parliament of Canada extends to . . . Militia, Military and Naval Service, and Defence . . . Beacons, Buoys, Lighthouses . . . Navigation and Shipping . . . Sea Coast and Inland Ferries."<sup>23</sup> Such subjects are clearly related to maritime activities on or beyond the coasts, and the Act codifies federal responsibility for each. Section 92 of the Act lists the exclusive powers of the provinces which focus on activities and issues affecting provincial territory, namely, land, "in each Province the Legislature may exclusively make Laws in relation to . . . Direct Taxation within the Province . . . Management and Sale of Public Lands . . . Establishment, Maintenance and Management of Hospitals . . . Tavern Licences . . . Property and Civil Rights."<sup>24</sup> Thus, the *Constitution Act* clearly implies that Canada's ocean zones are federal jurisdictions. As such, appropriate organs of the federal government may enforce Canadian law within these jurisdictions, provided they have the legal mandate. In order for the Navy to enforce rather than just assist in enforcement, relatively minor amendments to various maritime-related enabling statutes are required.

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<sup>23</sup> *Constitution Act*, 1867, s. 91.

<sup>24</sup> *Constitution Act*, 1867, s. 92.



**Figure 9. Spectrum of Domestic Operations in the Maritime Context**

Source: Kelly Williams, "Canada's Maritime Strategy: A Naval Perspective," in *Continental Security and Canada-U.S. Relations: Maritime Perspectives, Challenges and Opportunities*, ed. Robert H. Edwards and Graham Walker <<http://centreforforeignpolicystudies.dal.ca/pdf/spc03williams.pdf>> (11 March 2005)

### Lack of Distinction between Army and Navy in "Domestic Operations"

Notwithstanding Kananaskis, Halifax and other fora in which the Canadian military deployed in high profile support of law enforcement agencies, public perception commonly views "traditional" military law enforcement operations as those where the Army is the agency "of last resort." For many, no seeming distinction between the Navy dealing with narcotics smuggling, pollution, and fisheries violations at sea, and the Army conducting aid to civil power operations on land exists. The latter are very visible, affect large numbers of citizens, and can be intrusive on normal life whereas naval enforcement operations are largely invisible to the majority of Canadians. Due to this lack of distinction, negative biases derived from perceptions of the Army's operations are unconsciously applied to those of the Navy.

## Enforcement as Non-Traditional Employment

When the question of naval law enforcement is raised, policy-makers, lawyers, and senior bureaucrats are naturally reticent to concede any case for enhancing the Navy's constabulary role because such activities are "non-traditional." It can be argued that MOU-based counter-narcotics, fisheries, customs, and immigration law enforcement operations carried out by the Navy are not considered in the same category as the "force of last resort" missions. Rather, these types of operations are deemed more to fall into the realm of support to law enforcement agencies. That these operations are seen to be a "non-traditional" role for the Navy is both unfortunate and mis-informed. Indeed, the need for fisheries protection from American interests in the waters of the Dominion of Canada around the turn of the century was a major factor in the creation of an indigenous Canadian Navy.<sup>25</sup>

Detractors to the use of the Canadian Navy for "non-traditional" law enforcement tasks would probably be concerned with the level of involvement of the government in the authorization process. Undoubtedly, they would champion decision-making for the use of military force in the domestic context at the highest level of government. An argument can be made that ratification of a formal Memorandum of Understanding between Ministers of two departments may not be at a high enough level to provide the basis for military members to have peace officer status for enforcement of domestic law. Lack of this status would deny naval personnel legal protections in the conduct of their duties. The detractors would also argue that the minimum basis should be an Order-in-Council, largely because greater political input is required to achieve this type of legal instrument than is necessary to develop a Memorandum of Understanding. As such, resolution of this issue would appear to be relatively straightforward if the decision were made to enhance naval enforcement powers.

Among naval analysts, the employment of navies for constabulary tasks is not a universally popular concept. Vice-Admiral (retired) Gary Garnett stresses the importance of maintaining a distinction between the enforcement roles of the Canadian military and civilian authorities. He notes, as have many other analysts, that in Canada law enforcement traditionally has been a civilian function, although it is accepted that the

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<sup>25</sup> Marc Milner, *Canada's Navy: The First Century* (Toronto: University of Toronto Press, 1999), p. 8.

armed forces may provide support to assist civilian agencies when circumstances warrant. With respect to naval law enforcement, there are disadvantages to employing naval vessels in these roles. The most apparent is that navies generally are designed for war-fighting, not necessarily constabulary tasks. In fact, during the Cod Wars with Iceland, Great Britain's frigates proved to be too "over-sophisticated" for the task.<sup>26</sup> Garnett's principal concern is to avoid the watering down of combat skills of naval personnel and his point has some validity. However, the intent would not be to convert the Canadian Navy into a fleet of coast guard cutters. Rather, naval ships would continue to train for their primary combat roles, and small teams would receive additional specialized training for them to become proficient at their secondary constabulary duties.

Peter Haydon argues that the Navy should be the key contributor to sovereignty and security patrols of Canada's maritime zones, in all parts of the water column and super-adjacent airspace, because it is the sole department that has the capability to do them properly and efficiently, and the only organization that understands and can implement the concept of sea control.<sup>27</sup> As Haydon notes, the notion that the Navy take on greater constabulary roles will always be contentious. He argues that, given the diminished state of the Canadian Coast Guard, consideration should be given to turning over northern sovereignty patrols to the Navy over time. Likewise, he posits that increased naval fisheries patrols make sense, with the actual inspections to be carried out by dedicated Conservation and Inspection Officers assigned to the warships.<sup>28</sup>

But Haydon also cautions against too much "constabularization" to the point that the nation has only a coast guard. In that scenario, he argues that Canada would find itself excluded from multinational naval operations. Both he and Garnett suggest that sending forces perceived to be of a constabulary nature to international operations would signal a weak commitment by Canada to alliance or coalition objectives. Haydon argues

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<sup>26</sup> Elizabeth Young, "Policing Offshore: Civil Power or Armed Forces," *RUSI Journal* 122 (No. 2, June 1977): 18-22.

<sup>27</sup> Super-adjacent airspace is a legal term used to define the airspace immediately above the surface of the water in the water column in question. See also Peter T. Haydon, *Canadian Naval Future: A Necessary Long-Term Planning Framework* IRPP Working Paper 2004-12 (Montreal: Institute for Research on Public Policy, November, 2004), 13-14.

<sup>28</sup> Peter Haydon, "Canadian Naval Requirements for the 21<sup>st</sup> Century," Council for Canadian Security in the 21<sup>st</sup> Century, 29 April 2002, <<http://www.ccs21.org/ccspapers/papers/haydon-naval.htm>> (2 February 2005).

that Canada's overseas commitments would be limited to token army and light airlift participation such as Afghanistan largely because Canada would lose its seat at the table at international crisis management events. Crisis management doctrine is both joint and collective, and invariably supported from the sea. Canada's use of the Navy to further diplomatic ends, strengthen alliance relationships, and engage in confidence building measures would not be possible, and that Canada would be marginalized on the world stage.<sup>29</sup> This effect runs counter to the government's stated desire to regain Canada's stature and influence in the international system.

The marginalization expressed by both Haydon and Garnett would be legitimate were the Canadian Navy to be viewed in the future largely as a constabulary force. However, as long as the Navy maintains the primacy of combat operations as its *raison d'être*, and it trains to that mandate, the likelihood of such marginalization is remote.

Garnett also suggests that the presence of a combined civil-military force that executes law enforcement tasks on a routine basis could potentially inflame sensitive international situations as was the case during the British/Icelandic "Cod Wars" of the 1970s.<sup>30</sup> To some extent, the events of the Turbot Crisis of 1995 support this assertion. During the Turbot Crisis, the Canadian Navy played a supportive but behind-the-scenes role while Canadian Coast Guard units were "up close and personal" with the foreign fishing vessels deemed to be in violation of the fishing moratorium. The clear distinction between the defence role of the Navy and the law enforcement role of the Coast Guard mitigated active participation by Spanish naval forces and prevented escalation of the conflict. However, it can be argued that concern over provocation is really an issue of expectation. The Canadian tradition has been civilian law enforcement in the marine environment, so other nations have come to expect that. As Colin Gray points out: "if Canadian law is accepted as authoritative, and if the law is invoked against a single vessel and not against a state, there should be no provocation." Likewise, he adds, so many

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<sup>29</sup> Peter T. Haydon, "What Naval Capabilities Does Canada Need?" in *Maritime Security in the Twenty-First Century: Maritime Security Occasional Paper No. 11*, ed. E.L. Tummers (Halifax: Dalhousie University, December, 2000), 157; Haydon, "Canadian Naval Requirements for the 21<sup>st</sup> Century."

<sup>30</sup> Gary L. Garnett. "The Navy's Role in the Protection of National Sovereignty." In *An Oceans Management Strategy for the Northwest Atlantic in the 21<sup>st</sup> Century: The Niobe Papers; Volume 9*, edited by Peter T. Haydon and Gregory L. Witol (Halifax: The Naval Officers Association of Canada, 1998): 11; Young, "Policing Offshore," 18-22.

other countries use their navies for fisheries protection, it can be argued that there is a strong *prima facie* case for Canada to follow suit.<sup>31</sup>

Vice-Admiral Garnett is not a lone voice expressing reservations about enhancing the Navy's constabulary role. Why are so many Canadian flag officers opposed to their Service taking on a more active domestic maritime enforcement posture? That some simple deep-seated biases are at play should not be discounted. In his book *Sea Power and the Law of the Sea*, Mark Janis described five classes of navies, with the US and Soviet superpowers ranked at the top of the pecking order. The navies of Great Britain and France formed the second tier, but remained categorized as first-class "blue-water navies." The remaining classes are described as "coastal" by Janis due to their lack of naval power in comparison with the navies of the first two tiers.<sup>32</sup> Closer to home, Canadian naval planners, drawing heavily from Eric Grove's *Future of Seapower*, expanded the number of classes to nine in their 2001 naval policy document *Leadmark: The Navy's Strategy for 2020*. In this typology, the number one category, i.e., "major global force projection navy (complete)" is reserved for the United States. At the lowest rungs of the ladder are the "constabulary and token" navies. Canada ranks its navy in the third category far away from those navies described as being "constabulary."<sup>33</sup> Measured against yet another generally accepted scale, Canada meets the criteria to earn the label "medium-power navy" as defined by Rear-Admiral Richard Hill.<sup>34</sup>

So what is the relevance of a discussion of ranking? Simply put, there is generally a correlation between ranking of a nation's navy and the nation's status in the international system. The majority of navies of developed countries occupy the upper tiers of the ranking system, whereas the developing countries' navies, those of a more constabulary

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<sup>31</sup> Colin S. Gray, *Canada's Maritime Forces* Wellesley Paper 1 (Toronto: Canadian Institute of International Affairs, January, 1973), 46.

<sup>32</sup> Mark W. Janis, *Sea Power and the Law of the Sea* (Lexington, Mass: Heath, 1976), 63-64.

<sup>33</sup> Canada, Department of National Defence, *Leadmark: The Navy's Strategy for 2020* (Ottawa: Directorate of Maritime Strategy, 2001), 43-45. The nine categories in this classification system are: 1) major global force projection navy (complete), 2) major global force projection navy (partial), 3) medium global force projection navy, 4) medium regional force projection navy, 5) adjacent force projection navy, 6) offshore territorial defence navy, 7) inshore territorial defence navy, 8) constabulary navy, 9) token navy.

<sup>34</sup> Rear-Admiral R.J. Hill, *Maritime Strategy for Medium Powers* (Annapolis: Naval Institute Press, 1986), 20.

nature, are found in the lower end of the ranking spectrum.



is unlikely that North America will face a conventional military threat as had been the case during the era of the Cold War. The maritime security environment changed with the fall of the Berlin Wall, and its continuing evolution was punctuated with the terrorist attacks in 2001. Globally, societies are witnessing an increased emphasis on asymmetric capabilities by organized crime and a variety of trans-state actors. It is reasonable to assume that terrorist groups are prepared to use merchant vessels to transport their personnel and weapons; any number of scenarios can be imagined here. Intelligence sources indicate a large number of merchant vessels that are controlled by Al-Qaeda; unclassified sources place the number at just over a dozen.<sup>37</sup>

In addition to counter-terrorism, the protection of fishing rights, the prevention of illegal activity at sea, such as piracy or the smuggling of contraband or human cargo, and the protection of the environment will continue to require vigilance on the part of the federal government.<sup>38</sup> Canada's national security policy, *Securing an Open Society*, calls for effective integrated multiple agency threat assessment, protection and prevention capabilities.<sup>39</sup> However, it is no longer easy to understand what the sovereignty protection role of the Navy is when, as observed in Canada's International Policy Statement, "the boundary between the domestic and international continues to blur."<sup>40</sup> The International Policy Statement continues with the assertion that "defence and security policy must change."<sup>41</sup> Thus, while the thinking of Thomas and others may have been adroit at one time, the point has been reached to discard old ideas about traditional employment for the Navy and to consider what is practical and relevant for the future maritime security environment. Other nations have already done so.

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<sup>36</sup> Testimony of John F. Thomas before the Senate Committee on National Security and Defence, Issue 19 – Evidence 9 June 2003 <[http://www.parl.gc.ca/37/2/parlbus/commbus/senate/Com-e/defe-e/19eva-e.htm?Language=E&Parl=37&Ses=2&comm\\_id=76](http://www.parl.gc.ca/37/2/parlbus/commbus/senate/Com-e/defe-e/19eva-e.htm?Language=E&Parl=37&Ses=2&comm_id=76)> (7 February 2005).

<sup>37</sup> David Pugliese, "Al-Qaeda's Naval Fleet," *Ottawa Citizen*, (17 March 2004): A1-A2.

<sup>38</sup> Joanne Lostracco, "What Force for Canada: A Theoretical and Practical Study of the Canadian Navy in the 1990s" (M.A. thesis, Dalhousie University, 1998), 21-23.

<sup>39</sup> Canada, Privy Council Office, *Securing an Open Society: Canada's National Security Policy* (Ottawa: 2004), 5.

<sup>40</sup> Canada, Privy Council Office, *Canada's International Policy Statement* (Ottawa: 2005), 12.

<sup>41</sup> *Ibid.*

If one looks to European nations for comparison, one notes that many employ their navies in limited law enforcement capacities. Fisheries protection has long been a traditional role for European naval and coast guard forces. The experience of Great Britain's Royal Navy in this role dates back to the 16<sup>th</sup> century.<sup>42</sup> At present, in the United Kingdom, law enforcement is defined as military aid to the civil authority, and the Royal Navy undertakes the following missions: quarantine enforcement; fishery protection; contraband operations; drug interdiction; oil and gas field patrols; anti-piracy operations; support to counter-insurgency operations; and maritime counter-terrorism.<sup>43</sup> Moreover, the Royal Navy maintains a Fisheries Protections Squadron with eight offshore patrol vessels.<sup>44</sup>

In other parts of Europe the French Navy, for example, acquired patrol vessels several years ago for policing tasks.<sup>45</sup> Farther north, the Norwegian Coast Guard forms part of the Royal Norwegian Navy whereas Denmark has no coast guard. However, the Danish Navy exercises police authority for enforcement of sovereignty issues.<sup>46</sup>

European navies generally furnish law enforcement services directly to national authorities through MOUs. Usually what these navies provide are naval platforms and facilities. In some cases, such as the Danish model, the Navy carries out constabulary and traffic-police duties, whereas the appropriate civil authority conducts the criminal investigations.<sup>47</sup> From a European perspective, naval participation in law enforcement is a significant contribution to good governance at sea."<sup>48</sup>

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<sup>42</sup> Michael Pugh, "Policing the Seas: The Challenge of Good Governance," in *The Role of European Naval Forces after the Cold War*, edited by G. de Nooy (Netherlands: Kluwer Law International, 1996), 111.

<sup>43</sup> *Ibid.*, 109.

<sup>44</sup> *Ibid.*, 108.

<sup>45</sup> Michel d'Oléon, "Policing the Seas: The Way Ahead," in *The Role of European Naval Forces after the Cold War*, edited by G. de Nooy (Netherlands: Kluwer Law International, 1996), 144.

<sup>46</sup> Pugh, "Policing the Seas: The Challenge of Good Governance," 105.

<sup>47</sup> *Ibid.*, 130.

<sup>48</sup> *Ibid.*, 108.

### United States Experience with *Posse Comitatus*

It is useful to compare the Canadian position towards naval enforcement in relation to the United States where the use of the armed forces for domestic enforcement has, until recently, been prohibited by law. By way of background, the *Posse Comitatus Act* was passed in 1878 to prevent the US Army from carrying out law enforcement tasks in the United States. The enactment of this legislation was a reaction to the use of military forces in the Confederate states for the maintenance of peace and good order, enforcement of policies for post-Civil War reconstruction, and to ensure that rebellious sentiments did not re-ignite. The US Congress became concerned when the Army stationed troops at political events and polling stations under the premise of ensuring civil order. As Craig Trebilcock points out, the intent of this federal statute was to prevent the Army from becoming “the national police force” of the United States. Accordingly, the *Posse Comitatus Act* was enacted to return the Army to its proper role in defence of US territory, and to make illegal the use of US troops for civilian law enforcement, except in very specific circumstances.<sup>49</sup>

In the era that the *Posse Comitatus Act* was passed, it was much easier to distinguish between defence tasks and civil law enforcement tasks since the military threat of the day was posed by standing military forces of foreign powers. As noted earlier, with the advent of modern technology facilitating the increased prominence of asymmetric threats, the distinction between these two subsets of national security becomes somewhat blurred.

Interestingly, the *Posse Comitatus Act* of 1878 did not apply to the US Navy, only the US Army. It is possible that, as with Great Britain’s *Bill of Rights* of 1688 that likewise made no reference to naval forces, the US Navy was not viewed as a threat to the domestic political structure of the era. In 1956, an amendment to the *Posse Comitatus Act* caused the same restrictions to be applied to the US Air Force, but curiously made no mention of the US Navy. It was interpreted though that the implied purpose of the act was to prohibit military forces in general from conducting civilian law enforcement. Thus, in 1974 the US Secretary of the Navy issued a formal instruction that stated that although

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<sup>49</sup> Craig T. Trebilcock, *The Myth of Posse Comitatus*, October 2000, <<http://www.homelandsecurity.org/journal/articles/Trebilcock.htm> > (6 February 2005).

the act did not specifically apply to the Navy, its principles were to be upheld. That said, the instruction also gave the US Navy a loophole; the directive stated that the Navy could be employed for civilian law enforcement purposes with the express permission of the US Secretary of the Navy, a civilian official. Thus, the principle of civilian control over military forces could be maintained.<sup>50</sup>

The “get tough” anti-drug campaign of the Reagan administration in the early 1980s resulted in a law and a Defense directive that eased the way for US Navy involvement in at-sea counter-narcotics enforcement by enabling the US Secretary of Defense to provide equipment and facilities to civilian law enforcement personnel and provided approval for US Navy and Marine Corps personnel to partic

These powers and procedures mark a considerable departure from the outright prohibition on US naval involvement in law enforcement and indicate American acceptance of this role for their Navy.

Having established the legitimacy of the use of the Navy for law enforcement purposes, and challenged some perceptions about constabulary and non-traditional naval employment, what remains to be discussed is what an enhanced mandate for naval law enforcement would really entail.

### **Proposal for Naval Maritime Enforcement of Canadian Maritime Zones**

This paper calls for the Navy to be empowered with the legal authority to enforce directly selected federal statutes on a routine basis throughout the maritime zones of Canadian jurisdiction. At present, Canadian naval forces are relegated to a support function only, essentially providing an expensive taxi service for enforcement officers from other federal departments, except under special circumstances when coercive force is required, and requested by the appropriate Minister.

If these legal powers were granted, what would this new role entail? The Navy's fundamental mission will remain the "generation and maintenance of combat-capable, multipurpose maritime forces to meet Canada's defence objectives."<sup>54</sup> Nevertheless, if naval vessels detected violations to Canadian law while conducting their defence or sovereignty missions, they would have the requisite legal tools to act upon those discoveries. However, there is no suggestion that the Navy would be obliged to cease its operations to deal with violations detected. Rather, the naval commanding officer's decision whether to enforce would be shaped by the priority of his naval operations and the circumstances of the violation detected. In practice, this precedent already exists; throughout Canada police officers have similar discretion to choose when and where to enforce laws, with due consideration to the severity of the offences, the risk to the public, and so on. As well, the Navy would not be expected to enforce all federal statutes, only those that apply to specific activities on the seas. These interventions would be limited only to those offences that are directly linked to the protection of Canadian sovereignty

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<sup>54</sup> Canada, Department of National Defence, *Leadmark: The Navy's Strategy for 2020* (Ottawa: Directorate of Maritime Strategy, 2001), 92.

and this constraint should allay concerns referred to earlier about police power in the hands of the military.

The proposed new role would not see the Navy conducting investigations of violations detected at sea. Rather, naval personnel would carry out the preliminary work designed to contain the scene. Again, an analogy of normal police work is useful. Throughout Canada general duty police officers are normally first at the scene, then turn over difficult or serious cases to the general investigative services, or detectives as they are commonly known. The general duty officer is trained on basic policing functions such as understanding how an investigation is carried out, how not to contaminate a crime scene, how to maintain care and custody of evidence, and how to deal with suspects, etc so that the detectives can investigate the case in detail. This basic knowledge is necessary so that the Crown's case is not undermined by procedural errors at the outset. In the model proposed, naval personnel would act as the general duty officers, and would turn over the case for investigation by Fisheries and Oceans Canada, Environment Canada, or the Royal Canadian Mounted Police as appropriate. Moreover, the support to enforcement already established by interdepartmental MOU would not change. Thus routine patrols with fisheries or RCMP officers embarked would continue, and reactive operations, such as counter-drug interdictions would be carried out with the appropriate enforcement officers embarked.

Some argue that the Navy would not be competent to undertake a more direct enforcement role, primarily because naval personnel are not in tune with the requirements for the prosecution of a court case. Essentially, this question involves training and shipboard organization. One solution would be to confer peace officer status to all watch-keeping officers and a small cadre of sailors.<sup>55</sup> These people would train specifically for law enforcement duties, and become the ship's experts at the use of force, care and custody of evidence and related matters. The logical choice for these teams would be the

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<sup>55</sup> This idea was proposed as a means of preparing the Canadian Coast Guard for constabulary duties. See testimony of John F. Thomas, former Commissioner of the Canadian Coast Guard, before the Senate Committee on National Security and Defence, Issue 19, Evidence Morning Session 9 June 2003 <[http://www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/defe-e/19eva-e.htm?Language=E&Parl=37&Ses=2&comm\\_id=76](http://www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/defe-e/19eva-e.htm?Language=E&Parl=37&Ses=2&comm_id=76)> (10 February 2005). See also Canada. Report of the Standing Senate Committee on Fisheries and Oceans. *Safe, Secure, Sovereign: Reinventing the Canadian Coast Guard*. March, 2004. p. 48.

personnel who form the Navy's existing naval boarding parties. At present, naval boarding party team training is very similar but shorter to that received by Canadian police officers, and would require minimal adjustment to cater to at-sea enforcement requirements, mainly to become familiar with the minimal number of federal statutes that would be enforced by the Navy, and to "top-up" the team's understanding of requirements for court.<sup>56</sup>

In the end, there is little doubt that the Navy could execute an enhanced enforcement role, given its considerable experience in maritime interdiction operations abroad. Whether it will be given that chance remains an open question.

### **Conclusions**

Policing Canada's maritime zones and approaches presents no shortage of difficulties to overcome, particular as the federal government struggles to allocate finite resources to a plethora of ministries charged with maintaining national security. While the Navy has always had a major part to play in protecting Canadian sovereignty, the burden of law enforcement has fallen largely upon other government departments. This reality reflects a Canadian tradition of law enforcement by civilian agencies. However, in light of the evolving post-911 asymmetric security environment, there is a case to be made for expanding the naval role in domestic maritime enforcement. Influenced to a degree by land-oriented aid to civil power operations, detractors question the legitimacy of this use of armed forces or denounce the idea as non-traditional. However, none of these issues present an insurmountable obstacle to developing an enhanced role for Canada's naval forces.

With federal enforcement departments becoming increasingly reliant on naval assets for support of their operations, the Navy's significant presence in Canada's maritime zones should be leveraged and the Navy, empowered with appropriate legal authority, should be granted the option to enforce Canadian law in those vast areas. Doing so would be yet another important step in realizing the goals articulated in Canada's national security policy, specifically to provide maritime security for Canadians in an effective integrated manner.

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<sup>56</sup> Based on author's experience and training as a former member of the Royal Canadian Mounted Police.

## Annex A - Explanatory Notes on Certain Figures in the Paper

Figure 5. This map was drawn from data recorded by 59 warships that conducted fishery patrols in support of the Department of Fisheries and Oceans (later Fisheries and Oceans Canada) during the period from 1980 to 1995. Geographic positions of the warships were extracted manually from the ships' logs held at the National Library and Archives of Canada, at a distribution of one position per watch. These co-ordinates were entered into a DBaseIV spreadsheet that was imported into ArcView 3.2 geographic information system (GIS) software at the Hydrographic Services Office (HSO) in Halifax. The ArcView 3.2 Spatial Analyst module was used to measure the relative densities of the positions of the warship tracks, and a choropleth map was rendered that depicted track density in five orders of magnitude. The shades on this map represent the amount of "enforcement presence" by naval vessels over a 15-year period.

Ms. Roxanne Gauthier at HSO manipulated the author's raw data in ArcView 3.2 and rendered the draft version of Figures 5 and 6. Mr. Ralph Lang at the Canadian Forces College finished both maps for publication using CorelDraw 12 software.

The following naval fisheries patrols were incorporated into Figure 5:

HMCS <i>Nipigon</i> 22 Apr - 9 May 1980	HMCS <i>Cormorant</i> 23 Mar - 10 Apr 1987
HMCS <i>Assiniboine</i> 12 - 28 Nov 1980	HMCS <i>Margaree</i> 1 - 3 Jul 1987
HMCS <i>Algonquin</i> 25 Nov - 12 Dec 1980	HMCS <i>Annapolis</i> 19 Jan - 3 Feb 1988
HMCS <i>Skeena</i> 8 - 23 Jan 1981	HMCS <i>Gatineau</i> 3 - 20 May 1988
HMCS <i>Fraser</i> 19 May - 4 Jun 1981	HMCS <i>Assiniboine</i> 24 Oct - 12 Nov 1988
HMCS <i>Cormorant</i> 14 - 28 Oct 1981	HMCS <i>Skeena</i> 18 Jan - 10 Feb 1989
HMCS <i>Margaree</i> 22 Oct - 5 Nov 1981	HMCS <i>Cormorant</i> 17 Nov - 16 Dec 1989
HMCS <i>Huron</i> 21 Jan - 5 Feb 1982	HMCS <i>Gatineau</i> 15 - 20 Nov 1989
HMCS <i>Nipigon</i> 15 Feb - 5 Mar 1982	HMCS <i>Saguenay</i> 4 - 18 Dec 1989
HMCS <i>Assiniboine</i> 18 Jan - 3 Feb 1983	HMCS <i>Margaree</i> 22 Oct - 9 Nov 1990
HMCS <i>Nipigon</i> 15 - 28 Mar 1983	HMCS <i>Cormorant</i> 3 - 14 Dec 1990
HMCS <i>Iroquois</i> 24 Nov - 10 Dec 1983	HMCS <i>Margaree</i> 10 - 21 Jun 1991
HMCS <i>Cormorant</i> 9 Jan - 1 Feb 1984	HMCS <i>Margaree</i> 23 Jul - 16 Aug 1991
HMCS <i>Skeena</i> 13 - 29 Feb 1984	HMCS <i>Ottawa</i> 23 Sep - 4 Oct 1991
HMCS <i>Saguenay</i> 12 - 29 Mar 1984	HMCS <i>Margaree</i> 30 Sep 1991
HMCS <i>Assiniboine</i> 2 - 9 May 1984	HMCS <i>Nipigon</i> 10 Feb - 31 Mar 1992
HMCS <i>Cormorant</i> 28 May - 23 Jun 1984	HMCS <i>Skeena</i> 5 - 30 Oct 1992
HMCS <i>Skeena</i> 15 Jan - 7 Feb 1985	HMCS <i>Anticosti</i> 19 - 30 Apr 1993
HMCS <i>Saguenay</i> 26 Feb - 15 Mar 1985	HMCS <i>Gatineau</i> 3 - 27 May 1993
HMCS <i>Algonquin</i> 7 - 24 May 1985	HMCS <i>Skeena</i> 25 May - 4 Jun 1993
HMCS <i>Athabaskan</i> 26 Jun - 2 Jul 1985	HMCS <i>Nipigon</i> 9 - 18 Jun 1993
HMCS <i>Athabaskan</i> 15 - 26 Jul 1985	HMCS <i>Skeena</i> 23 Aug - 17 Sep 1993
HMCS <i>Iroquois</i> 28 Jun - 11 Jul 1985	HMCS <i>Anticosti</i> 20 Sep - 8 Oct 1993
HMCS <i>Skeena</i> 29 Oct - 15 Nov 1985	HMCS <i>Moresby</i> 21 - 28 Feb 1994
HMCS <i>Cormorant</i> 14 Jan - 21 Feb 1986	HMCS <i>Anticosti</i> 6 - 22 Apr 1994
HMCS <i>Algonquin</i> 1 - 5 Mar 1986	HMCS <i>Fraser</i> 10 - 21 May 1994
HMCS <i>Nipigon</i> 30 Sep - 17 Oct 1986	HMCS <i>Anticosti</i> 25 Jul - 14 Aug 1994
HMCS <i>Assiniboine</i> 28 Oct - 14 Nov 1986	HMCS <i>Gatineau</i> 8 - 26 Aug 1994
HMCS <i>Margaree</i> 28 Jan - 8 Feb 1987	HMCS <i>Gatineau</i> 11 Sep - 6 Oct 1995
HMCS <i>Saguenay</i> 24 Feb - 4 Mar 1987	



Figure 6. This map was drawn from data recorded by 13 warships that conducted fishery patrols in support of the Fisheries and Oceans Canada during the period from 1999 to 2000. Geographic positions of the warships were recorded at sea once per hour into electronic logs in MS Access. These co-ordinates were then converted into a DBaseIV spreadsheet that was imported into the ArcView 3.2 GIS at the Hydrographic Services Office (HSO) in Halifax. The ArcView 3.2 Spatial Analyst module was used to measure the relative densities of the positions of the warship tracks, and a choropleth map was rendered that depicted track density in five orders of magnitude. The shades on this map represent the amount of “enforcement presence” by naval vessels over a 15-month period. The purpose of this map was to depict the geographic change to naval enforcement presence post-Turbot crisis of 1995.

The following naval fisheries patrols were incorporated into Figure 6:

HMCS *Montréal* 22 Feb – 12 Mar 1999  
HMCS *St John's* 14 – 29 Jun 1999  
HMCS *Fredericton* 28 Jul – 17 Aug 1999  
HMCS *Kingston* 8 – 31 Aug 1999  
HMCS *Ville de Québec* 8 – 29 Sep 1999  
HMCS *Moncton* 12 – 22 Oct 1999  
HMCS *Glace Bay* 12 – 22 Oct 1999  
HMCS *Montréal* 24 Nov – 14 Dec 1999  
HMCS *St John's* 17 Jan – 4 Feb 2000  
HMCS *Ville de Québec* 20 Mar – 4 Apr 2000  
HMCS *Goose Bay* 29 Apr – 19 May 2000  
HMCS *Moncton* 8 – 13 May 2000  
HMCS *Toronto* 2 – 19 May 2000

Figure 7. This map was drawn from data recorded by 14 CP-140 Aurora maritime patrol aircraft that conducted airborne operations from 15 Dec 2003 to 15 January 2004. Geographic positions of the aircraft were extracted from the onboard tactical computer and forwarded as ASCII files to the Maritime Operations Centre (MOC) at Maritime Forces Atlantic Headquarters where the co-ordinates were entered into a powerful GIS system to recreate the aircraft tracks. A nominal buffer of 75 nautical miles was applied to the tracks to approximate the radar coverage during a normal flight profile at different altitudes.

Sgt Richard Mayne at the MOC manipulated the raw data and rendered the draft version of the choropleth map. However, 13 different shades were represented on the first images. The author chose to decrease the numbers of orders of magnitude to make interpretation of the map easier. Mr. Ralph Lang at CFC applied a polarizing filter to the draft image and reduced the number of shades from thirteen to five. He then edited the map for publication using CorelDraw 12 software.

The shades on this map represent the cumulative radar coverage and, to a certain extent, the amount of “presence” by Aurora long range patrol aircraft during a 30-day period. The lightest greyscale represents areas that were in the radar coverage of one or two Aurora aircraft during the period. The next darker shade represents radar coverage of between three to six flights. The next darker shade represents coverage by

seven to nine flights, and so on. Readers are cautioned that this map does not represent the tracks of Arcturus aircraft that may have flown during the same time period because the avionics package of the Arcturus aircraft did not facilitate downloading of track data.

Figure 8. This map was drawn from data recorded by 18 CP-140 Aurora maritime patrol aircraft that conducted airborne operations from 15 January to 15 February 2004. The map was rendered by Sgt Richard Mayne at the MOC in Halifax in an identical fashion to Figure 7. However, 17 different shades were represented on the first images. Mr. Ralph Lang at CFC applied a polarizing filter to the draft image and reduced the number of shades from seventeen to five. He then edited the map for publication using CorelDraw 12 software.

The shades on this map represent the cumulative radar coverage and, to a certain extent, the amount of “presence” by Aurora long range patrol aircraft during a different 30-day period. The lightest greyscale represents areas that were in the radar coverage of one to three Aurora aircraft during the period. The next darker shade represents radar coverage of between four to seven flights. The next darker shade represents coverage by eight to eleven flights, and so on. Readers are cautioned that this map does not represent the tracks of Arcturus aircraft that may have flown during the same time period because the avionics package of the Arcturus aircraft did not facilitate downloading of track data.

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