

# **New Zealand's Ban on Nuclear-Propelled Ships Revisited**

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## ABSTRACT

In 1984, New Zealand became a nuclear-free country, prohibiting the entry of nuclear-armed and nuclear-powered vessels to domestic ports. This caused a rift with the United States. Today, the ban on nuclear arms is no longer a factor straining U.S.-New Zealand relations. Therefore, the thesis focuses on the ban on naval nuclear reactors which remains an impediment to a better relationship between New Zealand and the U.S. The thesis uncovers the various lines of argument advanced by both proponents and opponents of the ban to analyze the options on how to proceed with the ban on nuclear-powered ships. Numerous interviews with selected actors in the debate surrounding nuclear-propelled ship visits provide the methodological centerpiece and allow for a focus on the current political situation.

The thesis begins with a historical and theoretical overview of the emergence of anti-nuclearism in New Zealand. After that, it examines concerns about the safety of naval nuclear reactors, the importance of symbolism and morality, as well as aspects regarding national identity and the 'clean-green' image. Next follows an analysis of the ban's impact on the economy and defense relations. Then, the thesis looks at how the nuclear-free legislation is perceived abroad, what the likelihood of future nuclear ship visits is, and how the United States has contributed to the prolongation of the row with New Zealand. Afterward, the thesis establishes that there are four potential courses of action a New Zealand government can follow. The government can

- extend the applicability of the nuclear-free legislation to extraterritoriality,
- repeal the legislated ban while maintaining the ban as policy,
- remove the ban on nuclear-propelled ships altogether,
- maintain the status quo.

The thesis finds that neither the first nor the second option is a feasible course of action. Moreover, a government intending to repeal the ban would have to ascertain in a referendum or public discussion whether the public would support such a move. Since the circumstances for having a public discussion on this sensitive topic are currently not present, the status quo will remain.

## **ACKNOWLEDGMENTS**

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## TABLE OF CONTENTS

List of Tables	vii
Abbreviations	viii
Chapter One: Introduction	1
Relationship to Existing Research	2
Thesis Structure	8
Chapter Two: New Zealand and the Nuclear-Free Legislation	9
New Zealand and its Nuclear-Free Past	9
The Muldoon Years	10
Labour and its Anti-Nuclear Agenda	13
The <i>Buchanan</i> Affair	15
Nuclear-Free Within ANZUS?	18
Reasons for the Rift with the U.S.	22
The Bolger Government and the National Party's Change of Mind	24
The Emergence of the Nuclear-Free Legislation in Theoretical Perspective	28
Realism and the Nuclear-Free Stance	28
Groupthink and the Labour Government	29
Two-Level Game Theory and the Failure of the <i>Buchanan</i> Negotiations	33
International Conflict and the Mainstreaming of Anti-Nuclearism	35
Conclusion	38
Chapter Three: The Safety Issue and Beyond	39
Naval Nuclear Propulsion	39
The Emergence of Safety Concerns	40
The Somers Report and its Critics	42
Safe or Not Safe, that is the Question	45
Beyond Safety	48
Symbolism and the Morality of the Nuclear-Propelled Ships Ban	50
The Influence of Symbolism	51

The Power of Morality	54
Nuclear-Free: A Question of National Identity	57
The Clean-Green Image: Dependent on the Ban on Nuclear-Powered Ships?	61
Conclusion	64
 Chapter Four: Nuclear-Free New Zealand Today	 66
Back on the Agenda: Reviving a Twenty-Year-Old Problem	66
Section 11 and the New Zealand Economy	72
Post-ANZUS New Zealand-U.S. Trade Relations	72
A Free Trade Agreement with the United States?	74
Section 11: An Impediment to Free Trade with the U.S.?	76
Post-ANZUS U.S.-New Zealand Defense Relations	80
Conclusion	85
 Chapter Five: Anti-Nuclear in a Nuclear World	 86
New Zealand's Anti-Nuclear Status From an International Perspective	86
The Danish Policy in Perspective	91
The Prospects of Future Ship Visits	93
The Potential of Visits by Nuclear-Propelled Vessels	94
Technical Aspects and their Influence on Nuclear-Powered Ship Visits	96
America the Intransigent?	98
Conclusion	104
 Chapter Six: The Four Alternatives	 105
Extending the Legislation to Extraterritoriality	106
A Ban Without Legislation	108
Removing the Ban on Nuclear Powered Ships	111
Upholding the Status Quo	115
The Possibility of Holding a Referendum	117
An Educational Campaign?	120
Alternatives to a Referendum	122
Circumstances for a Public Discussion or Referendum	124

Conclusion	125
Chapter Seven: Conclusion	127
Revisiting the Thesis Statement	127
Four Categories of Argumentation	128
Contributions and Wider Applicability of Arguments	129
Influences and Intervening Factors	131
Final Remarks	132
Appendices	
A: Security Treaty Between Australia, New Zealand, and the USA (ANZUS)	133
B: New Zealand Nuclear-Free Zone, Disarmament, and Arms Control Act	136
C: Nuclear-Powered U.S. Fleet in the Pacific	138
Bibliography	
Interviews and Personal Communications	139
Newspaper Articles	140
Online Sources	143
Published Sources	145
Speeches	148
Unpublished Sources	149

## LIST OF TABLES

### Figures

Figure One: Approval Rates of Nuclear-Armed Ship Visits to New Zealand	36
Figure Two: Approval Rates of Nuclear-Powered Ship Visits to New Zealand	36
Figure Three: Growth of Exports to the United States Compared	73

## **ABBREVIATIONS**

ANZUS	Security Treaty Between Australia, New Zealand, and the United States of America
EEZ	Exclusive Economic Zone
FTA	Free Trade Agreement
NCND	Neither Confirm Nor Deny
NPV	Nuclear-Powered Vessel
SSN	Attack Submarine

# CHAPTER ONE

## INTRODUCTION

During the years of the Cold War, both the United States and the Soviet Union engaged in a nuclear arms race which resulted in the deployment of thousands of nuclear warheads to achieve deterrence. While many believed that nuclear weapons were a necessary evil and helped the cause of peace, a growing number of concerned citizens across the world began to question the concept of deterrence and voiced their opposition to the nuclear arms race. New Zealand, although far removed from the theater of superpower confrontation, was indirectly involved with the American defense posture through the Security Treaty Between Australia, New Zealand, and the United States of America (ANZUS). To exercise military ties under ANZUS, the United States occasionally sent warships to visit New Zealand's ports. Beginning in 1975 with the election of the National Party with Robert Muldoon as Prime Minister, these ship visits became the focal point of the peace movement in New Zealand which felt that these ships represented the nuclear posture they so rejected. The British and American policies of neither confirming nor denying (NCND) the presence of nuclear weapons aboard their ships only served to fuel the opposition to these ship visits. When the Labour Party under David Lange came to power in 1984, it became official state policy not to let ships into New Zealand ports that were either nuclear-armed or nuclear-powered. Since this was interpreted as a challenge to the NCND-policy, the American government indicated that New Zealand's anti-nuclear policy could endanger the future of ANZUS and New Zealand's status as an ally of the United States. The dispute came to a head when the American vessel USS *Buchanan* was refused permission to come to New Zealand in February 1985, precipitated by the remote possibility that the ship could have nuclear weapons on board.

Both the American and British governments announced that they were not willing to breach their NCND-policies and that they would not send any warships to New Zealand until the anti-nuclear policy was abandoned. Furthermore, the U.S. administration declared the suspension of its defense obligations to New Zealand under ANZUS until further notice. Several American politicians even threatened the possibility of sanctions in retaliation for the refusal of the USS *Buchanan*. The American reaction was perceived as an attempt to bully a small ally into compliance with U.S. policy and led to a strengthening of the anti-nuclear movement in New Zealand and to a push towards adopting the anti-nuclear policy as law. In 1987, Parliament passed the

*New Zealand Nuclear Free Zone, Disarmament and Arms Control Act*, which included both the ban on nuclear-armed and the ban on nuclear-powered ships. As a result, New Zealand lost its status as an American ally and was downgraded to a friend.

In New Zealand, the National Party was the only political party that opposed the nuclear-free legislation. However, since public support for the legislation seemed to rise over the years, even the National Party adopted the anti-nuclear position in 1990. The official party adherence to the nuclear-free legislation has remained unchanged since. Nevertheless, the part of the nuclear-free legislation banning nuclear-powered ships has been subject to infrequent but vigorous debating. Opponents of the ban on nuclear-powered ship visits argue that ships propelled by nuclear reactors are safe and the possibility of an accident involving a leakage of radioactivity is so small as to be negligible. They maintain that the ban was the result of blatant anti-Americanism of people in the Labour Party and that it was not sufficiently discussed in public before being set in law. In addition, they contend that the American response to the ban not only had a negative impact on the New Zealand military but also disadvantaged New Zealand's prospects for a free trade agreement with the United States.

This thesis is designed to examine why the ban on nuclear-propelled vessels is being discussed once again today, 20 years after the visit of the USS *Buchanan* was rejected. The thesis will analyze the circumstances under which the nuclear-propelled ships ban emerged and will show what has changed since then. It will scrutinize the viability of arguments presented for and against the ban. Moreover, the thesis will suggest various options on how to proceed and resolve the debate. The thesis will conclude by assessing which of the discussed courses of action seems the most promising and politically feasible.

## Relationship to Existing Research

Many scholars and students have written about New Zealand's nuclear-free legislation and its consequences. However, the majority of the research on the subject concentrates on the aspect of the ban on nuclear weaponry. Although that is the core issue of the anti-nuclear legislation, it is solely the ban on nuclear-powered ships that still causes frictions with the United States. While the ban on nuclear arms enjoys the vast support of New Zealanders, there is less support for the ban on nuclear-powered ship visits. Hence, it is a well worth endeavor to investigate the evolution of the ban on nuclear-propelled ships and its implications for New Zealand.

A short overview of books and theses written on the general subject will be helpful for situating the current thesis in the already existing research context. Numerous books have been written about this topic which makes it impossible to discuss them all. Therefore, this section will only discuss five of the books which are some of the most widely read and quoted works in this area. This section will begin with a general analysis of David Lange's book *Nuclear Free: The New Zealand Way*. Mr. Lange's book offers a unique view behind the scenes of New Zealand politics and is comprised of an impressionistic and, at times, humorous account of the events leading up to the Labour Party's decision to declare the country a nuclear-free zone and of the events that consolidated anti-nuclear sentiments in New Zealand. As the book consists of a personal recollection of events, it should not be seen as an objective historical account as David Lange himself freely acknowledges at the outset. Thus, while being an entertaining piece of literature, Lange clearly advocates his point of view that ANZUS was only a treaty to consult, not to act, in times of conflict, and blamed the dispute that arose with the United States on the insensitivity of the U.S. Government.

Kevin Clements' book *Back from the Brink: The Creation of a Nuclear-Free New Zealand* is designed as a historical analysis of the nuclear-free movement and the Labour Party's determination to make New Zealand nuclear-free. His book begins by describing the horrific consequences of nuclear detonations and the challenges presented by nuclear weapons proliferation. The book then focuses on the emergence of the New Zealand peace movement and its influence on the Labour Party. An entire chapter is devoted to the Defence Committee of Enquiry which David Lange had commissioned and that Dr. Clements was part of. He takes the opportunity to justify the Defence Committee's findings and recommendations which are discussed in detail below. Although he concludes that the anti-nuclear policy was a small step towards nuclear arms control and disarmament, he challenges the anti-nuclear movement by saying that 'anti-nuclear New Zealanders have some hard thinking to do about how to build on the rejection of nuclear-armed and propelled ship visits to further their aspirations for a world free of nuclear weapons.'<sup>1</sup> Overall, the book puts New Zealand's anti-nuclear stance into perspective with the nuclear weapons problem and how New Zealand's policy can contribute to nuclear disarmament.

A further work that requires consideration here is Stuart McMillan's book *Neither Confirm Nor Deny: The Nuclear Ships Dispute Between New Zealand and the United States*. While

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<sup>1</sup> Kevin Clements, *Back from the Brink: The Creation of a Nuclear-Free New Zealand*. Wellington, Allen and Unwin/Port Nicholson Press, 1988, p. 180.

McMillan analyzed the evolution of anti-nuclear sentiments in New Zealand in general and in the Labour Party in particular, he also devoted considerable portions of his book to the policies and reactions of other countries which allows for comparisons and even an evaluation of the extent to which other countries regarded New Zealand's nuclear-free policy as appropriate or successful. One interesting conclusion McMillan derived from his work is that the nuclear-free law was created because 'the peace movement did not trust the Government. The legislation was not to bind future governments, but to keep the Labour Government true to its word.'<sup>2</sup> That statement is certainly debatable. On the whole, McMillan's book provides valuable historical details not only from a New Zealand but also from an international perspective.

Ewan Jamieson took a different approach in his book *Friend or Ally: New Zealand at Odds with its Past*. He concentrated not so much on the nuclear-free legislation as on the adverse consequences it inflicted on New Zealand's defense relationship with the United States and Australia. The book is divided into three parts. In the author's own estimation, part two, 'a survey of the unpredict[able] world, has been overtaken by the march of events and is no longer worth reading.'<sup>3</sup> However, the other two sections offer important insights with respect to ANZUS and the future prospects for a resumption of U.S.-New Zealand defense ties. Ewan Jamieson's book argues that 'the main purpose throughout [of declaring New Zealand nuclear-free] was not so much to keep nuclear weapons out of New Zealand as to use anti-nuclearism to get New Zealand out of ANZUS.'<sup>4</sup> For that reason, the book advocates New Zealand's return to full ANZUS membership.

Moreover, Malcolm Templeton's study entitled *Defence and Security: What New Zealand Needs* makes an important contribution to the literature on the nuclear-free legislation. Templeton was one of the first authors to clearly argue that the United States Government was in breach of ANZUS when it suspended New Zealand following the *Buchanan* affair. As Templeton explained, it is 'a breach of the treaty for a member to suspend its treaty obligations to another member, unless it can be established that that member is itself in serious breach of the treaty.'<sup>5</sup> Accordingly, Templeton did not view the exclusion of nuclear ships from New Zealand ports as a

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<sup>2</sup> Stuart McMillan, *Neither Confirm Nor Deny: The Nuclear Ships Dispute between New Zealand and the United States*. Wellington, Allen and Unwin/Port Nicholson Press, 1987, p. 159.

<sup>3</sup> Personal Communication with Ewan Jamieson, retired Chief of Defense Staff Air Vice Marshall, 10 February 2005.

<sup>4</sup> Ewan Jamieson, *Friend or Ally: New Zealand at Odds with its Past*. Sydney, Brassey's Australia, 1990, p. 28.

<sup>5</sup> Malcolm Templeton, *Defence and Security: What New Zealand Needs*. Wellington, Victoria University Press for Institute of Policy Studies, 1986, p. 15.

breach of New Zealand's treaty obligations. The book also includes a critique of the Defence Committee of Enquiry.

There are also a number of theses written on the nuclear-free legislation. The ones most relevant to this study are discussed here. One of the earliest theses written on the topic is Eleanor Hodges' thesis from 1990 entitled 'David and Goliath in the Ocean of Peace: Case Studies of "Nuclearism," "Nuclear Allergy" and "the Kiwi Disease."' It does not exclusively focus on New Zealand but also incorporates sections on other Pacific Island nations. In the section on New Zealand, Hodges analyzed the history of the nuclear-free movement and, after comparing the official state policy to public opinion polls taken at the time, established that the Labour Party did 'not so much reflect the will of the people as shape it.'<sup>6</sup> In the end, Hodges concluded that New Zealand had matured as a nation through the nuclear-free movement and shed its colonial past. In general, Hodges' thesis is filled with an abundance of interesting and entertaining historical detail.

In the same year, Michael Hern wrote a thesis on 'ANZUS and a Nuclear-Free New Zealand 1972-1987.' Hern's thesis consists of a regurgitation of historical fact with disappointingly little analysis. It is not clear what the argument of the thesis is and what it contributes to the knowledge on the subject. There is only one short statement in the abstract saying that 'many see these years [when ANZUS ceased to exist as an operative alliance] as revolutionary, and in this thesis I shall give you a chance to decide whether or not this is the case.'<sup>7</sup> Even a large part of the concluding chapter contains a summarized repetition of the historical description. Altogether, of 130 pages, only the last one and a half paragraphs include the author's opinion and analysis. Hern concludes that there is not much of a future for New Zealand in ANZUS and that the National Party may well decide to support the continuation of the nuclear-free position.

Lianne Fridriksson's thesis on 'Strategic Perspective: Nuclear Issues in the New Zealand Media' promised to give interesting insights into the portrayal of nuclear free topics in newspapers, television and radio in New Zealand. However, the thesis proved to be thoroughly disappointing. The first 33 pages of Fridriksson's thesis are made up of historical facts on New Zealand which are entirely unrelated to both the nuclear issue and the media. The 15 hypotheses clarifying what the author wishes to investigate are not stated until page 89. Of these, some are quite obvious and probably do not require any elaborate investigation to be corroborated. One of

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<sup>6</sup> Eleanor Hodges, 'David and Goliath in the Ocean of Peace: Case Studies of "Nuclearism," "Nuclear Allergy" and "the Kiwi Disease."', Unpublished PhD Thesis, University of California at San Diego, 1990, p. 238.

<sup>7</sup> Michael Hern, 'ANZUS and a Nuclear Free New Zealand 1972-1987.', Unpublished MA Thesis, University of Canterbury, 1990, p. viii.

these is hypothesis H<sub>3b</sub> which states that ‘coverage of New Zealand’s nuclear issues in the U.S. media will be related to U.S. interests.’<sup>8</sup> The content analysis announced as a central theme in the first pages of the thesis is not taken up until page 95. After quickly introducing the content analysis, Fridriksson spends another 20 pages explaining media ownership and employee ratios which is also irrelevant to her topic. The actual content analysis only starts on page 134.

Most importantly, however, the title of the thesis is misleading. The reader expects an investigation of audio, visual and printed media in New Zealand. Instead, Fridriksson only analyzed articles from the three biggest newspapers in New Zealand: the *New Zealand Herald*, the *Dominion Post*, and the *Press*. She also included articles from the *New York Times* which does not fit into her thesis at all because the title says that she wants to investigate media from New Zealand, not from the United States. Fridriksson also failed to explain why she chose to limit herself to only including articles from the time period from July 1983 to March 1988 in her study. The nuclear-free issue emerged much earlier and an examination of articles written before that time would have been helpful. Overall, a vast part of Fridriksson’s thesis is not even relevant to her topic. Since this was a doctoral dissertation, one could have expected a more thoroughly written and researched work.

Ann Pasco’s Bachelor of Laws thesis entitled ‘New Zealand’s Nuclear-Free Legislation: Endangered Like the Kiwi,’ written shortly after a National Party inquiry into the safety of nuclear-propelled ships, argues that the nuclear-free legislation is part of the New Zealand identity. Therefore, Pasco argued that it should not be amended or repealed. Moreover, she criticized the way in which the government inquiry was conducted. Unfortunately, Pasco’s thesis appears to be solely intended to justify the benefits of the legislation while omitting arguments to the contrary. For instance, at the outset of her Chapter Three, Pasco stated that ‘there are many political, environmental, economic and social reasons why NZ/Aotearoa should hold fast to its ban on nuclear-powered ship visits.’<sup>9</sup> Rather than analyzing the advantages and disadvantages of the ban, she essentially spends the rest of Chapter Three justifying that statement. Her bibliography reveals that an overwhelming majority of sources used were written by members of the peace movement. Moreover, the comparison between the nuclear-free legislation and the Kiwi bird is rather pecu-

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<sup>8</sup> Lianne Fridriksson, ‘Strategic Perspective: Nuclear Issues in the New Zealand Media.’, Unpublished PhD Thesis, University of Texas at Austin, 1992, p. 90.

<sup>9</sup> Ann Pasco, ‘New Zealand’s Nuclear-Free Legislation: Endangered Like the Kiwi.’, Unpublished LLB (Hons) Thesis, University of Auckland, 1993, p. 28.

liar. On the other hand, Pasco brings the Maori dimension into her paper which is an aspect most often ignored.

Vera Voštinár analyzed the nuclear-free movement from a sociological perspective. Her thesis, 'Nuclear Free: Strategies Used by the New Zealand Anti-Nuclear Movement,' is modeled on Ralph Turner's social movement strategies, which she applies to the case of the New Zealand movement. The three different strategies of persuasion, bargaining, and coercion are dealt with in separate sections and their effectiveness, advantages, and disadvantages are explained. Although Voštinár's paper makes an interesting contribution to the literature on the nuclear-free subject, her thesis is a bit repetitive in places. Furthermore, a sociological analysis of the growth of the anti-nuclear movement in New Zealand and the factors contributing to the mainstreaming of anti-nuclearism would have been interesting but was not done.

In 1996, Megan Wilson wrote her Post-Graduate Diploma thesis on 'New Zealand—Anti-Nuclear!? 1984-1985: Press Opinion on the Anti-Nuclear Issue.' She focused her study on the examination of editorials published in the *Otago Daily Times*, the *Press*, the *Dominion Post*, the *New Zealand Herald* and the *New Zealand Listener*. The time period of 1984 and 1985 was certainly crucial but misses out on the equally important period around 1987 when the nuclear-free policy became law and the 1970s when the issue emerged. In addition, an evaluation of letters sent to the editor would have contributed to the study. That would have created a nice contrast to the editors' opinions. Admittedly, this is slightly beyond the scope of Wilson's paper which aimed at investigating the opinion of the newspapers' editors. Wilson's findings show that, at least over this two-year period, 'all of the publications supported the ideology of anti-nuclearism and wanted to halt the proliferation of nuclear weapons but they did not support the methods pursued by the Labour Government in order to achieve this end.'<sup>10</sup>

The thesis 'New Zealand's Nuclear-Free National Identity: The Evolution of an Image, 1970-1995' written by Nicola Costello traces the development of the nuclear-free movement and explains its symbolic status in New Zealand society today. Costello's thesis covers the entire time period that is important to the anti-nuclear movement. It provides many insights into press reactions and people's opinions which make the thesis well worth reading. By and large, Costello's argumentation is well balanced.

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<sup>10</sup> Megan Wilson, 'New Zealand—Anti-Nuclear!? 1984-1985: Press Opinion on the Anti-Nuclear Issue.', Unpublished Post-Graduate Diploma Thesis, University of Otago, 1996, p. 82.

## Thesis Structure

Although the books and theses written on New Zealand's nuclear-free legislation all touch on the issue of the ban on nuclear-powered ships in one way or another, none of them deals with that matter as a central issue. This thesis is designed to fill this void. Numerous interviews with selected actors on both the advocating and opposing sides of the ban on nuclear-powered vessels provide the methodological centerpiece which will allow for an in-depth analysis of both causes and consequences of the ban on nuclear-powered vessels. Therefore, the main aim of the thesis is not to recount historical facts but to focus on the current political situation and the key aspects that influence the debate on nuclear-propelled ship visits. Accordingly, Chapter Two will discuss the historical context in which the debate around nuclear-powered ship visits emerged. Following that, Chapter Three will analyze the reasons that underlie the ban on nuclear-propelled ships which include the safety of naval nuclear reactors, symbolism and morality, national identity, and New Zealand's 'clean-green' image.

Chapter Four will introduce the recent political developments regarding the ban on nuclear-powered ships. The chapter will pay special attention to the National Party's Creech Report which concluded that New Zealand's trade and defense relations with the United States had suffered as a result of the nuclear-powered ships ban. Thus, the thesis will examine the ban's effect on economic and military ties with the U.S. Chapter Five will then look at New Zealand's nuclear-free legislation from an international perspective. The chapter will also analyze the Creech Report's recommendation to adopt a 'Danish policy' in New Zealand which refers to repealing the legislated ban while maintaining it as a policy ban. In addition, the chapter will inspect the possibility of future nuclear-powered ship visits to New Zealand in case the ban were removed and will investigate how the United States has contributed to the prolongation of the row with New Zealand. This focus on the U.S. has to do with the fact that the United States is the only country that has ever sent nuclear-powered vessels to New Zealand and is currently the only country still opposed to abide by the conditions set out in the nuclear-free legislation. Lastly, Chapter Six will scrutinize potential ways to proceed with the ban on nuclear-powered vessels in the future and will assess their social and political feasibility.

## CHAPTER TWO

### NEW ZEALAND AND THE NUCLEAR-FREE LEGISLATION

An understanding of the historical evolution of the nuclear-free policy is essential to appreciate the significance of the policy and its implications. Therefore, this chapter will present an overview of the historical developments that led to the New Zealand Government's decision to declare the country a nuclear-free zone. Moreover, the chapter will establish why this move caused a row with the United States. In addition, it will explain how the domestic political circumstances changed after the end of the Cold War. The latter part of the chapter will put the emergence of anti-nuclear sentiments into a theoretical perspective. This will deepen the understanding of the underlying reasons for creating a nuclear-free zone in New Zealand. Furthermore, it will clarify what led to the mainstreaming of anti-nuclearism in New Zealand although a majority of New Zealanders had been opposed to banning nuclear-armed and nuclear-powered vessels before the Labour Party came to power.

#### New Zealand and its Nuclear-Free Past

In 1951, the governments of Australia and New Zealand requested the establishment of a collective defense agreement together with the United States. The resulting ANZUS Treaty, which came into effect in 1952, was concluded amidst fears in New Zealand and Australia that Japan might regain military strength and pose a renewed threat after it signed a peace treaty with America. The new defense agreement was meant to deter any possible future attack on any of the three signatories, as an attack on one of the signatories would automatically be considered an attack on all. As can be seen in Appendix A, Article II of ANZUS was to ensure functioning co-operation among the military forces of the three countries. It says that the parties 'separately and jointly by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.'<sup>1</sup> Thus, the countries held regular military exercises together. Sometimes, American warships called at New Zealand ports before or after naval exercises with the Royal New Zealand Navy (RNZN) for rest and recreation of the

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<sup>1</sup> 'Australian Treaty Series 1952 No 2,' *Australasian Legal Information Institute* [Online], (1997) <<http://www.austlii.edu.au/au/other/dfat/treaties/1952/2.html>>, accessed 30 January 2005.

ships' crews. British Royal Navy visits, on the other hand, 'have been less frequent and have normally been carried out as extensions of Indian Ocean exercises with the RNZN.'<sup>2</sup>

American nuclear tests conducted in the Pacific Ocean were first seen as positive and as asserting America's power in the Pacific and on the world stage. By implication, this was seen as strengthening ANZUS. However, an increasing number of people grew concerned about nuclear testing as more information about the environmental destruction of nuclear explosions became public. Hence, a small movement emerged which was opposed to the nuclear arms race, nuclear testing, and nuclear weapons in general. Since both the United States and the United Kingdom refused to reveal whether warships visiting New Zealand were nuclear-armed, some people in New Zealand began to resent the NCND-policy.

At around the same time, concerns about the safety of nuclear-powered ships first emerged on the political agenda. In 1972, Labour Prime Minister Norman Kirk declined the application of an American nuclear-powered submarine to visit New Zealand based on safety concerns. New Zealand had requested technical details of the reactor which the United States had refused to give.<sup>3</sup> Moreover, neither the United States nor the United Kingdom were willing to pay compensation to New Zealand if one of their visiting ships had an accident in port. Thus, this was not a move to prohibit nuclear-powered ship visits. Kirk was only pushing for a declaration of full liability to be paid by the American or British government in case of accident. In fact, a number of other countries including Australia had imposed similar restrictions on nuclear-powered ship visits on the same grounds. In 1974, the U.S. gave New Zealand 'an absolute guarantee of liability for any nuclear reactor accident'<sup>4</sup> and the United Kingdom followed suit in 1976. Although visits by nuclear-propelled warships did not take place between 1971 and 1976, conventionally-powered ship visits still occurred.<sup>5</sup>

### *The Muldoon Years*

The National Government under Robert Muldoon allowed for the resumption of visits by nuclear-propelled vessels in 1976. Every time before a warship could come to visit New Zealand,

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<sup>2</sup> External Intelligence Bureau, *Nuclear Capabilities of Ships, Submarines, and Aircraft*. Wellington, Prime Minister's Department, 1984, p. 3.

<sup>3</sup> Robert White, 'New Zealand's Nuclear Free Policy Must Not Be Changed.', Unpublished Submission to the National Party Taskforce, March 2004, kindly supplied by Robert White, in possession of the author, p. 9.

<sup>4</sup> Robert White, 'Nuclear-Free New Zealand: Twenty Years On,' *Engineers for Social Responsibility* [Online NGO], [date unknown] <<http://www.esr.org.nz/events/even2004/NuclearFreeNZ.html>>, accessed 30 January 2005.

<sup>5</sup> Ibid.

the foreign government had to apply to the New Zealand government for clearance. Because this was time-consuming, the United States asked for blanket clearance to be given to all American warships which Muldoon agreed to do.<sup>6</sup> This not only meant that no questions whatsoever were asked about the weaponry fitted onto the ships but also that an increasing number of ships could come without having to first go through the process of applying to the New Zealand government. However, in 1984, the then Labour MP Richard Prebble cast doubt on that analysis. According to his own research, American ship visits did not increase during Muldoon's premiership due to blanket clearance but because Muldoon made numerous requests for such ship visits. Prebble quoted an American State Department official as saying that 'we have never, never requested that a nuclear powered ship visit New Zealand. Every single visit has been in response to a particular request from the National Government.'<sup>7</sup> Denis McLean, who was Secretary of Defence during the Lange Government and New Zealand's Ambassador to the United States in the 1990s, supports that position. Indeed, he 'confirmed in an interview that Muldoon sought more American ship visits than the Americans felt comfortable making.'<sup>8</sup>

In any case, a greater number of warship visits was seen as increasingly provocative and led to Richard Prebble's first attempt to introduce an anti-nuclear legislation into Parliament. In 1976, he called 'for the recognition of the South Pacific nuclear-free zone.'<sup>9</sup> After failing to get a majority in Parliament, Prebble made a second attempt in 1982, this time with the *Nuclear Free Zone (New Zealand) Bill*. He pointed out that 'his bill would not ban visits of nuclear-powered ships ... It dealt solely with whether parliamentarians were prepared to allow nuclear weapons to be brought into New Zealand.'<sup>10</sup> This bill was equally unsuccessful. One year later, on 3 August 1983, Bruce Beetham, leader of the Social Credit League, attempted to introduce the *Prohibition of Nuclear Vessels and Weapons Bill*. As Beetham stated,

although expensive to build, nuclear powered ships do not need constant refueling, and for that reason they are ideal vehicles for the offensive role that falls to the Navy. That be-

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<sup>6</sup> Ibid.

<sup>7</sup> 'Nuclear Free New Zealand Bill,' *Hansard*, 12-13 June 1984, reproduced in Harold Evans, *Open Letter, 2 December 1985, on the Occasion of the Expected Introduction into the House of Legislative Proposals for a Nuclear-Free New Zealand, to Each of the Ninety-Five Members of the New Zealand House of Representatives, with Addendum, 6 February 1986*. Christchurch, H. J. Evans, 1986, p. 52.

<sup>8</sup> Michael Bassett, 'The Collapse of New Zealand's Military Ties with the United States,' *Dr Michael Bassett* [Personal Homepage], (5 August 2003) <[http://www.michaelbassett.co.nz/article\\_fulbright.htm](http://www.michaelbassett.co.nz/article_fulbright.htm)>, accessed 20 January 2005.

<sup>9</sup> Megan Wilson, 'New Zealand—Anti-Nuclear!?! 1984-1985: Press Opinion on the Anti-Nuclear Issue.', Unpublished Post-Graduate Diploma Thesis, University of Otago, 1996, p. 67.

<sup>10</sup> 'Prebble Releases N-Law Details,' *Auckland Star*, 27 April 1982.

ing so, such vessels will almost invariably—in fact, one could almost say automatically—be armed with offensive weapons, which must include nuclear weapons.<sup>11</sup>

Thus, Beetham's bill was the first attempt to introduce a ban on nuclear-powered ships to parliament because such ships were almost certainly armed with nuclear weapons. In the end, the bill was defeated by 40 to 39 votes.<sup>12</sup>

The following year, Richard Prebble launched his third attempt to make New Zealand nuclear-free. On 12 June 1984, Prebble introduced the *Nuclear Free New Zealand Bill*. This time, also Prebble's bill called for the exclusion of nuclear-powered ships from New Zealand. As Prebble explained, the bill 'prohibits the entry of nuclear powered ships and nuclear weapons into New Zealand and further prohibits the building of nuclear reactors within New Zealand.'<sup>13</sup> Prebble almost succeeded to introduce this bill because National Party MP Marilyn Waring threatened Prime Minister Muldoon to cross the floor and vote for Prebble's bill against her own party caucus. As a result, National Party MPs prevented Waring from speaking in Parliament that day by raising numerous points of order until Waring's time to speak had expired. On the following day, Prebble's bill was defeated by 40 to 39 votes just like Beetham's bill one year earlier. Nevertheless, Waring did vote for the bill together with her colleague Mike Minogue. Prebble's bill was only defeated because two alienated Labour MPs had voted with the government. Since National had a majority of only one person in Parliament, Waring's decision seriously called Muldoon's leadership into question. Consequently, Muldoon announced on 14 June 1984 that he would call a snap election because he could no longer rely on Marilyn Waring's support and could not govern effectively anymore.

In the election, the National Party was resoundingly defeated with Labour winning 56 out of 95 seats, making David Lange the new prime minister. Many supporters of the Labour Government asserted that the party had been elected to make the country nuclear-free. After all, Richard Prebble's anti-nuclear bill had caused Marilyn Waring to vote against her own party and led Muldoon to call the snap election. However, arguing that Labour had a mandate to make New Zealand nuclear-free based on the 1984 election would be superficial and would neglect a range of other issues which were undoubtedly also factors in people's decision to vote for the Labour

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<sup>11</sup> Bruce Beetham, Prohibition of Nuclear Vessels and Weapons Bill, *Hansard*, 3 August 1983.

<sup>12</sup> Prohibition of Nuclear Vessels and Weapons Bill, *Hansard*, 3 August 1983.

<sup>13</sup> Richard Prebble, Nuclear Free New Zealand Bill, *Hansard*, 12 June 1984.

Government. Most importantly, Muldoon was not seen as capable of lifting New Zealand out of its financial misery.

### *Labour and its Anti-Nuclear Agenda*

Prior to the election, the Labour Party had declared that it wished to ban nuclear arms and potentially nuclear-powered ships from entering New Zealand but at the same time maintain the three-decades-old ANZUS Treaty. Only days before the 1984 election, David Lange announced:

*The ANZUS Treaty is part of our defence arrangement. It will continue. The suggestion that it would be frustrated if New Zealand took the moral stand which I believe New Zealand ought now to take, of declaring its abhorrence to nuclear weaponry, and its concern for nuclear propulsion, by absolutely prohibiting that in our territorial waters, would not mean the end of ANZUS. Between 1972 and 1975 neither event happened. ANZUS continued [italics in original].<sup>14</sup>*

This clearly shows the Labour Party's intention to make the country nuclear-free. Soon after the election, Gary Knapp reintroduced Richard Prebble's *Nuclear Free New Zealand Bill*. This time, the bill passed with 42 in favor and 30 opposed. It was understood that Labour's policy would not jeopardize ANZUS. Over the course of the following six months, however, it became apparent that there could be no nuclear-free policy within ANZUS. As Malcolm Templeton observed, the United States

will say that the exclusion from New Zealand ports of United States naval vessels which are nuclear powered or may be nuclear armed is inconsistent with that obligation [under Article II]. But that surely is a capricious and arbitrary interpretation of Article II. It is tantamount to say that one party may demand of another any specific form of military co-operation as a condition of its continued participation in the security benefits of membership.<sup>15</sup>

Therefore, the problem with coming to an agreement over fitting the nuclear-free policy within the context of ANZUS was not so much due to the ANZUS Treaty itself but to the way in which its articles were interpreted.

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<sup>14</sup> David Lange, *Eye Witness News*, 9 July 1984, quoted in Defence Committee of Enquiry, *Defence and Security: What New Zealanders Want*. Wellington, The Committee, 1986, p. 88.

<sup>15</sup> Malcolm Templeton, *Defence and Security: What New Zealand Needs*. Wellington, Victoria University Press for Institute of Policy Studies, 1986, p. 15.

In his personal recollection of the events of 1984, David Lange wrote that he ‘wanted the Americans to prove to us that they had the will to keep nuclear weapons out of our ports.’<sup>16</sup> Lange took careful steps to avoid bringing the American NCND-policy into question. So he announced that the New Zealand Government would make its own determination on whether a warship was nuclear-armed or not. However, although Lange’s approach was well intentioned, it was unlikely to succeed in gaining the American approval. Professor Kevin Clements portrayed the dilemma as follows:

If the Labour Party succeeded in implementing its ban, it would signal either (1) that the United States was making an exception for New Zealand in relation to neither confirm nor deny (NCND), or (2) the New Zealand government was making its own determination about whether such weapons were being carried, which would have the effect of breaking NCND.<sup>17</sup>

Of course, neither of these potential outcomes was acceptable to the American Government which jealously upheld the NCND-policy and had no intention of compromising its effectiveness.

Lange himself had doubts about banning nuclear-propelled vessels. In his memoirs, he wrote that he ‘wanted the policy to allow for visits by nuclear-powered vessels if acceptable standards of safety were met.’<sup>18</sup> This uncertainty about Labour’s proposed ban on nuclear-powered ships in Lange’s own mind probably led some American diplomats to believe that Lange would sway the views of people within his party to eventually drop the idea of banning nuclear-powered ships. Indeed, there was a feeling or at least a hope among American diplomats that Lange would not only abandon the idea of banning nuclear-powered ships but would in the end also back down on the ban on nuclear-armed vessels. When the American Secretary of State George Shultz met David Lange the day after the 1984 election, Lange allegedly asked him to give his new government six months before filing another application for a warship visit. This statement was interpreted as an assurance that Lange would ‘clear up the position within the Labour Party and that – within six months – the new government would be ready to receive a port call by a United States warship.’<sup>19</sup> Lange later vehemently denied having given any such assurance to anyone.

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<sup>16</sup> David Lange, *Nuclear Free: The New Zealand Way*. Auckland, Penguin, 1990, p. 81.

<sup>17</sup> Kevin Clements, *Back from the Brink: The Creation of a Nuclear-Free New Zealand*. Wellington, Allen and Unwin/Port Nicholson Press, 1988, p. 130.

<sup>18</sup> Lange, op. cit. p. 33.

<sup>19</sup> Denis McLean, ‘Beautiful New Zealand: Nuclear-Free Forever.’, Unpublished Essay prepared for the Core Study Group on the ‘Nuclear Umbrella’ in Japan, 2002, kindly supplied by Denis McLean, in possession of the author, p. 10.

## *The Buchanan Affair*

To avoid a confrontation with Washington, Lange decided to negotiate with the American Government to send a vessel which was neither nuclear-powered nor likely to be nuclear-armed. Therefore, in November 1984 'the Prime Minister despatched the [Chief of Defence Staff] CDF, Ewan Jamieson, to Honolulu to discuss an acceptable ship.'<sup>20</sup> Together with U.S. Admiral Crowe, he decided on the 26-year-old USS *Buchanan*, a conventionally-powered guided missile destroyer which was extremely unlikely to have nuclear weapons on board. Jamieson found that the *Buchanan* was armed with anti-submarine rockets (ASROC) which were capable of being nuclear-armed. However, Jamieson discovered that the *Buchanan*'s 'missiles had such a short range that any detonating nuclear warhead might well have seriously damaged the *Buchanan* and its crew.'<sup>21</sup> Moreover, 'while over 20,000 ASROC missiles had been produced, no more than 850 nuclear warheads existed.'<sup>22</sup> Nevertheless, because of the American NCND-policy it was impossible to tell with certainty that the *Buchanan* was not nuclear-armed.

At first, the identity of the ship was kept secret and was only revealed on 18 January 1985, when the United States Government handed in an official application for a ship visit by the USS *Buchanan*. Curiously, Prime Minister Lange left the country that very day to visit the remote Tokelau Islands where he could not be reached for several days. Some officials including Denis McLean and former Minister of Health and political historian Michael Bassett believe Lange left the country to avoid having to make a decision on what to do with the *Buchanan*.<sup>23</sup> Thereby, he left the decision to his deputy Geoffrey Palmer. On 24 January, during a meeting of the National Executive, Labour Party President Margaret Wilson 'took it upon herself to re-define policy in such a way that no ambiguity about any ship's status was possible. In the process she ensured no visit could take place without a stand-up fight between the Prime Minister and the National Executive.'<sup>24</sup> She declared that no ship that was capable of carrying nuclear weapons should be allowed.

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<sup>20</sup> Gerald Hensley, 'Reflecting on the Fourth Labour Government,' *The New Zealand Herald* [Online Newspaper], (2 February 2005) <<http://www.nzherald.co.nz/index.cfm?ObjectID=3563688>>, accessed 2 February 2005.

<sup>21</sup> Bassett, op. cit.

<sup>22</sup> Malcolm McKinnon, 'Realignment: New Zealand and its ANZUS Allies,' in Bruce Brown (ed.), *New Zealand in World Affairs III: 1972-1990*. Wellington, Victoria University Press, 1999, p. 160.

<sup>23</sup> Interview with Denis McLean, former Secretary of Defence and New Zealand Ambassador to the United States, Wellington, 24 January 2005, and Interview with Michael Bassett, former Minister of Health and Political Historian, Auckland, 14 March 2005.

<sup>24</sup> Bassett, 'The Collapse of New Zealand's Military Ties with the United States,' op. cit.

This newly invented term of ‘nuclear capable’ made it virtually impossible to find a suitable ship that could visit New Zealand without violating the nuclear-free policy. The implications of this redefinition require further examination. The American warships were divided into three categories: ‘those that invariably carry nuclear weapons, those that never do and those in a relatively narrow band of frigate-size vessels that can carry them.’<sup>25</sup> Ships in the latter category were deemed to be ‘nuclear capable.’ Hence, if a ship were to request a visit to New Zealand and the government concluded that there might be a chance, however small, that nuclear weaponry was onboard, it would be rejected on the grounds of its nuclear capability. However, as Richard Bolt, a former New Zealand CDF, observed, ‘almost any modern military platform, aircraft or ship, could be considered as “nuclear capable” if it was desired to make it so.’<sup>26</sup> Merwyn Norrish, Secretary of Foreign Affairs under Lange, carried it even further and argued that ‘the concept of “nuclear capable” is rather meaningless—a Wadestone bus (a Picton to Blenheim bus?) is theoretically nuclear capable.’<sup>27</sup> To avoid unnecessary confusion due to the term’s widely acknowledged ambiguity, warships that are nuclear capable ‘may be defined as vessels fitted with fire control and launch systems, including aircraft, for delivering nuclear-tipped missiles, depth-charges or bombs.’<sup>28</sup> Thus, according to this re-definition, even the *Buchanan* would not be able to visit without violating the non-nuclear policy. Wilson was backed by Helen Clark, Jim Anderton, and Fran Wilde, all of whom were opposed to Lange’s leadership. In the words of Michael Bassett, ‘they have decided to kill this [government] rather than have it run by people they dislike.’<sup>29</sup>

Two days after this crucial meeting, Palmer advised Lange to decline the visit of the USS *Buchanan* based on the newly imposed requirement. By the time Lange returned from Tokelau on 28 January, there was little left he could do to avert a head-on confrontation with the United States. He attempted to renegotiate and have the Americans send another ship of the Oliver Hazard Perry class which was not nuclear-capable. Although the Ambassador to New Zealand H. Monroe Browne first seemed to consider the possibility, that hope was dashed when Lange’s proposal was proclaimed in the newspaper headlines the next day. In hindsight, many attribute the leak to Lange himself who might have spoken too freely about a potential solution of the dis-

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<sup>25</sup> Marie McNicholas, ‘Nuclear Ship Appraisal Not Hard, Says Expert,’ *Auckland Star*, 18 September 1985.

<sup>26</sup> Richard Bolt, ‘Conscientious Objector Role Out of Character for NZ,’ *New Zealand Herald*, 22 February 1985.

<sup>27</sup> Memorandum from Merwyn Norrish to David Lange, 7 February 1985, reproduced in Robert White, *Nuclear Free New Zealand: 1984—New Zealand Becomes Nuclear Free*. Working Paper No. 7, Auckland, Centre for Peace Studies, University of Auckland, 1997, p. 2.

<sup>28</sup> Michael Pugh, *The ANZUS Crisis, Nuclear Visiting and Deterrence*. Melbourne, Cambridge University Press, 1989, p. 4.

<sup>29</sup> Bassett, ‘The Collapse of New Zealand’s Military Ties with the United States,’ op. cit.

pute in a press conference after the meeting. Of course, once the proposal became public, the United States was unwilling to consider it further as sending a different ship than the *Buchanan* would have looked like America surrendering in the face of adversity. Therefore, the Americans were set to send the *Buchanan* to New Zealand and Lange was doomed to decline the visit causing the United States the public embarrassment of having one of their ships turned away from an ally.

Lange formally declined the visit by the USS *Buchanan* on 4 February. The American reaction was swift and, from the New Zealand perspective, overly severe. All intelligence flow to New Zealand was stopped, New Zealand government officials would not be invited to the United States anymore, and all joint military exercises with New Zealand were canceled. In fact, in 1985, there were '22 programmed exercises either canceled or restructured, resulting in approximately 6,000 man-days of training being taken away. The Royal New Zealand Navy was probably hurt the most, as it saw 106 exercise days reduced to 34 due to the ending of joint exercises involving the United States.'<sup>30</sup> There was even talk of imposing trade sanctions on New Zealand although this possibility was never the official position of the American administration. Some American officials like the American Ambassador to Australia, William Lane, increased the fear that the disagreement would affect other areas beside the military relationship. Lane said that 'New Zealand's Labour Government has been a bad boy and must be punished.'<sup>31</sup> Another described New Zealand as a 'pissant little country south of nowhere.'<sup>32</sup> Certain American newspapers launched particularly scathing attacks on New Zealand's non-nuclear policy. The *New York Tribune*, for instance, remarked that 'we hope the Socialist bums ensconced in Wellington will get thrown out as they predictably botch both the domestic and foreign policy of a great nation.'<sup>33</sup> Also, remarks by ex-Prime Minister Robert Muldoon that 'the peace movement throughout the world is riddled with communists'<sup>34</sup> were unhelpful and single-minded.

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<sup>30</sup> Lt. Col. Frank Donnini, *ANZUS in Revision: Changing Defense Features of Australia and New Zealand in the Mid-1980s*. Maxwell Air Force Base, Alabama, Air University Press, 1991, p. 116.

<sup>31</sup> William Lane, quoted in Stuart McMillan, *Neither Confirm Nor Deny: The Nuclear Ships Dispute between New Zealand and the United States*. Wellington, Allen and Unwin/Port Nicholson Press, 1987, p. 99.

<sup>32</sup> M. McKinley, 'Labour, Lange and Logic: An Analysis of New Zealand's Anzus Policy,' *Australian Outlook*, v.39, no.3, 1985, p. 133.

<sup>33</sup> Hugh Neville, 'US Rumbles Continue Over N-Ship Warning,' *The Press*, 19 February 1985, quoted in Paul Landais-Stamp and Paul Rogers, *Rocking the Boat: New Zealand, the United States and the Nuclear-Free Zone Controversy in the 1980s*. New York, Berg, 1989, p. 100.

<sup>34</sup> Robert Muldoon, quoted in 'Anti-Nuke Law Ends ANZUS, Says National,' *Auckland Star*, 17 October 1986.

### *Nuclear-Free Within ANZUS?*

Interestingly, the more the United States seemed to condemn the New Zealand stance and threaten sanctions and other actions, the stronger the support for Labour's ban grew in New Zealand. Indeed, 'the more the US "heavies" New Zealand the stronger is the Kiwi reaction, and the higher Mr Lange's popularity rises.'<sup>35</sup> The New Zealand Ambassador to Washington and former Labour Prime Minister Wallace Rowling argued along the same lines. He said that 'if you wanted to stir up a nationalistic fervor in a country, you couldn't do a better job.'<sup>36</sup> Thus, even people who were traditional supporters of the National Party changed their minds and espoused Labour's nuclear-free agenda. Of all political parties, only the National Party was determined to get rid of the nuclear-free policy and prevent Labour from putting the policy into law.

Meanwhile, the New Zealand Government attempted to limit the damage to the American-New Zealand relationship. On 7 February 1985, David Lange wrote to Ambassador Rowling explaining that 'the policy of no nuclear weapons on ships coming into our ports is about as firmly established as any policy can be. There is no alternative but to look ahead from that base.'<sup>37</sup> Moreover, Prime Minister Lange continued to emphasize his adherence to the ANZUS Treaty to allay fears that Labour's stance was intended to move the country towards neutrality. Unfortunately, the negotiations were of no use. As time moved on, it became increasingly clear that there was no room for compromise. The American Secretary of Defense Caspar Weinberger insisted that 'we are prepared to discuss any changes that would permit us to continue with our policy of neither confirming nor denying the presence of nuclear weapons on our ships. But that policy is inviolate.'<sup>38</sup> On the other hand, Geoffrey Palmer replied that 'there are simply not going to be any nuclear weapons in New Zealand ports. That is non negotiable.'<sup>39</sup> Clearly, the two views were irreconcilable.

In 1986, David Lange put together a Defence Committee of Enquiry led by chairman Frank Corner to analyze the anti-nuclear policy and make recommendations on how to proceed politically. He picked four individuals from different backgrounds in the hope that they would each suggest some options which could be pursued. Instead, however, the committee members all came to the same conclusion: although a majority of New Zealanders wanted a nuclear-free legis-

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<sup>35</sup> Ian Templeton, 'Uncertain Steps for NZ as ANZUS Unravels,' *Auckland Star*, 30 November 1985.

<sup>36</sup> 'Pushing New Zealand Around,' *Boston Globe*, 6 March 1985, p. 18.

<sup>37</sup> Telegram from David Lange to the New Zealand Ambassador in Washington, 7 February 1985, quoted in White, *Nuclear Free New Zealand: 1984*. op. cit. p. 43.

<sup>38</sup> Peter O'Hara, 'Policy Puts British Visits at Risk,' *Auckland Star*, 7 December 1985.

<sup>39</sup> Marie McNicholas, 'No US Word Over N-Bill,' *Auckland Star*, 9 November 1985.

lation, an almost equally large number of people wanted New Zealand to be in ANZUS. However, if anti-nuclear legislation meant suspension from ANZUS, '52% of New Zealanders would opt for a return to a fully operational ANZUS with nuclear ship visits, 44% would opt for a withdrawal from ANZUS.'<sup>40</sup> This clearly shows that even after the USS *Buchanan* had been turned away, a majority of New Zealanders still supported ship visits and remaining in ANZUS if the anti-nuclear policy were to end the defense alliance.

It is important to note that while Lange was originally supportive of ANZUS, he increasingly publicly doubted its value and necessity for New Zealand. After it became clear that New Zealand was not going to be able to reach an agreement with the United States to be nuclear-free within ANZUS, Lange argued that New Zealand would lose hardly anything anyway if it were expelled from ANZUS. Therefore, 'the government began to disparage the value of the treaty, pointing, for example, to apparent loopholes in its wording which might leave New Zealand unprotected in crisis (a legalistic approach which entirely overlooked the political significance of the treaty).'41 Moreover, Lange asserted that ANZUS was only a treaty to 'consult' but did not obligate any member to 'act' in times of trouble. The Corner Report tackled this tendentious interpretation and explained that

reference was often made to Article III of the Treaty which provides for the parties to "consult" in time of threat but seldom to Article IV which states that in the event of an attack on one, the others "will *act* to meet the common danger in accordance with their constitutional processes", or if the obligation to act was acknowledged, it was often done in a derogatory fashion [emphasis in original].<sup>42</sup>

As the report notes, 'incorrect public statements which remain unchallenged become entrenched and part of popular folklore.'<sup>43</sup> That is certainly the case with the 'consultation-argument' as it has been repeated countless times in defense of the New Zealand stand. When Lange gave a speech in 1989 suggesting that ANZUS was a 'dead letter,' his reasoning again seemed 'to depend on an interpretation that the ANZUS Treaty is an agreement only to consult—and since the Americans are not consulting, it had become a dead letter.'<sup>44</sup> This suggests that Lange chose to

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<sup>40</sup> Defence Committee of Enquiry, op. cit. p. 64.

<sup>41</sup> Ian McGibbon, 'New Zealand Defence Policy from Vietnam to the Gulf,' in Bruce Brown (ed.), *New Zealand in World Affairs III: 1972-1990*. Wellington, Victoria University Press, 1999, p. 125.

<sup>42</sup> Defence Committee of Enquiry, op. cit. p. 72.

<sup>43</sup> Ibid, p. 85.

<sup>44</sup> Ian Templeton, 'Australia Outraged at ANZUS Turnabout,' *Auckland Star*, 26 April 1989.

misrepresent ANZUS to once again make the point that New Zealand would not lose out if ANZUS were lost.

The Corner Report went on to address other criticisms of ANZUS which were popular in the anti-nuclear movement at the time. One of those was the argument that New Zealand was better off without ANZUS because the alliance had ‘drawn New Zealand into military adventures, “other people’s wars in other people’s countries.”’<sup>45</sup> The committee noted that

our involvement in Korea began before ANZUS was signed, and New Zealand fought there as part of the Commonwealth Division under the aegis of the United Nations. Our involvement in Malaysia and Borneo was under the aegis of the Commonwealth Strategic Reserve—the United States was not involved in either of these operations. The Manila Treaty, not ANZUS, was the legal basis for New Zealand’s involvement in Vietnam, although the ANZUS Treaty was invoked as part of the oratory surrounding the sending of troops; solidarity with Australia was also an important element.<sup>46</sup>

By degrading the value of ANZUS, people in the anti-nuclear movement obviously hoped to make the majority of New Zealanders embrace the nuclear-free policy while abandoning their support for ANZUS. Since the Corner Report discredited some often cited arguments against ANZUS, it is understandable that Lange was not particularly pleased with the committee’s findings.

Nevertheless, the Labour Party kept on negotiating with the U.S. while pressing on to make their policy become law. Under the somewhat awkward name *New Zealand Nuclear Free Zone, Disarmament and Arms Control Bill*, the policy was introduced to Parliament on 10 December 1985. Muldoon called it the ‘ANZUS Termination Bill.’<sup>47</sup> He pointed out that U.S. Secretary of State George Shultz had told him in 1984 that there would be no ANZUS if American nuclear ships could not come to visit New Zealand.<sup>48</sup> In a gesture of goodwill, Lange sought to create a law which was to take the inviolability of the NCND-policy into account. Therefore, he pushed for a so-called ‘trust-me formula’<sup>49</sup> to be put into the new law, effectively saying that the New Zealand Prime Minister would make the final decision on whether or not a foreign warship was nuclear-armed. This was to be done solely based on New Zealand intelligence information without having to ask the American side to breach their NCND-policy. Lange even declared that

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<sup>45</sup> Defence Committee of Enquiry, op. cit. p. 72.

<sup>46</sup> Ibid.

<sup>47</sup> ‘Nuclear Ships Bill Changes Little,’ *Auckland Star*, 17 October 1986.

<sup>48</sup> Robert White, *Nuclear Free New Zealand: 1987 – From Policy to Legislation*. Working Paper No. 8, Auckland, Centre for Peace Studies, University of Auckland, 1998, p. 20.

<sup>49</sup> Russell Hill, ““Trust-Me” Formula in Anti-Nuclear Bill,’ *New Zealand Herald*, 14 December 1985.

the New Zealand anti-nuclear policy was ‘not for export’<sup>50</sup> in a move to appease the American worry that New Zealand’s nuclear-free movement would soon ‘infect’ other, more important, countries. But from the American perspective the Labour Party’s move to inscribe the nuclear-free policy in law was seen as another provocation and as a sign that there was no point in negotiating any further. On 4 June 1987, the *New Zealand Nuclear Free Zone, Disarmament and Arms Control Bill* was enacted into law. In recognition of that fact and in the light of the American interpretation of ANZUS, George Shultz declared on 27 June 1986 that ‘we part company as friends, but we part company.’<sup>51</sup> Lange justified the break in alliance by saying that ‘New Zealand has a democratic mandate to pursue policy. I think the United States understands democracy and what that means.’<sup>52</sup> He only forgot to mention that the democratic mandate, if it ever existed, was for a nuclear-free New Zealand within ANZUS, not outside of it.

Overall, the United States Navy visited New Zealand ports 160 times from 1958 to 1984.<sup>53</sup> Altogether, ‘only ten of the U.S. Naval vessels were nuclear powered during that time and constituted only thirteen of the total number of visits.’<sup>54</sup> None of the British vessels that visited New Zealand were nuclear-propelled.<sup>55</sup> In June 1984, Sir Wallace Rowling had ridiculed the American stand against the Labour Government’s anti-nuclear stance:

In 1976 two nuclear powered ships visited the country, in 1977 there were no visits, in 1978 one visit, in 1979 one visit, in 1980 one visit, and in 1981 no visits. That is the powerful combination on which we cannot afford to have an anti-nuclear stance, because visits of American nuclear powered ships to New Zealand are so important. Those figures make complete nonsense of that suggestion.<sup>56</sup>

Helen Clark echoed Rowling. She wondered how it could be that ‘the refusal of the New Zealand Government to allow the visit of, on average, less than one nuclear warship a year imperil not only the defence of New Zealand, but of the entire Pacific and Indian Oceans as well?’<sup>57</sup> The answer to that question was the American fear of a snowballing effect. America wanted to prevent at all cost an unraveling of its security and alliance network. Had New Zealand been allowed to

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<sup>50</sup> David Lange, quoted in *ibid*.

<sup>51</sup> George Shultz, quoted in Steven Hoadley, *New Zealand United States Relations: Friends No Longer Allies*. Wellington, The New Zealand Institute of International Affairs, 2000, p. 46.

<sup>52</sup> ‘We Parted Mates Says Mr Lange,’ *New Zealand Herald*, 30 June 1986.

<sup>53</sup> Simon Upton, ‘The Antinuke Kiwi is a Dead Duck,’ *Dominion Post*, 14 October 1991.

<sup>54</sup> James McCormick, ‘Healing the American Rift with New Zealand,’ *Pacific Affairs*, v.68, no.3, 1995, p. 394.

<sup>55</sup> External Intelligence Bureau, *op. cit.* p. 3.

<sup>56</sup> ‘Nuclear Free New Zealand Bill,’ reproduced in Evans, *op. cit.* p. 48.

<sup>57</sup> ‘Prohibition of Nuclear Vessels and Weapons Bill,’ *Hansard*, 3 August 1983, reproduced in *ibid*, *op. cit.* p. 24.

get away with declaring itself nuclear-free, other countries, especially in Europe, Southeast Asia, and Japan, might have followed New Zealand's example and rejected the American nuclear defense scheme. In general, the American reaction to New Zealand had two effects; one of which was desired, the other one was not. First, the response was sufficiently severe to deter other countries from implementing a similar policy. Second, the reaction was so severe as to cause an enormous feeling of nationalism in New Zealand which saw the public rally behind Lange's policy.

### *Reasons for the Rift with the U.S.*

In the end, politicians and diplomats on both the American and New Zealand sides blamed each other for escalating the dispute. Lange attributed the failure to negotiate the visit of a clearly nuclear-weapons-free ship to 'lamentable leaks.'<sup>58</sup> While leaks certainly played a part, some of Lange's colleagues felt that Lange was partially to blame himself because he had not informed his colleagues about his negotiations with the Americans. Hence, when he left for the Tokelau Islands, no one was completely informed on how to proceed. Michael Bassett put it quite plainly by saying that 'the Cabinet was not fully engaged with the ships issue at the precise moment when it mattered. After the split, when it became clear that there was wide public enthusiasm for the Prime Minister's decision to portray himself as a "nuke-buster", we simply went along for the ride.'<sup>59</sup> The American Ambassador to New Zealand H. Monroe Browne would later say that 'it was "our absolute understanding" that it might be possible to admit nuclear-powered and nuclear-armed warships, despite the clear Labour Party policy against such visits.'<sup>60</sup> Shortly after the Buchanan's rejection, he was quoted as saying that the 'the Reagan Administration felt "kicked in the teeth" by New Zealand's ban on nuclear warships.'<sup>61</sup> He never hid his belief that Lange betrayed him when he refused to give the USS *Buchanan* permission to come to New Zealand.

David Lange declared that the American Government had provoked the confrontation with New Zealand. He felt that the United States had intended to put New Zealand on the spot and slip in an American warship that was potentially nuclear-armed despite Labour's nuclear-free policy. Lange asserted that his plan to negotiate a solution to an impasse was 'destroyed by the

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<sup>58</sup> Bassett, 'The Collapse of New Zealand's Military Ties with the United States,' op. cit.

<sup>59</sup> Ibid.

<sup>60</sup> 'Parting Shot at PM Over Anzus,' *New Zealand Herald*, 1 November 1985.

<sup>61</sup> Kevin Clements, 'New Zealand's Role in Promoting a Nuclear-Free Pacific,' *Journal of Peace Research*, v.25, no.4, 1988, p. 404.

brutal assertion that the Buchanan's visit would be a triumph of American nuclear policy.'<sup>62</sup> Although there may be some truth to that statement, an equally decisive factor that contributed to the dispute was that Lange was not fully in control of his own party and was unable or unwilling to face up to the opposition within his own party. As Michael Bassett put it, opposing Labour members 'eye-balled him till he blinked. It became easier for him to sacrifice the American connection than to fight.'<sup>63</sup> Moreover,

in early 1985 Lange was Prime Minister, but leading the Labour Party in name only. He perceived that by rejecting an American request for a visit to New Zealand waters by the USS Buchanan, he could at last win over his party. His Cabinet and Caucus were not fully in the picture, but went along with him because they, too, hoped to heal the rift inside the Labour Party.<sup>64</sup>

Ken Shirley, who, like Dr. Bassett, was part of the Labour Government at the time, agrees with this analysis. He affirmed that 'the nuclear issue was a very convenient glue.'<sup>65</sup> Therefore, there is an argument to be made that the ban on nuclear-powered ships was mostly due to political disunity at home and had less to do with concerns for safety or morality but with domestic politics. This made Lange's negotiations with the United States virtually impossible to come to a mutually acceptable outcome.

Anti-Americanism may have been another factor that caused the rift with the United States. Ken Shirley, who is now a parliamentarian for the ACT party, is convinced that the left wing of the Labour Party deliberately acted to defy and embarrass the U.S. As a result, he feels that the current ban on nuclear-powered ships 'is fiercely anti-American.'<sup>66</sup> As Brian Sinclair suggested, 'the temporary presence of anti-nuclear activists did provide radicals with a convenient cover in pursuit of their own agenda, which included opposing "American imperialism."' <sup>67</sup> Therefore, 'the peace movement's reasons for wanting a strict nuclear ship ban were as much a product of the anti-American ideology of radicals (and, to a lesser extent, of liberals) as they were

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<sup>62</sup> David Lange, quoted in White, *Nuclear Free New Zealand: 1984*. op. cit. p. 32.

<sup>63</sup> Bassett, 'The Collapse of New Zealand's Military Ties with the United States,' op. cit.

<sup>64</sup> Ibid.

<sup>65</sup> Interview with Ken Shirley, ACT Party MP, Auckland, 4 December 2004.

<sup>66</sup> Ibid.

<sup>67</sup> Brian Sinclair, 'Ideology and the ANZUS Dispute: the Legacy of the New Left and the Consequences for New Zealand's Security Policy,' Unpublished PhD Thesis, University of Waikato, 1998, quoted in Malcolm McKinnon, 'Realignment: New Zealand and its ANZUS Allies,' in Bruce Brown (ed.), *New Zealand in World Affairs III: 1972-1990*. Wellington, Victoria University Press, 1999, p. 144.

a product of anti-nuclearism.’<sup>68</sup> Consequently, Michael Bassett noted in his Fulbright Lecture that ‘more than a touch of anti-Americanism can be discerned within Labour’s growing anti-nuclear stance.’<sup>69</sup> According to this analysis, a radicalization of the peace movement led to pronounced anti-Americanism.

Some New Zealand sources admitted that New Zealand may have caused the rift with the U.S. but were put off by the United States reaction which was seen as inappropriate. For example, the *New Zealand Herald* wrote that ‘New Zealand may have acted like a naughty boy in the Anzus game. It may have even cheated by breaking the rules and hoping to get away with it. But by pulling out the stumps, collecting its bat and ball and going home in a huff, the U.S. is beginning to look like a sulky brother.’<sup>70</sup> Others even found the American point of view hypocritical. Many American officials often reiterated that New Zealand had to decide between ANZUS and its nuclear-free legislation and maintained that having both was not going to happen. New York Congressman Stephen Solarz, who had asked Congress to make an exception and breach the NCND-policy for his New York constituency to make sure that no nuclear-armed ships visited there, traveled to New Zealand in 1986 in an attempt to negotiate a way out of the deadlock. An editorial in the *Auckland Star* sarcastically argued that ‘American politicians like Mr Solarz are very fond of accusing New Zealand of wanting to “eat its cake and have it” on this issue. We hope he enjoyed his slice.’<sup>71</sup> Hence, by being seen as unreasonably harsh and unfair, the United States lost a lot of public support in New Zealand.

### *The Bolger Government and the National Party’s Change of Mind*

Conversely, public support for New Zealand’s anti-nuclear policy increased over the years. As a result, the National Party leader Jim Bolger announced in Parliament on 8 March 1990 that ‘I support the decision taken by the Opposition caucus yesterday to make explicit its opposition to nuclear weapons in New Zealand.’<sup>72</sup> Bolger argued that ‘if it was possible but a few weeks ago for us to witness the Berlin Wall being knocked over, surely it is not too much for New Zealand to seize the opportunity to forge new arrangements, new alliances, and new understandings that meet the needs of New Zealand into the twenty-first century.’<sup>73</sup> In his opinion,

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<sup>68</sup> Ibid.

<sup>69</sup> Bassett, ‘The Collapse of New Zealand’s Military Ties with the United States,’ op. cit.

<sup>70</sup> *New Zealand Herald*, 21 February 1985, quoted in Wilson, op. cit. p. 55.

<sup>71</sup> ‘Inconsistencies in Nuke Stand,’ *Auckland Star*, 17 January 1986.

<sup>72</sup> Hon. Jim Bolger, Address in Reply; and Proposed Amendment, *Hansard*, 8 March 1990.

<sup>73</sup> Ibid.

‘yesterday’s decision was but the beginning of a new era for New Zealand; the beginning of an era that will see inevitably the development of security arrangements that are based on New Zealand’s non-nuclear position.’<sup>74</sup> Thus, the National Party changed its official party position towards the nuclear-free issue virtually overnight.

Although some members of the Labour Party welcomed the National Party’s change of mind, others were highly critical and felt betrayed. Richard Prebble declared: ‘As the Minister who introduced the Nuclear Free Zone, Disarmament and Arms Control Bill, I welcome the conversion of the Opposition. However, I am concerned about whether Opposition members have changed their minds.’<sup>75</sup> He said that ‘the Leader of the Opposition repeated the National Party’s position: he was pro-nuclear. Last Thursday the Leader of the Opposition was pro-nuclear when he went into the Opposition caucus. However, after a 2-hour, secret discussion, he came out anti-nuclear.’<sup>76</sup> This threw up doubts about National’s new position. Then-Minister of Foreign Affairs Mike Moore thought ‘the issue is more than nuclear; it is one of credibility, integrity, and honour.’<sup>77</sup> The following year, after Labour had lost the national election, he claimed that ‘everybody knows that that was one of the most cynical and opportunist somersaults in the history of the political process in New Zealand. The Government has not changed its opinion; it still believes that nuclear visits would be good for us.’<sup>78</sup> The sudden change of mind suggests that the decision was largely politically motivated. Nevertheless, Bolger’s explanation of the policy change is plausible and demonstrated responsiveness to the vast changes that the world was undergoing.

In September 1991, as the Soviet Union unraveled, the United States declared that it planned to remove all nuclear weapons from its warships. Only ballistic missile submarines, which normally do not call at foreign ports for security reasons, would continue to be nuclear-armed. Curiously, the NCND-policy remained. It now says that ‘it is general United States policy not to deploy nuclear weapons aboard surface ships, attack submarines, and naval aircrafts. However, we do not discuss the presence or absence of nuclear weapons aboard specific ships, submarines or aircraft.’<sup>79</sup> This was followed by similar declarations from the United Kingdom and

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<sup>74</sup> Ibid.

<sup>75</sup> Hon. Richard Prebble, Debate—General, *Hansard*, 14 March 1990.

<sup>76</sup> Ibid.

<sup>77</sup> Rt. Hon. Mike Moore, Debate—General, *Hansard*, 14 March 1990.

<sup>78</sup> Rt. Hon. Mike Moore, Debate—Urgent Public Matter: Nuclear-Free Policy, *Hansard*, 30 April 1991.

<sup>79</sup> P. Williams, U.S. Defense Department Report 2 July 1992, News Briefing – Unofficial Transcript, *U.S. East-Asia and Pacific Wireless File*, 2 July 1992, quoted in White, *Nuclear Free New Zealand: 1984*. op. cit. p. 4.

France.<sup>80</sup> Therefore, this change of position made New Zealand's ban on nuclear-armed ships a non-issue to some extent. U.S. President George Bush Sr. remarked in a 1992 interview that the U.S. move appeared to 'clear the way for resolutions of differences we've had with some countries, but that's up to them to decide.'<sup>81</sup> Several members of the National Party interpreted this statement as a direct reference to the American dispute with New Zealand. Both Prime Minister Jim Bolger and his deputy Don McKinnon felt that 'New Zealand should "respond to the hand of friendship" which this move represented and "take a fresh look" at the question of nuclear propulsion.'<sup>82</sup> Since the only remaining obstacle to a full restoration of U.S.-New Zealand relations was Section 11<sup>83</sup> of the *New Zealand Nuclear Free Zone, Disarmament and Arms Control Bill* which enshrines the ban on nuclear-powered ship visits in law, Bolger ordered a committee to examine the safety of nuclear-propelled ships to find out whether it was safe to repeal the ban on nuclear-powered vessels.

Members of the anti-nuclear movement immediately discredited Bolger's commission as biased because they believed Bolger only set it up to justify his intended repeal of Section 11. A leaked United States intelligence telex was quoted in the *Dominion Post* as saying that the New Zealand Government's 'decision to form a committee is part of a continuing effort by Bolger to weaken or skirt antinuclear laws that have strained US-New Zealand relations.'<sup>84</sup> The telex also read that 'the prime minister hopes information supplied by the special committee will swing support his way.'<sup>85</sup> In the eyes of the peace movement, the appointment of Professor Alan Poletti to the committee headed by the retired judge Somers, seemed to support the worry that the committee was to recommend that nuclear-powered ships are safe. Dr. Robert Mann, a retired Senior Lecturer in Biochemistry, a former Vice-President of the Campaign for Nuclear Disarmament (New Zealand), and founding committee member of the New Zealand Foundation for Peace Studies, argued that 'the inclusion of Prof. Alan Poletti, who had taken a position of vigorous public advocacy that n-ships are OK, therefore constituted a deliberate bias in the committee.'<sup>86</sup> Professor David Elms, another member of the Somers Committee, strongly denied any govern-

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<sup>80</sup> Denis McLean, 'Dialogue: Anti-Nuclear Policy Should Have Ended With Cold War,' *New Zealand Herald*, 3 April 2002.

<sup>81</sup> George Bush Sr., quoted in Mike Munro, 'Weapons Removal May Clear Way—Bush,' *Dominion Post*, 4 July 1992.

<sup>82</sup> Costello, op. cit. p. 102.

<sup>83</sup> Throughout the rest of the thesis, the terms 'ban on nuclear-powered vessels' and 'Section 11' will be used interchangeably.

<sup>84</sup> Paul Bensemann, 'Leaked US Telex Tells of Bolger Nuke Moves,' *Dominion Post*, 4 November 1991.

<sup>85</sup> Ibid.

<sup>86</sup> Speech by Robert Mann, Centre for Peace Studies Seminar held at the University of Auckland, 3 July 1993.

ment interference with the committee's research. He stated that 'there was no pressure from the Government [on the Somers committee]. We were in control. There were no restraints. No pressure. It is absolutely unfair to say there was.'<sup>87</sup> When the Somers Report did conclude that nuclear-powered ships were safe, the anti-nuclear movement was swift to challenge its findings.

Despite wide media coverage of the findings of the Somers Report, public opinion remained largely opposed to reconsidering the ban on nuclear-propelled ships. For one, people like writer and researcher Nicky Hager maintained that 'everyone agrees that the chances of a catastrophic accident are small, but it's a risk people are not prepared to take.'<sup>88</sup> Thus, no matter how small the risk, accidents are not impossible. Other people pointed out that 'New Zealand's "clean, green" image is enhanced by its nuclear-free policy and, if that policy is overturned, the appeal it holds for tourism and trade (particularly agricultural dealings) would suffer.'<sup>89</sup> Some people were probably afraid that a repeal of the ban on nuclear-powered ship visits would automatically mean a repeal of the ban on nuclear-armed ships. In the end, the anti-nuclear movement's contempt for the Somers Report probably significantly contributed to the public wish to maintain Section 11 regardless of the report's findings. When it became apparent that pursuing the issue any further would be political suicide for the National Government, Bolger abandoned the idea of removing Section 11 and left the legislation unchanged.

This historical account shows that a shift has occurred over time. The policy of neither confirming nor denying and the ban on nuclear weapons are no longer the root of the problem between the United States and New Zealand as they were when the visit of the USS *Buchanan* was turned away. Ever since 1991, the only part of the nuclear-free legislation that causes problems with the United States is Section 11 on nuclear-powered ships. There has been no interest whatsoever in changing the ban on nuclear weaponry. That ban is solidly established in New Zealand as people across the political spectrum acknowledge the ban as a first step towards nuclear disarmament and non-proliferation. However, the ban on nuclear-powered ship visits has been subject to infrequent but intense debating. Although the ban currently enjoys the support of a majority of New Zealanders, the intense discussions and strong arguments on both side of the debate suggest that the discussion is still not settled even though two decades have passed since the *Buchanan* dispute in 1985.

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<sup>87</sup> David Elms, quoted in John Armstrong, 'Physicist Slams Peace Groups,' *New Zealand Herald*, 18 December 1992.

<sup>88</sup> 'Irrelevant—Critic,' *New Zealand Herald*, 18 December 1992.

<sup>89</sup> Christopher Yerlig, 'Letter to the Editor: Nuclear Policy,' *New Zealand Herald*, 23 March 1992.

## The Emergence of the Nuclear-Free Legislation in Theoretical Perspective

The study of politics has been the subject of vigorous debating as to whether political events can be studied scientifically. While it is now widely acknowledged that politics is not a science and that political theories cannot be used reliably or effectively to predict future events, such theories are still very valuable tools for explaining and analyzing past events. Thus, with the benefit of hindsight, a number of theories can be applied to the case of New Zealand's nuclear-free policy to gain a deeper understanding of the subject. This section aims to first look at New Zealand's decision to declare itself nuclear-free from a realist perspective. Second, it will investigate why implementing a nuclear-free policy in New Zealand led to a conflict with the United States. Lastly, the section will discuss how it came to be that the nuclear-free sentiment became mainstream in New Zealand.

### *Realism and the Nuclear-Free Stance*

Many people have asserted that New Zealand declared itself nuclear-free based on an idealist hope to change the world for the better. However, can the move to make New Zealand nuclear-free be explained from a realist perspective? Kenneth Waltz, a famous realist theorist, once established that states ally to balance against power. Wade Huntley from the Australian National University wrote about Stephen Walt who modified Waltz's theory into saying that 'states ally to balance against threats rather than against power alone.'<sup>90</sup> Huntley explained that

alliances, therefore, derive from the overall "distribution of threats" rather than the overall distribution of capabilities. This refinement directs analysis away from generalised measures of power towards threat assessment. Perceptions of threats are based upon the international distribution of power mediated by Walt's external factors.<sup>91</sup>

This offers an interesting new look at the way states may perceive their security environment and how they might seek to counter emerging threats. Huntley argued that 'the most striking feature of New Zealanders' new geographic consciousness was the sheer lack of anything threatening in the region.'<sup>92</sup> Numerous polls taken in the 1980s indicate that a majority of people was most afraid of an outbreak of nuclear war. Therefore, since 'New Zealand perceived the threat of

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<sup>90</sup> Wade Huntley, *Security or Spectacle? Foreign Policy Realism and Nuclear-Free New Zealand*. Working Paper No. 126, Canberra, Peace Research Centre, Australian National University, 1993, p. 5.

<sup>91</sup> *Ibid*, p. 6.

<sup>92</sup> *Ibid*, p. 10.

global nuclear war as the country's primary security concern, "realism" would then expect New Zealand foreign and security policies to attempt to reduce or eliminate this threat.<sup>93</sup> According to Huntley's interpretation, banning nuclear weapons from New Zealand was asserted to be a sensible response.

But since this policy, as Huntley acknowledged, was only symbolic, how did it improve New Zealand's security? As Huntley claimed, 'the US, by perceiving a threat in the "kiwi disease" and in reacting so sharply to arrest it, validated the asserted potential power of the policy. Hence, the US reaction demonstrates the salience of symbolism as a power resource in international politics.'<sup>94</sup> He also maintained that 'New Zealand's nuclear-free policy and its ANZUS ties were not considered incompatible because both were seen to provide opportunities to act to alleviate New Zealand's greatest perceived threat: global nuclear war.'<sup>95</sup> Huntley concluded that 'perhaps surprisingly, given its idealistic roots, the nuclear-free policy appears to "pass the test" of foreign policy realism.'<sup>96</sup> Undoubtedly, Huntley's analysis of Stephen Walt's theory applied to New Zealand's decision to implement an anti-nuclear policy shows the underlying motivation which may have led to the emergence of anti-nuclear feelings in New Zealand.

### *Groupthink and the Labour Government*

But why did implementing the policy lead to an open disagreement with the United States? After all, some political historians believe that a dispute with the United States could have been prevented. There are two theories which may explain the cause of the conflict. Both will be discussed with reference to the New Zealand case. The first theory to be discussed in this context is the theory of groupthink. Groupthink is often used to explain government decisions that led to outcomes which were unintended and undesired because the decision-makers had only consulted with like-minded people before making their decision. In the case of New Zealand's nuclear-free policy, the government intended to declare the country a nuclear-free zone while maintaining its status as an American ally and as a member of ANZUS. However, the eventual outcome was a conflict with the United States and the loss of its status as an American ally and its suspension from ANZUS. Neither of these results was intended, at least by David Lange and his associates. Therefore, groupthink might be helpful in explaining why a conflict with the U.S. ensued.

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<sup>93</sup> Ibid, pp. 12-13.

<sup>94</sup> Ibid, p. 19.

<sup>95</sup> Ibid, p. 29.

<sup>96</sup> Ibid, p. 37.

It was Irving Janis who developed the theory of groupthink. He came up with three different types of groupthink: 'Type I: Overestimation of the group—its power and morality,' 'Type II: Close-mindedness' and 'Type III: Pressures toward uniformity.'<sup>97</sup> All three types can be identified by certain characteristics. The characteristics of Type I groupthink are

1. An illusion of invulnerability, shared by most or all the members, which creates excessive optimism and encourages taking extreme risks
2. An unquestioned belief in the group's inherent morality, inclining the members to ignore the ethical or moral consequences of their decisions<sup>98</sup>

There seems to be little evidence of New Zealand's Government feeling invulnerable or taking 'extreme' risks. And although morality did play a part in the New Zealand Government's decision to turn the country into a nuclear-free zone, this did not cause any adverse ethical or moral consequences. Therefore, Type I groupthink cannot be applied to the case of New Zealand declaring itself nuclear-free.

Type II groupthink, on the other hand, is characterized by the presence of the following attribute:

3. Collective efforts to rationalize in order to discount warnings or other information that might lead the members to reconsider their assumptions before they recommit themselves to their past policy decisions
4. Stereotyped views of enemy leaders as too evil to warrant genuine attempts to negotiate, or as too weak and stupid to counter whatever risky attempts are made to defeat their purposes<sup>99</sup>

Indeed, there are indications that the Labour Government did discount warnings by American officials who repeatedly said that if New Zealand declared itself nuclear-free that would mean the end of ANZUS. Therefore, some authors find that 'one of the most interesting aspects of the ANZUS crisis is that it was so entirely predictable from 1976 onwards.'<sup>100</sup> Indeed, U.S. officials 'recalled they had warned of the eroding effect New Zealand's action would have not only on

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<sup>97</sup> Irving Janis, *Groupthink: Psychological Studies of Policy Decisions and Fiascoes*. Second Edition, Revised, Boston, Houghton Mifflin Company, 1983, pp. 174-175.

<sup>98</sup> Ibid, p. 174.

<sup>99</sup> Ibid.

<sup>100</sup> Keith Jackson and Jim Lamare, 'Politics, Public Opinion and International Crisis: The ANZUS Issue in New Zealand Politics,' in Jacob Bercovitch (ed.), *ANZUS in Crisis: Alliance Management in International Affairs*. London, Macmillan Press, 1988, p. 172.

ANZUS, which they began describing as “inoperative”, but also on the security of the Pacific region.’<sup>101</sup> Nevertheless, Wallace Rowling argued in 1983 that

*it is most unlikely that the US would end ANZUS as a result of Labour implementing its anti-nuclear policies. The United States would not want to be seen bullying a small ally on the sensitive nuclear issue... In short it can be argued that a Labour government could call the bluff of those who argue that promoting [a nuclear-weapons-free zone] NWFZ and banning nuclear armed ships would end ANZUS [emphasis in original].*<sup>102</sup>

Hence, by interpreting the American threat as a ‘bluff,’ the warning that implementing the anti-nuclear policy would end ANZUS was effectively discounted. In the end, however, this assumption by the Labour Party proved incorrect. There were also signs of significant stereotypes about the Reagan Administration in the U.S. However, most of those stereotyped views did not surface until after the conflict arose and, therefore, cannot be argued to have led to the conflict itself in any major way.

Lastly, Type III groupthink needs to be considered and tested for its applicability to the New Zealand case. The four defining traits of Type III groupthink are

5. Self-censorship of deviations from the apparent group consensus, reflecting each member’s inclination to minimize to himself the importance of his doubts and counterarguments
6. A shared illusion of unanimity concerning judgments conforming to the majority view (partly resulting from self-censorship of deviations, augmented by the false assumption that silence means consent)
7. Direct pressure on any member who expresses strong arguments against any of the group’s stereotypes, illusions, or commitments, making clear that this type of dissent is contrary to what is expected of all loyal members
8. The emergence of self-appointed mindguards—members who protect the group from adverse information that might shatter their shared complacency about the effectiveness and morality of their decisions<sup>103</sup>

Self-censorship was indirectly present in the Labour Government approach to the nuclear-free policy; indirectly because doubts about the policy were voiced at first but then brushed aside later on. Although David Lange openly admitted to seeing no problem with nuclear-powered ships coming into New Zealand ports, he failed to convince his party of his viewpoint. In an interview

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<sup>101</sup> Hoadley, op. cit. p. 46.

<sup>102</sup> W.E. Rowling, Memorandum to Members of the Labour Party Policy Council on ANZUS Options, 1983, quoted in Clements, *Back from the Brink*. op. cit. pp. 125-126.

<sup>103</sup> Janis, op. cit. p. 175.

in 1991 he confessed that after trying twice to have the nuclear propulsion issue reexamined, he 'was bowled completely. There was a great deal of suspicion that if I gave way on nuclear propulsion I was about to welcome the bomb.'<sup>104</sup> So instead of continuing the confrontation within his own party, he swung around to advocate the ban on nuclear-powered ships himself despite his doubts about its usefulness and the impending consequences. As becomes obvious, self-censorship was a result of direct pressure from the left wing of the Labour Party led by Margaret Wilson, Helen Clark, Fran Wilde, and Jim Anderton. Although David Lange was the Prime Minister, he was not in control of his own party and finally gave in to the pressure from the party's left wing. Therefore, direct pressure and the ensuing self-censorship on the part of Lange and his followers were directly intertwined.

Among members of the Labour Party, there certainly was a 'shared illusion of unanimity.'<sup>105</sup> In April 1982, Lange claimed that 'visits by nuclear-powered or nuclear-armed ships remained a constant affront to the majority of New Zealanders who wished to see the Pacific remaining nuclear-free.'<sup>106</sup> At the time, this claim was a nonsense. A poll taken in May 1982 showed that only 38 percent of the New Zealand public were opposed to nuclear-powered ships whereas 50 percent welcomed such ships.<sup>107</sup> The last countrywide poll that had been taken on nuclear-armed ship visits was taken by the New Zealand Foundation for Peace Studies in 1979 and showed that 31.5 percent rejected such ship visits while 61.5 percent welcomed nuclear-armed ship visits.<sup>108</sup> The next poll was taken in May 1983 and showed 40.2 percent were opposed and 46.1 percent were in favor of such visits.<sup>109</sup> In 1983, a resident of Otahuhu sent a letter to the editor of the *Auckland Star* and argued that 'there has never been a referendum ... over the whole of New Zealand regarding the visits of nuclear-powered or armed war ships entering NZ waters. And until that occurs, no one has the right to say just what the majority of New Zealanders want.'<sup>110</sup> Nevertheless, the New Zealand Labour Party continued to declare that a majority of New Zealanders backed its nuclear-free policy encompassing both the ban on nuclear weapons and the ban on nuclear-powered ships.

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<sup>104</sup> 'Public Against Any Law Change Lange Believes,' *New Zealand Herald*, 3 October 1991.

<sup>105</sup> Janis, op. cit. p. 175.

<sup>106</sup> 'N-Ship "Serving Dated Alliance,"' *Auckland Star*, 14 April 1982.

<sup>107</sup> Eleanor Hodges, 'David and Goliath in the Ocean of Peace: Case Studies of "Nuclearism," "Nuclear Allergy" and "the Kiwi Disease."', Unpublished PhD Thesis, University of California at San Diego, 1990, p. 206.

<sup>108</sup> Michael Hern, 'ANZUS and a Nuclear Free New Zealand 1972-1987.', Unpublished MA Thesis, Christchurch, University of Canterbury, 1990, p. 64.

<sup>109</sup> Hodges, op. cit. p. 208.

<sup>110</sup> J. Searle, 'Killer-Subs,' *Auckland Star*, 19 November 1983.

It would be unfair to suggest that there were ever any ‘self-appointed mindguards’ in the anti-nuclear movement. However, there are definite indications that groups or individuals expressing opposing views were quickly, sometimes rudely, discredited. For instance, in October 1985, eight months after the *Buchanan* affair, 17 New Zealand army chiefs published an article in support of ANZUS and explained their opposition to the anti-nuclear policy. Prime Minister Lange was widely quoted as degrading their arguments by referring to the authors as ‘geriatric generals’<sup>111</sup> and as ‘unreconstructed military neanderthals.’<sup>112</sup> Moreover, when the former Secretary of Defence Denis McLe an was appointed ambassador to the U.S., Lange described him as ‘a lugubrious bush-whacker’ because he was ‘a total devotee to Anzus.’<sup>113</sup> Similarly, members of the National Party who voiced their support of ANZUS and nuclear ship visits were often lambasted as ‘snuggling up to the bomb.’<sup>114</sup> Of course, this was an equally trite accusation as Muldoon’s allegation that people in the peace movement were primarily communist. Although such accusations did not shield advocates of the anti-nuclear policy from arguments to the contrary, but they led to such arguments being dispelled quickly enough so as not to make it very worthwhile for anti-nuclear advocates to analyze such arguments more carefully and question their own positions as a result. Overall, some parts of the theory of groupthink can be applied to the New Zealand case. While Type I groupthink is not applicable at all, Type II groupthink is partially applicable. Nearly all characteristics of Type III groupthink can be identified in the case of New Zealand’s implementation of the anti-nuclear policy.

### *Two-Level Game Theory and the Failure of the Buchanan Negotiations*

Another theory can be used to shed some more light on why the negotiations with the United States failed to produce the ideal outcome of getting America to accept New Zealand’s anti-nuclear stance while allowing New Zealand to continue as a full member of ANZUS. The political theorist Robert Putnam developed the theory of the ‘logic of two-level games.’<sup>115</sup> The basic assumption of the theory is that

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<sup>111</sup> ‘PM Rues “Geriatric Generals” Publicity,’ *Auckland Star*, 12 October 1985.

<sup>112</sup> Lange, op. cit. p. 154.

<sup>113</sup> David Lange, quoted in Simon Collins, ‘Lange Launches Attack on Ambassador,’ *New Zealand Herald*, 24 December 1990.

<sup>114</sup> For example in Richard Long, ‘Nuke Policies Get a Pasting,’ *Dominion Post*, 8 February 1990.

<sup>115</sup> Robert Putnam, ‘Diplomacy and Domestic Politics: The Logic of Two-Level Games,’ *International Organization*, v.42, no.3, 1988, p. 427.

at the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision makers, so long as their countries remain interdependent, yet sovereign.<sup>116</sup>

Put more succinctly: both the national and the international dimensions are crucial components in any negotiation between governments. To be able to effectively negotiate a sustainable outcome with another country, the government first has to ascertain the support of the people in its own party to make sure that the outcome will be accepted and ratified in Parliament.

Putnam describes the two stages of the negotiating process as follows:

1. bargaining between the negotiators, leading to a tentative agreement; call that Level I.
2. separate discussions within each group of constituents about whether to ratify the agreement; call that Level II.<sup>117</sup>

Both parties to the negotiation have a range of interests and a set of potential outcomes which would be deemed acceptable at the local level (Level II). Putnam calls this range of acceptable outcomes ‘win-set.’<sup>118</sup> All other outcomes would be outside of the win-set and would not find support at the local level. Putnam observes that ‘by definition, any successful agreement must fall within the Level II win-sets of each of the parties to the accord. Thus, agreement is possible only if those win-sets overlap. Conversely, the smaller the win-sets, the greater the risk that the negotiations will break down.’<sup>119</sup> If both parties come to an agreement but one of the parties fails to get the agreement ratified, Putnam differentiates between ‘voluntary’ and ‘involuntary defection.’<sup>120</sup> According to his definition,

voluntary defection refers to renegeing by a rational egoist in the absence of enforceable contracts—the much-analyzed problem posed, for example, in the prisoner’s dilemma and other dilemmas of collective action. Involuntary defection instead reflects the behavior of an agent who is unable to deliver on a promise because of failed ratification.<sup>121</sup>

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<sup>116</sup> Ibid, p. 434.

<sup>117</sup> Ibid, p. 436.

<sup>118</sup> Ibid, p. 437.

<sup>119</sup> Ibid, pp. 437-438.

<sup>120</sup> Ibid, p. 438.

<sup>121</sup> Ibid.

Moreover, Putnam states that ‘politicization often activates groups who are less worried about the costs of non-agreement, thus reducing the effective win-set.’<sup>122</sup> Therefore, a number of factors have to be considered in order for negotiations to be successful.

In the New Zealand case, David Lange had not fully informed his own cabinet about the negotiations with the United States. He mostly dealt with this issue himself. Hence, Lange had no understanding of the size of his Level II win-set and of what would be deemed acceptable by his own party. Instead, he set the parameters himself and sent Ewan Jamieson to Hawaii to select a warship that would fit Lange’s parameters. Consequently, Jamieson selected the USS *Buchanan* which fit Lange’s requirements but not the actual Level II win-set. Thus, Jamieson unknowingly overplayed his hand because of incorrect parameters set by David Lange. As a result of neglecting to consult with his party, Lange believed that his Level II win-set was larger than it actually was and overlapped with the American Level II win-set which it did not. As Putnam points out, an overlap of the two win-sets is an essential prerequisite for negotiations to even start. When Lange finally consulted with the other party members, especially with the left wing party members, he found out that the issue was out of his hands. Because of a high level of politicization, those members did not care much for whether there would be an agreement or not. In the end, Lange was forced to involuntarily defect and retreat from his previous position. He could not deliver on the negotiated outcome because he had neglected to pay sufficient attention to the people within his own party.

### *International Conflict and the Mainstreaming of Anti-Nuclearism*

Having said all that, it is still not clear how it came about that a majority of New Zealanders supported the nuclear-free policy. As was hinted in the previous section, there was no majority support for the nuclear-free policy at the time when Prime Minister Lange made his decision to turn away the USS *Buchanan*. Dr. James Lamare of Canterbury University stated that

in August 1983, at a time when the then ruling National government welcomed nuclear vessels into New Zealand, opposition to such stopovers was at 40%. Within three weeks of the 1984 change in government and the spread of the nuclear ships conflict, port calls were rejected by 76%. A massive swing involving more than a third of the New Zealand public thus had occurred in a relatively short time span [which is illustrated by Figures One and Two].<sup>123</sup>

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<sup>122</sup> Ibid, p. 445.

<sup>123</sup> James Lamare, ‘International Conflict: ANZUS and New Zealand Public Opinion,’ *The Journal of Conflict Resolution*, v.31, no.3, 1987, pp. 425-427.

Figure One: Approval Rates of Nuclear-Armed Ship Visits to New Zealand  
 (Constructed from Figures Extracted by the Author from Various Sources including Heylen  
 Polls, National Business Review Polls, and NZ Peace Foundation Polls)

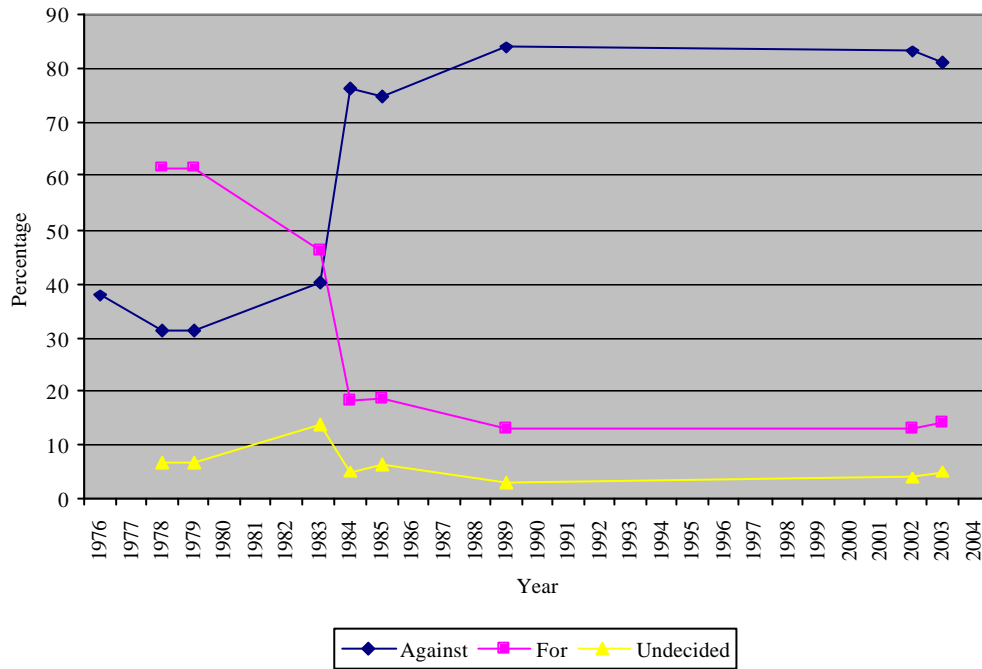
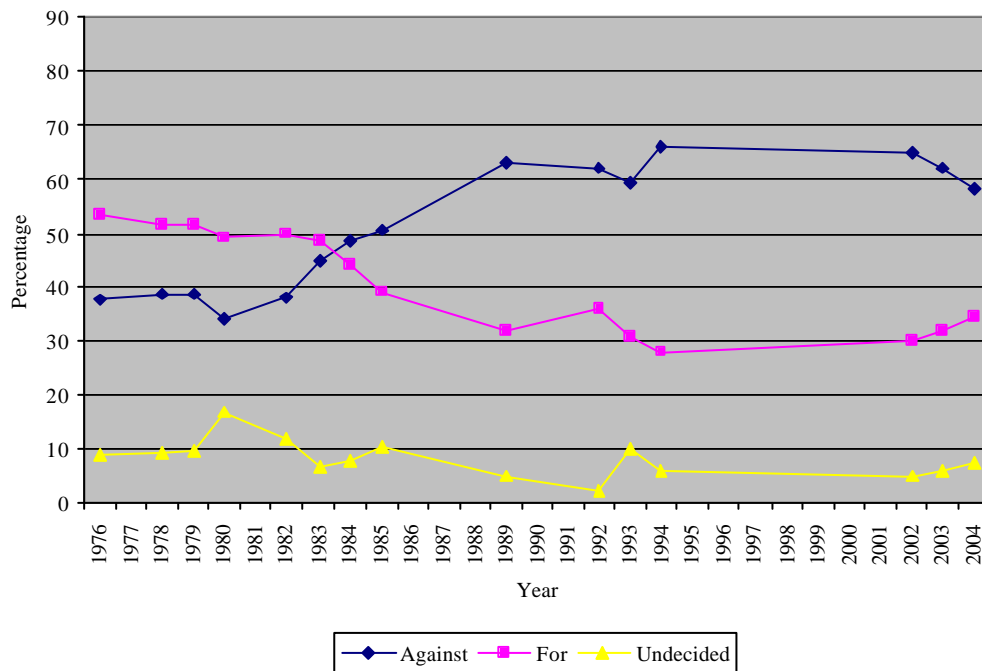


Figure Two: Approval Rates of Nuclear-Powered Ship Visits to New Zealand  
 (Constructed from Figures Extracted by the Author from Various Sources including Herald  
 DigiPolls, Heylen Polls, National Business Review Polls, and NZ Peace Foundation Polls)



So is it the leadership of the Labour Party with its nuclear-free stance that convinced a large portion of the public to follow its anti-nuclear approach? Although the Labour leadership was undoubtedly a factor, it is unlikely to have been the major driving force behind the change of mind of so many New Zealanders. In fact, arguing along the lines of the leadership model that the mainstreaming of anti-nuclearism in New Zealand was mostly due to the Labour leadership fails to account for the number of National Party voters who were first opposed to the Labour Party and its nuclear-free policy but quickly abandoned their positions to support the Labour policy. As Lamare established, 'most of the rank and file National partisans moved to the nuclear-free position of the Labour government in sharp contrast to the publicly expressed pronuclear stance of their party's leadership.'<sup>124</sup> Dr. Lamare holds an interesting explanation for this change of mind. He showed that

while some variation among social and political groupings remained evident, a decline in the strength of association between opinion and socioeconomic status (Cramer's  $V = .09$ ), gender (Cramer's  $V = .05$ ), age (Cramer's  $V = .08$ ), and even party (Cramer's  $V = .15$ ) had occurred. International conflict with the United States had bred national solidarity in New Zealand.<sup>125</sup>

Thus, according to this point of view, it was the American reaction to the nuclear-free policy which was a major contributing factor to increasing the number of supporters of Labour's policy. This shows the importance of the international influence on New Zealand society without which the nuclear-free policy is unlikely to have become so popular in such a short amount of time across the political spectrum.

Overall, this section shows that the confrontation with the United States could have probably been avoided. It also suggests that without the conflict with the United States, it is unlikely the anti-nuclear sentiment would have gained such wide support so quickly. Thus, it is a curious discovery that the policy's somewhat unorthodox implementation process led to its widespread support in New Zealand. An editorial in the *Auckland Star* stated that 'history may well view the decision [to declare New Zealand nuclear-free] as courageous. It is also likely to dismiss the way the policy was implemented as a demeaning exercise, lacking in deductive thought, and

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<sup>124</sup> James Lamare, 'International Conflict and Opinion Change in New Zealand,' *The Public Opinion Quarterly*, v.51, no.3, 1987, p. 396.

<sup>125</sup> Ibid; Cramer's  $V$  'is a correlation coefficient that ranges from 0.0 to indicate no correlation to 1.0 indicating perfect correlation.' In the above case, Cramer's  $V$  is always close to zero, meaning that there is little correlation between the variables presented. For more information, see <http://www.geog.ubc.ca/courses/klink/g470/class97/roh/project.html>.

somewhat precocious.’<sup>126</sup> Of course, in hindsight it is easy to point out the mistakes that were made during the implementation phase. None of the arguments presented here are meant to discredit the nuclear-free policy. They are only meant to explain why the implementation of the anti nuclear policy led to the confrontation with the U.S. and how this led to majority support for the nuclear-free legislation. According to the findings, the conflict was not just the result of the Reagan Administration’s realist attitude and lack of respect for a minor ally’s democratically decided policy, as some people like to portray it. In fact, New Zealand carries its share of responsibility for the failure to negotiate an outcome acceptable to both sides.

## Conclusion

This chapter provided a broad overview of the historical events surrounding the emergence of anti-nuclearism in New Zealand alongside the causes and effects of having a nuclear-free policy. The theoretical analysis examined the realism of the Labour Government’s decision to declare the country a nuclear-free zone, the underlying reasons for the failure to reach a compromise with the United States which could have avoided confrontation, and also how it came about that a majority of New Zealanders began to support their country’s nuclear-free policy. The chapter illustrated that the conflict with the United States that developed after the *Buchanan* affair was due to a re-definition of the nuclear-free policy to also ban vessels capable of carrying nuclear warheads. Because of the American NCND-policy, politicians in New Zealand were unable to guarantee that the USS *Buchanan* was not carrying nuclear arms. The rejection of the *Buchanan* triggered a disagreement with the United States which led to New Zealand’s suspension from ANZUS and the exclusion of New Zealand politicians and diplomats from high-level access to American politicians.

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<sup>126</sup> ‘Anti-Nuclear Law of Dubious Value,’ *Auckland Star*, 14 December 1985.

## CHAPTER THREE

### THE SAFETY ISSUE AND BEYOND

The discussion about the safety of nuclear-powered ships was at the heart of the dispute over whether or not the ban on nuclear-powered ships should be maintained as a law when the National Government launched its review of Section 11 in 1992. Members of the anti-nuclear movement had contended for a long time that nuclear-powered ships were not safe and that a reactor failure could have fatal consequences. This was countered by a number of scientists who argued that the chance of any radioactive leakage was small. After the publication of the Somers Report, members of the anti-nuclear movement declared that safety was only part of a complex argument against nuclear-powered ship visits. For this reason, this chapter will first deal with the issue of safety and then with other factors that have a major influence on the discussion about the ban on nuclear-powered ships. As a result, the aspects to be included in this context are multifaceted. After discussing the safety of nuclear-powered vessels, the moral and symbolic dimensions of the ban on nuclear-powered ships will be introduced and analyzed. The chapter will then go on to scrutinize New Zealand's nuclear-free identity and to what extent it is linked to the ban on nuclear-powered ships. This is followed by a discussion of the 'clean-green' image and how it is related to Section 11. Overall, the chapter will give a broad overview of the essential arguments presented in domestic discussions for having the ban on nuclear-powered vessels.

#### Naval Nuclear Propulsion: A Safety Risk?

Safety has been one of the main factors for majority opposition to a resumption of nuclear-powered ship visits in New Zealand. Members of the peace movement have often argued that it is too risky to allow nuclear-powered ships to visit New Zealand because of the potential danger of radiation releases from naval nuclear reactors. Opponents of the nuclear-powered ships ban, on the other hand, have often replied that the risk of an accident in a New Zealand port is incredibly small. Both points of view enjoy the support of reputable scientists which has made it difficult for lay people to assess how dangerous or safe nuclear-powered vessels really are. While there are no definite answers to resolve the controversy over safety, an analysis of the main arguments is, nonetheless, worthwhile.

## *The Emergence of Safety Concerns*

Concerns about the safety of naval nuclear reactors surfaced early on in the peace movement's campaign against nuclear ship visits. One of the earliest full-fledged campaigns regarding the safety of nuclear power was Campaign Half Million, which was initiated by the Campaign for Non-Nuclear Futures in June 1976.<sup>1</sup> The primary intention of Campaign Half Million was to prevent the development of nuclear power reactors in New Zealand. The prohibition of nuclear-propelled ship visits was also mentioned, but only as a side issue. Nonetheless, as Robert Mann pointed out, 'the ships are explicitly in there [in the petition] because they can't be justified. They are too dangerous.'<sup>2</sup> As a result, the people who signed the petition not only expressed their opposition to nuclear power plants but also to naval nuclear reactors. By October 1976, 333,087 New Zealanders had signed the petition to stop the development of a nuclear power program in New Zealand making Campaign Half Million the largest petition in the country's history.<sup>3</sup> Ultimately, the petition caused Muldoon's National government to reconsider its plans to build nuclear power plants in New Zealand. Nuclear-powered ships, however, resumed visiting New Zealand.

In 1983, Helen Clark made reference to a report on accidents involving nuclear-powered ships written by David Kaplan of the Center for Investigative Reporting in San Francisco. She said that the 'report detailed 37 accidents involving the reactors of Soviet, American, and British nuclear powered ships. It stated that some of those accidents had led to the release of large amounts of radiation into the environment.'<sup>4</sup> However, the credibility of Kaplan was tainted when Vincent Thomas released his book *Sea Power* in 1983. The book showed that

Kaplan's "collisions" ... included tangling with whales and bumping the seabed. After the loss of the US submarines *Thresher* and *Scorpion*, Navy officials found no radioactivity

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<sup>1</sup> Alyn Ware and Kate Dewes, 'From Symbolic Gesture to Statutory Ban: The Aotearoa-New Zealand Experience,' *The Lawyer's Committee on Nuclear Policy Inc.* [NGO Online], (1-4 September 2000) <<http://www.lcnp.org/disarmament/nwfz/NewZealandExperience.htm>>, accessed 26 February 2005.

<sup>2</sup> Interview with Robert Mann, retired Senior Lecturer of Biochemistry and Consultant Ecologist as well as former Vice-President of the Campaign for Nuclear Disarmament (NZ) and founding Committee Member of the New Zealand Foundation for Peace Studies, Auckland, 21 December 2004.

<sup>3</sup> Ware and Dewes, op. cit.

<sup>4</sup> 'Prohibition of Nuclear Vessels and Weapons Bill,' *Hansard*, 3 August 1983, reproduced in Harold Evans, *Open Letter*, 2 December 1985, on the Occasion of the Expected Introduction into the House of Legislative Proposals for a Nuclear-Free New Zealand, to Each of the Ninety-Five Members of the New Zealand House of Representatives, with Addendum, 6 February 1986. Christchurch, H. J. Evans, 1986, p. 23.

consistent with a reactor accident. Bombs which exploded on the USS *Enterprise* flight deck in 1969 blasted down three decks, but did no damage to the reactor plants.<sup>5</sup>

Other reports alleging that American nuclear-powered vessels had leaked radioactivity could not be confirmed either. For example,

although in May 1968 Japanese scientists at Sasebo had found radiation levels up to 20 times higher than normal, allegedly spilled by the USS *Swordfish*, American checks failed to confirm this. [U.S. Vice-Admiral] Rickover implied that the Japanese scientists responsible for evaluating samples had falsified records.<sup>6</sup>

This suggests that some members of the anti-nuclear movement were prepared to embellish the truth to get their point across that nuclear-propelled ships are not safe. Others in the nuclear-free movement then used materials derived from such suspicious sources to support their publicly expressed opinions.

The reactor meltdown at the Soviet nuclear power plant at Chernobyl contributed to people's perception that nuclear-propelled vessels were not safe. As Tom Newnham illustrates in his *Kiwi Chronicle*,

when the Russian nuclear reactor ran amok at Chernobyl and two US submarines went aground about the same time, New Zealand peace groups emphasised the fact that nuclear-powered vessels are simply floating nuclear power plants, perhaps more dangerous than those on land.<sup>7</sup>

In 1991, when the National Government under Jim Bolger considered repealing Section 11 of the nuclear-free legislation, such arguments resurfaced. For example, P. Burwood from Panmure argued that 'each nuclear-powered vessel is a floating miniature of Chernobyl or Three Mile Island.'<sup>8</sup> This was echoed by Mike Hinstridge from Cambridge who stated that 'our leaders would do well to reflect that after a major nuclear accident you do not just go in with buckets and mops—you go away, and do not come back for 10,000 years.'<sup>9</sup> The accidents at the nuclear power plants at Three Mile Island and Chernobyl showed that severe accidents involving the leakage of radioactivity were possible. Thus, when people were confronted with whether or not

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<sup>5</sup> Michael Pugh, *The ANZUS Crisis, Nuclear Visiting and Deterrence*. Melbourne, Cambridge University Press, 1989, p. 93.

<sup>6</sup> Ibid.

<sup>7</sup> Tom Newnham, *Interesting Times: A Kiwi Chronicle*. Auckland, Graphic Publications, 2003, p. 275.

<sup>8</sup> P. Burwood, 'No Absurdity,' *New Zealand Herald*, 23 October 1991.

<sup>9</sup> Mike Hinstridge, 'Great Danger,' *New Zealand Herald*, 23 October 1991.

nuclear-powered ships should be allowed to return to New Zealand, many connected those naval reactors with the big land reactors that had experienced a major nuclear accident. However, an Australian government report on nuclear-powered ship visits pointed out that ‘any simple inference from events in land-based civil reactors to naval reactors is questionable.’<sup>10</sup> As the report explained, ‘the differences between land-based and naval reactors are as significant from the point of view of safety as are the similarities.’<sup>11</sup> Hence, accidents that happened at land-based nuclear power plants cannot be easily compared to the potential hazard of a naval nuclear reactor.

### *The Somers Report and its Critics*

The Somers Report established that the safety record of the United States nuclear-powered fleet was exemplary. The report found that ‘up to October 1992 [the U.S. nuclear-powered fleet] covered 93 million miles and accumulated over 4100 reactor-years of operating experience without significant accidental release of radioactivity to the environment.’<sup>12</sup> That is equivalent to the distance between the earth and the sun. According to the British Government, ‘the probability of a contained reactor meltdown on one of its submarines is assessed to be no greater than 1 in 10,000 years; the probability of an uncontained accident is estimated to be no greater than 1 in 1,000,000 years.’<sup>13</sup> This is reflected in the Somers Report which states that ‘the worst case event predicted to occur at about once in every ten thousand years of reactor operation, should not require the emergency evacuation of people beyond 550 metres from the accident submarine.’<sup>14</sup> Also the risk of radioactive spills is portrayed as very minor. A United States Navy report even stated in 1984 that ‘if one person were able to drink the entire amount of radioactivity discharged into any harbor in any of the last fourteen years, he would not exceed the annual radiation exposure permitted for an individual worker by the U.S. Nuclear Regulatory Committee.’<sup>15</sup> Thus, according to these figures, there should be little reason to worry about radioactive releases.

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<sup>10</sup> The Senate Standing Committee on Foreign Affairs, Defence and Trade, *Visits to Australia by Nuclear Powered or Armed Vessels: Contingency Planning for the Accidental Release of Ionizing Radiation*. Canberra, The Parliament of the Commonwealth of Australia, 1988, p. 136.

<sup>11</sup> *Ibid*, p. 128.

<sup>12</sup> Special Committee on Nuclear Propulsion, *The Safety of Nuclear Powered Ships*. Wellington, Department of the Prime Minister and Cabinet, 1992, p. 98.

<sup>13</sup> The Senate Standing Committee on Foreign Affairs, Defence and Trade, *op. cit.* p. 46.

<sup>14</sup> Special Committee on Nuclear Propulsion, *op. cit.* p. 131.

<sup>15</sup> U.S. Department of the Navy, *Environmental Monitoring and Disposal of Radioactive Wastes from U.S. Naval Nuclear-Powered Ships and their Support Facilities 1984*, February 1985, quoted in The Senate Standing Committee on Foreign Affairs, Defence and Trade, *op. cit.* p. 144.

Among people in the peace movement, however, there is a general distrust about facts and numbers presented in relation to the safety of nuclear-powered vessels. To begin with, Bunny McDiarmid, a member of Greenpeace Aotearoa/New Zealand, found that ‘the so-called “safe” levels of radiation are revised downwards every year.’<sup>16</sup> Therefore, it is simply not known what a ‘safe’ level of radiation exposure is. Furthermore, Robert Mann questions the validity of numbers presented in the Somers Report such as the likelihood of a nuclear accident occurring in New Zealand being one in a million.<sup>17</sup> He said that he and his colleagues ‘say, on the authority of some very respectable scientists, that those numbers are not justified. They’re propaganda. They’re deceit. They’re not proper science. And, therefore, we say that the probability of the serious damage is not known.’<sup>18</sup> For that reason, Dr. Mann quoted Captain Ellis of the USS *Abraham Lincoln* as saying that ‘you have to be ready for what can happen, not what you think is going to happen.’<sup>19</sup> Dr. Mann added: ‘That’ll do us and we tell people what can happen.’<sup>20</sup>

Professor Alan Poletti, a former member of the Somers Committee, feels that some people in the anti-nuclear movement are ‘using rather underhand, almost, you might say, unethical methods to further their cause which is too bad because they try and promote the idea that they are extremely ethical and care for everyone’s well-being and so forth.’<sup>21</sup> They believe ‘that you must dream up the most severe possible accident which can only occur at the most unlikely conjunction of events and you must, therefore, plan, in detail, for that.’<sup>22</sup> In accordance with this viewpoint, the Somers Report proclaims that ‘we shouldn’t worst case ourselves out of a solution; we shouldn’t base all of our planning on the worst things we can imagine. They are the least likely and planning for the worst can leave us unprepared for reality.’<sup>23</sup> Andrew McEwan described in his book *Nuclear New Zealand: Sorting Fact From Fiction* that

in New Zealand the annual risk of death from a motor-vehicle accident in the mid-1980s was about 1 in 5000. If a fleet of 10 nuclear-powered ships operated around New Zealand ports, averaging a tenth of their time berthed, the risk of death from reactor meltdown

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<sup>16</sup> Interview with Bunny McDiarmid, Member of Greenpeace Aotearoa/New Zealand, Auckland, 10 March 2005.

<sup>17</sup> Special Committee on Nuclear Propulsion, op. cit. p. 131.

<sup>18</sup> Interview with Robert Mann, op. cit.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Interview with Alan Poletti, Professor of Physics and former Member of the Somers Committee, Auckland, 20 December 2004.

<sup>22</sup> Ibid.

<sup>23</sup> Special Committee on Nuclear Propulsion, op. cit. p. 58.

would be less than one in 3000 million per person per year based on estimates of accident probabilities. This is of the order of a millionth of the risk from motor accidents.<sup>24</sup>

Similarly, the Somers Report compares the risk of an accident onboard a nuclear-powered vessel involving the leakage of radioactivity to other risks such as dying as a result of cigarette smoking, car accidents, heart disease, etc.<sup>25</sup>

Many members of the anti-nuclear movement find that the Somers Report was biased and pro-nuclear. First of all, Associate Professor Robert White, the director of the Centre for Peace Studies at the University of Auckland, points out that death as a result of a naval reactor melt-down 'is a population risk whereas the Somers Report puts it to risks like cigarettes and cars ... These are individual risks, not population risks. And they never bring this distinction up.'<sup>26</sup> Moreover, he considers the Somers Report to be a 'disgusting report from scientists. It contains a statement that nuclear-powered vessels are safe, no qualifications, none. For any scientist to say that an engineering system as complex as a reactor particularly crammed into the volume of a ship is absolutely safe is unbelievable.'<sup>27</sup> According to this point of view, statements in the report are deliberately exaggerated to convince people that naval nuclear reactors are safe.

However, this criticism is not entirely justified. First of all, the point of the risk comparison was to merely establish a measure for the likelihood of a fatal accident involving a naval nuclear reactor. The risk of death caused by a car accidents or smoking happens to be something that people can relate to easily. Second, the Somers Report states on the very first page that 'we begin this report by making two things clear. First, nobody has contended, or could contend, that nuclear powered ships are absolutely safe, that nothing could go wrong with them.'<sup>28</sup> There is no attempt to establish the absolute safety of nuclear-powered vessels. But the Somers Report concludes that

the presence in New Zealand ports of nuclear powered vessels of the navies of the United States and the United Kingdom would be safe. The likelihood of any damaging emission or discharge of radioactive material from nuclear powered vessels if in New Zealand ports is so remote that it cannot give rise to any rational apprehension.<sup>29</sup>

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<sup>24</sup> Andrew McEwan, *Nuclear New Zealand: Sorting Fact From Fiction*. Christchurch, Hazard Press, 2004, p. 84.

<sup>25</sup> Special Committee on Nuclear Propulsion, op. cit. p. 223.

<sup>26</sup> Interview with Robert White, retired Associate Professor of Physics and Director of the Centre for Peace Studies, Auckland, 15 March 2005.

<sup>27</sup> Ibid.

<sup>28</sup> Special Committee on Nuclear Propulsion, op. cit. p. 1.

<sup>29</sup> Ibid, p. 173.

Therefore, while acknowledging at the very beginning that nuclear-powered ships can never be 100 percent safe, the chance of an accident is estimated to be sufficiently small so as not to pose a danger to the New Zealand public.

According to the Somers Report, there were many people in New Zealand when the report was written who submitted concerns about nuclear-powered ships which were based on false assumptions. The report maintains that ‘concerns based on misconceptions or information which was incorrect were expressed to us by a large number of those making submissions.’<sup>30</sup> Over a decade has passed since the writing of the Somers Report and there seems to be little indication that people of New Zealand have a better understanding about the safety of nuclear-powered ships today. Roderic Alley, a retired Associate Professor of Political Science, for instance, thinks that ‘the Somers Report is right. There’s a mythology about some of this which is ... often exploited, maybe maliciously, by people who want to beat up the issue and raise it out of perspective.’<sup>31</sup> Former Minister of Defence Max Bradford does not believe people have ‘become any more educated at all ... I think, if anything, the overall level of knowledge about these sorts of issues is probably reduced.’<sup>32</sup> Ewan Jamieson put it quite bluntly: ‘Governments can get away with nationally damaging policy planks only when the general public is mis- or under-informed.’<sup>33</sup> Thus, a certain lack of knowledge about nuclear-powered ships in the population further complicates an already complex discussion.

### *Safe or Not Safe, that is the Question*

Whether the probability of an accident is low or not, people in favor of maintaining the ban on nuclear-powered ships contend that accidents do happen. As Bunny McDiarmid indicated, ‘being nuclear-powered doesn’t make you immune from accidents at sea nor from human error. It just adds a completely different dimension to the kind of accident or the potential accident and consequences you could have.’<sup>34</sup> Minister of Foreign Affairs and Trade Phil Goff agrees. He finds that ‘you could not rule out an accident involving human error or even perhaps malfunction.’<sup>35</sup> Therefore, ‘the prospects of there being ... an accident involving a nuclear-powered ship

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<sup>30</sup> Ibid, p. 159.

<sup>31</sup> Interview with Roderic Alley, retired Associate Professor of Political Science, Wellington, 17 February 2005.

<sup>32</sup> Interview with Max Bradford, former Minister of Defense, Wellington, 13 January 2005.

<sup>33</sup> Personal Communication with Ewan Jamieson, retired Chief of Defense Staff Air Vice Marshall, 10 February 2005.

<sup>34</sup> Interview with Bunny McDiarmid, op. cit.

<sup>35</sup> Interview with Phil Goff, Minister of Foreign Affairs and Trade New Zealand, Auckland, 11 March 2005.

... are very small but the consequences of an accident, should one occur, are very large.’<sup>36</sup> As Peter Wills, an Associate Professor of Physics and member of the Centre for Peace Studies, stated, ‘the point is not the risk. The point is the hazard.’<sup>37</sup> In the end, ‘mathematics means little to capricious reality.’<sup>38</sup> This clearly shows that a number of people, while admitting that the risk of an accident is low, urge people to keep in mind the potential outcome of an accident when considering the future of the ban on nuclear-propelled ships.

Malfunction and human error are not the only causes that could potentially lead to a reactor accident. Nick Wilson, the chairperson of the International Physicians for the Prevention of Nuclear War (New Zealand), suggested to remember that an attack on a nuclear-powered ship with conventional weapons that ‘led to a reactor breach, could make it a sort of a radioactive dispersion weapon.’<sup>39</sup> He also pondered the possibility that ‘flying a plane with the right amount of fuel or explosives into a warship could potentially lead to a reactor breach.’<sup>40</sup> Hon. Phil Goff also takes the problem of terrorism into account. He argued that there was a ‘safety factor involving terrorism. If the terrorists were able to blow a hole in the side of the USS *Cole* in the Yemen ... you couldn’t rule out that a terrorist attack would not be possible when ... a nuclear vessel was harbored somewhere else in the world.’<sup>41</sup> Both Phil Goff and Nick Wilson admit that the chance of any severe terror induced accidents in New Zealand is extremely low. Nevertheless, they feel it should be part of the consideration about the general safety of nuclear-powered vessels.

The case of New York City is often cited as an example of an American city where nuclear-powered vessels are not allowed to visit for safety reasons. Bunny McDiarmid wrote in a 2003 newspaper article that, ‘ironically, the US has restrictions on the ports its own nuclear vessels can visit, such as New York. Why? Safety.’<sup>42</sup> The Deputy Head of Mission of the U.S. Embassy in Wellington, David Burnett, however, denied that New York City prohibits visits by nuclear-propelled vessels. While acknowledging the movement that sought to make the city nuclear-free in the late 1970s and early 1980s, he stated that ‘it was illegal for New York to do that.

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<sup>36</sup> Ibid.

<sup>37</sup> Peter Wills, quoted in ‘Safe or Sorry? Nuclear Salvoes,’ *New Zealand Herald*, 16 November 1991.

<sup>38</sup> Ibid.

<sup>39</sup> Interview with Nick Wilson, Chairperson of the International Physicians for the Prevention of Nuclear War (NZ), Wellington, 10 February 2005.

<sup>40</sup> Ibid.

<sup>41</sup> Interview with Phil Goff, op. cit.

<sup>42</sup> Bunny McDiarmid, ‘SOAPBOX/Should New Zealand’s Anti-Nuclear Policy Be Relaxed?’ *Sunday Star Times*, 17 August 2003.

New York's ports are federally funded.'<sup>43</sup> After further investigation, Kevin Clark, a preparedness specialist for the city of New York explained that

during the 1980's, there was a local attempt in New York to prevent access to the Port of New York by any nuclear powered vessel. This issue arose in connection with an attempt to reinstate a local military port that, to date has not been successful. After checking further, it appears that while there is no Federal or State level preclusion on such vessels; as a general practice, no such vessels come into the Port as there are no military docking facilities for such vessels.<sup>44</sup>

Thus, despite allegations to the contrary, safety does not appear to be the reason why nuclear-powered vessels do not visit the port of New York City.

As a result of concerns about safety, some people interviewed for this study said that they would not feel safe if nuclear-powered vessels were allowed to return to New Zealand ports. Alyn Ware, the International Coordinator for the Parliamentary Network for Nuclear Disarmament and International Consultant for the Lawyers' Committee on Nuclear Policy and the Disarmament and Security Centre, for instance, explained that 'the radiation, if it was released, it's still incredibly dangerous. So no, I wouldn't feel safe.'<sup>45</sup> Bunny McDiarmid would also consider it dangerous if such ships came back to New Zealand. She argued that 'accidents happen on ships. And the IMO [International Maritime Organization] would tell you from its statistics that 80 percent of them happen because of human error.'<sup>46</sup>

Associate Professor Roderic Alley, on the other hand, feels that nuclear-propelled ships are 'safe. In an uncertain world ... you don't have a problem with that.'<sup>47</sup> Dr. Jon Johansson, a lecturer of Political Science at Victoria University in Wellington, even voiced apparent enthusiasm for the idea of nuclear-powered ships coming back to New Zealand. He said: 'I would dance in there, around their propellers and swim around there and if I had children I would throw them in there as well. I mean, I've seen the research. It's ... ridiculous how this has come to pass.'<sup>48</sup> Moreover, Ewan Jamieson made clear that he has 'never had any concerns about the safety aspects of visits by US or British nuclear powered vessels and would certainly have none in the fu-

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<sup>43</sup> Interview with David Burnett, Deputy Head of Mission of the U.S. Embassy in New Zealand, Wellington, 22 February 2005.

<sup>44</sup> Personal Communication with Kevin Clark, Preparedness Specialist for the City of New York, 14 April 2005.

<sup>45</sup> Interview with Alyn Ware, International Coordinator for the Parliamentary Network for Nuclear Disarmament and International Consultant for the Lawyers' Committee on Nuclear Policy and the Disarmament and Security Centre, Wellington, 7 January 2005.

<sup>46</sup> Interview with Bunny McDiarmid, *op. cit.*

<sup>47</sup> Interview with Roderic Alley, *op. cit.*

<sup>48</sup> Interview with Jon Johansson, Lecturer of Political Science, Wellington, 18 February 2005.

ture. In both navies the safety records are exemplary.’<sup>49</sup> This variety of opinions shows that, still today, there is little consensus over whether nuclear-powered ship visits would be safe.

Nevertheless, a number of researchers claim that there are some clear indications based on past experience that there should be little reason to worry about severe accidents involving nuclear-propelled vessels. In Ewan Jamieson’s opinion, ‘the very recent collision of a [U.S. Navy] USN nuclear powered submarine with an uncharted undersea geographic feature while travelling at its cruising speed of, say, 45 knots is an excellent demonstration of how robust the construction and safety measures are.’<sup>50</sup> The U.S. Navy underlines that its nuclear-powered vessels are designed to withstand attacks in case of war. As U.S. Admiral K. R. McKee stated in a hearing in the U.S. House of Representatives in 1984, ‘we cannot afford a ship that could become a greater hazard to the crew than to the enemy if it sustained battle damage.’<sup>51</sup> Owen Wilkes, a renowned New Zealand peace activist, made a similar point in a speech given at the University of Auckland in 1993. He contended that ‘you can flood, sink, burn, crash, collide, wreck and blow up nuclear vessels without any radioactivity release.’<sup>52</sup> He went on to say that

the current semi-official prediction of a serious accident once every 10 000 years of reactor operation is and will remain reasonably valid. Assuming that nuclear ships are unlikely to ever be in our ports more than 3 ½ days a year, this works out to one accident every million years in New Zealand. If we are worried about this prospect, then we should be far more worried about the prospect of Lake Taupo erupting the way it did in 185 AD, when an area 90 km in diameter centred on Taupo was devastated. If we are worried about low-level releases, then Wairakei geothermal field gives us more cause for worry than US nuclear ships. We should start campaigning for a volcano-free zone.<sup>53</sup>

Coming from a leading peace activist and long-term opponent of nuclear-powered ship visits, this argument carries quite a bit of weight.

### *Beyond Safety*

Regardless of those issues, several people who have spent significant time scrutinizing the nuclear-free legislation as a whole and the ban on nuclear-powered ships in particular have come

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<sup>49</sup> Personal Communication with Ewan Jamieson, op. cit.

<sup>50</sup> Ibid.

<sup>51</sup> Admiral K. R. McKee, US House of Representatives, Committee on Armed Services, Subcommittee on Seapower and Strategic and Critical Materials, *Defense Department Authorization and Oversight – Hearings on H.R. 1872, (DoD Authorization of Appropriations for FY 1986)*, 6 March 1986, quoted in The Senate Standing Committee on Foreign Affairs, Defence and Trade, op. cit. p. 128

<sup>52</sup> Speech by Owen Wilkes, Centre for Peace Studies Seminar held at the University of Auckland, 3 July 1993.

<sup>53</sup> Ibid.

to the conclusion that safety of such ships is really not the main concern of the anti-nuclear movement. But if safety is not the central reason for prohibiting nuclear-powered ships from accessing New Zealand ports, then what is? Robert White holds part of the answer to that question. He asserted that

the real point to remember is that for many New Zealanders safety is not the main issue in relation to [nuclear-powered vessel] NPV visits. These warships, whether they are 100% safe or not, are major symbols of nuclear war-fighting strategies that we reject through our legislation, and of military nuclear systems with terrible environmental records that we do not wish to support in any way.<sup>54</sup>

Nicky Hager agrees that ‘the main issues concerning nuclear (ie powered) ships for most people concerned militarism and nuclear weapon strategies in the reintensifying cold war at that time.’<sup>55</sup> In his opinion, ‘the definition of the issue as primarily about safety came, primarily, from opponents of the nuclear free policy and independent foreign policies. I have always viewed this as a political tactic to atomise a broad policy position and try to separate off a bit as a step to undermining the whole.’<sup>56</sup> As a result of assertions such as this, the debate about the safety aspect of nuclear-propelled vessels becomes irrelevant in some respect. Although some people insist that nuclear-powered ships are not safe, most seem to limit this argument today to the remote possibility of a terrorist attack or natural disaster that could wreak havoc on such a ship and lead to radioactive leakage.

Besides, the New Zealand Government is more concerned about the problem associated with nuclear waste rather than safety. As Foreign Minister Phil Goff explained, ‘the risk is not the predominant factor. In a sense, the factor that ... is involved in ... our ongoing concern with nuclear power is we still haven’t worked out a very good way of dealing with nuclear waste.’<sup>57</sup> The Somers Report addressed the problem of nuclear waste quoting H.W. Lewis who claimed in his book *Technological Risk* that ‘the spectre of high-level waste remaining extremely radioactive for hundreds of thousands of years is just fiction.’<sup>58</sup> His research showed that ‘deep burial of high level waste is a political problem only. Lewis argued that the actual risk posed by this buried waste is “ridiculously low...The risk is as negligible as it is possible to imagine...It is embarrass-

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<sup>54</sup> Speech by Robert White, Centre for Peace Studies Seminar held at the University of Auckland, 3 July 1993.

<sup>55</sup> Personal Communication with Nicky Hager, Researcher and Writer, 10 April 2005.

<sup>56</sup> Ibid.

<sup>57</sup> Interview with Phil Goff, op. cit.

<sup>58</sup> H.W. Lewis, *Technological Risk*, 1990, quoted in Special Committee on Nuclear Propulsion, op. cit. p. 166.

ingly easy to solve the technical problems.”<sup>59</sup> However, the risk of nuclear waste cannot be dismissed as easily in the political as well as in the technical debate. The problem related to the generation and dumping of nuclear waste has been part of the debate around making New Zealand nuclear-free from the very beginning. Therefore, the *New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act* prohibits the dumping of nuclear waste on New Zealand soil and in the country’s internal waters. The danger posed by nuclear waste and the political problems that are associated with it go beyond the scope of this study and would have to be examined separately. Suffice it to say that there is a potential problem with nuclear waste which would have to be carefully scrutinized by decision-makers.

The discussion of the safety aspect presented in this section shows that even today, some people feel that it is too risky to allow nuclear-powered ships back into New Zealand ports. On the other hand, many believe that the safety record and the low probability of a reactor accident are reason enough not to be concerned about severe accidents involving the release of radioactivity. As has been pointed out, even skeptics acknowledge that an event leading to a radioactive release is highly unlikely. The essential argument of people opposed to such ships returning to New Zealand is that accidents can happen while those who would not mind if they came back point out that such accidents are unlikely. Even though this appears to be a minor difference of opinion, it results in a greatly different perception of the desirability of reassessing Section 11 of the nuclear-free legislation. Notwithstanding that debate, some individuals in the peace movement have concluded that safety is not the main rationale for maintaining the ban on nuclear-powered ships. Consequently, subsequent sections in this chapter will explore other reasons.

## Symbolism and the Morality of the Nuclear-Propelled Ships Ban

New Zealand’s ban on nuclear weaponry was a symbolic gesture expressing New Zealand’s disgust with nuclear proliferation and its concern for the future of mankind. When the nuclear-free policy and later the legislation were implemented, the ban on nuclear-powered ships was discussed much less and was mostly portrayed in terms of the safety risk that the naval nuclear plants posed. At the same time, however, people opposed to continued nuclear ship visits argued that nuclear-powered ships were not only dangerous but were closely linked to the nuclear military infrastructure. Nuclear-powered ships are all capable of carrying nuclear weapons and

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<sup>59</sup> Ibid.

were designed to enhance nuclear deterrence through their capability to cover long distances and remain at sea for long times. Therefore, members of the anti-nuclear movement contend that nuclear propulsion cannot be separated from nuclear arms.

Arguably, when the United States decided to remove the nuclear weaponry from their surface warships and attack submarines, only the safety aspect remained as an impediment to a resumption of nuclear-powered ship visits. However, Robert White does not consider this to be a valid standpoint. In his opinion,

nuclear-powered vessels were developed solely as part of the nuclear infrastructure to allow the U.S. to deploy nuclear weapons in very remote places and keep them there for long times without too much maintenance and refueling ... of the vessels. And so, if we're going to reject nuclear weapons, we automatically reject nuclear-powered warships.<sup>60</sup>

As a result, the ban on nuclear-powered ships remains relevant 'as long as nuclear weapons are playing their part in the world.'<sup>61</sup> Thus, the American decision to remove the nuclear armament from their ships did not change anything because nuclear weapons still remain deployed in the deterrence policy, albeit off the ships. In Dr. White's opinion, any move towards repealing 'Section 11 would ... say to the world [that] our nuclear-free policy has ... essentially lost its basic validity.'<sup>62</sup> According to this argumentation, the ban on nuclear arms and nuclear-powered ships are inseparable. This means that nuclear-powered ships remain a symbol of the American nuclear war fighting capability regardless of whether they are nuclear-armed or satisfactorily safe.

### *The Influence of Symbolism*

Thus, following this line of argument, the symbolic character of the ban on nuclear-powered ships is more important than safety considerations. As Roderic Alley confirmed, 'this is the real issue: nuclear disarmament, not safety.'<sup>63</sup> In addition to the nuclear-powered ships' capability to transport and launch nuclear weapons, Alyn Ware even finds that there is a proliferation risk involved with naval nuclear propulsion. According to his explanation, 'if you have nuclear power plants, for example, you can create the fissile material for a nuclear bomb.'<sup>64</sup> He explained

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<sup>60</sup> Interview with Robert White, op. cit.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Interview with Roderic Alley, op. cit.

<sup>64</sup> Interview with Alyn Ware, op. cit.

that ‘the fact that nuclear power was linked with nuclear weapons flowed over to the reactors on the ships even if it wasn’t those specific ones that provided the proliferation risk.’<sup>65</sup> Nick Wilson furthered this point by maintaining that ‘the New Zealand legislation has a powerful symbolic value as a disarmament measure and any change of that would actually potentially erode that symbolic value.’<sup>66</sup> Foreign Minister Phil Goff stated clearly that Section 11 ‘won’t be repealed ... because it is symbolic of New Zealand’s long standing opposition to ... nuclear weapons of mass destruction, and also the desire to keep the country generally nuclear-free.’<sup>67</sup> This shows that people are still concerned about the danger of naval nuclear reactors and feel that the symbolism of the New Zealand nuclear-free stand would be damaged if the ban on nuclear-powered ships was modified or even repealed. Hence, as Robert White argued, the ban on nuclear-powered ships is an integral part of the *Nuclear Free Act* and cannot be considered independently of the ban on nuclear arms.

Taking this dimension of the argumentation into account, it can be argued that the Somers Report missed the mark in as much as it solely concentrated on the safety of naval nuclear reactors without taking the symbolism of the ban into account. Robert White even went so far as to say that ‘there is no factual side’<sup>68</sup> to the debate for and against the ban on nuclear-powered ships. Although Dr. White acknowledges that safety is part of the debate, the overriding reason to keep the ban on nuclear-powered ships in place is the symbolism of the legislation. Associate Professor Peter Wills even sees the ban on nuclear-powered ships as ‘a symbol of opposition to imperial military power.’<sup>69</sup> According to that interpretation, nuclear-powered ships not only represent the nuclear military stance but the American military predominance in the world in general. Therefore, whether or not those ships are safe or not is irrelevant because as long as nuclear weapons exist, these ships continue to represent the American nuclear posture and should be prohibited as a result.

As Michael Bassett argued, ‘New Zealanders love symbols.’<sup>70</sup> According to his point of view, ‘ever since 1991, the [nuclear] arms have been off the vessels. But New Zealanders seldom get themselves involved in ... the fine print and details. We’re a great nation at reaction emotio-

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<sup>65</sup> Ibid.

<sup>66</sup> Interview with Nick Wilson, op. cit.

<sup>67</sup> Interview with Phil Goff, op. cit.

<sup>68</sup> Interview with Robert White, op. cit.

<sup>69</sup> Interview with Peter Wills, Associate Professor of Physics and Member of the Centre for Peace Studies, Auckland, 3 March 2005.

<sup>70</sup> Interview with Michael Bassett, former Minister of Health and Political Historian, Auckland, 14 March 2005.

ally and the government knows that and it has really just played along.’<sup>71</sup> Robert White, on the other hand, does not ‘see it as an emotional debate while, in part, on the U.S. side it may be. For the ... New Zealand people I don’t think it’s emotional.’<sup>72</sup> Emotionalism is not necessarily a bad thing, of course. Bunny McDiarmid, for example, feels that ‘emotion is actually quite a good thing in terms of survival ... And it is part of the debate, how people feel about their [country].’<sup>73</sup> Therefore, emotionalism is as much part of the debate as symbolism, which appears to be a major factor in maintaining the law in its present form. Besides, Michael Bassett thinks that ‘not only the symbolism is important but nostalgia is, too. And we’re a wonderfully nostalgic country.’<sup>74</sup> Bunny McDiarmid described that the nuclear-free legislation ‘is something that a lot of New Zealanders fought for’<sup>75</sup> and oppose a change to the legislation for that reason.

Indeed, New Zealanders take pride in what is portrayed as a noble struggle that resulted in the banning of nuclear ship visits. Newspaper headlines such as ‘Crews Ready to Risk Arrest’<sup>76</sup> expressed the determination of anti-nuclear protesters to continue protesting on the harbor to prevent nuclear ships from entering even if it led to their arrest. Similarly, a 1983 headline proclaimed that ‘Death-Defying N-Protesters Win Applause.’<sup>77</sup> Therefore, some protesters in New Zealand sought to make their oppositional stance to nuclear ship visits and nuclear weapons proliferation known regardless of the consequences of their actions. The perseverance of the Peace Squadrons protesting on the harbors whenever a nuclear ship arrived in New Zealand becomes clear in the statement of then-spokesman Jim Keogh. He explained in 1983 that ‘as far as I am concerned they (the Government) can bring one [nuclear ship] in once a week and there will still be somebody out there to oppose it.’<sup>78</sup> In the end, the protests paid off when the Labour Government declared that New Zealand would be a nuclear-free country thenceforth. Thus, the inspiring memories of the time when New Zealanders were out protesting on the harbor against nuclear-powered and nuclear-armed ship visits still play a role today.

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<sup>71</sup> Ibid.

<sup>72</sup> Interview with Robert White, op. cit.

<sup>73</sup> Interview with Bunny McDiarmid, op. cit.

<sup>74</sup> Interview with Michael Bassett, op. cit.

<sup>75</sup> Interview with Bunny McDiarmid, op. cit.

<sup>76</sup> ‘Crews Ready to Risk Arrest,’ *New Zealand Herald*, 18 January 1979.

<sup>77</sup> ‘Death-Defying N-Protesters Win Applause,’ *Auckland Star*, 21 November 1983.

<sup>78</sup> ‘Join N-Warship Debate, Defence Minister Told,’ *Auckland Star*, 31 October 1983.

### *The Power of Morality*

Closely linked to symbolism is the notion of morality. As Owen Wilkes stated in 1993, opposition to nuclear-propelled ships ‘should be based on moral opposition to weapons and machines of war rather than pragmatic grounds such as the safety issue.’<sup>79</sup> First, it is helpful to situate the ‘morality’ of the nuclear-free legislation in its historical context. The concept of moral objection to nuclear weaponry is not new. As a matter of fact, morality was one of the reasons why New Zealanders in the late 1970s and early 1980s felt that nuclear-armed ships should no longer come to visit New Zealand ports. Indeed, there was a feeling that New Zealand had an obligation to act morally by banning nuclear weapons to prevent the outbreak of a nuclear war. As the Campaign for Nuclear Disarmament put it in 1975, ‘if small, relatively independent countries such as New Zealand do not show moral leadership toward world peace, there is little hope indeed that mankind will not be annihilated within the next 25 years as is predicted by very knowledgeable experts such as Bernard Feld and A J P Taylor.’<sup>80</sup> This statement shows that morality as a motivation for making New Zealand nuclear-free was already present in the mid-1970s.

The morality argument resurfaced when the Labour Party under David Lange strove to declare the country a nuclear-free zone. People in the anti-nuclear movement such as Ray Galvin declared that members of the peace movement were not simply afraid of nuclear war but had

another, more dominating motive, [which] is *morality*. The buildup of nuclear weapons is one of the most indecent and immoral projects the human race has ever undertaken. It wastes the world’s scarce resources and enables a few powerful nations to hold the entire human race to ransom [emphasis in original].<sup>81</sup>

The anti-nuclear policy and later the legislation were designed as a symbolic stand to influence states with nuclear weapons arsenals to disarm their nuclear capabilities. The peace movement emphasized the inherent immorality of nuclear weapons and the states possessing them and contrasted that with New Zealand’s morality if it went ahead and banned such weapons. This is also stressed in a Foundation for Peace Studies publication that argued that ‘there is pride in New Zealand’s apparent willingness to take a moral and principled stand irrespective of American dis-

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<sup>79</sup> Alastair Morrison, ‘A Heretic in the Peace Movement,’ *Dominion Post*, 5 June 1992.

<sup>80</sup> Robert Mann et. al., *A Nuclear New Zealand??: A Public Report on the U.S. Government’s Proposal to use New Zealand Ports for its Nuclear-Powered Warships*. Auckland, New Zealand Campaign for Nuclear Disarmament, 1975, p. 12.

<sup>81</sup> Ray Galvin, *A Nuclear-Free New Zealand ...Now! A Practical Handbook for New Zealand Peacemakers*. Auckland, Belmont Publishers, 1984, p. 43.

pleasure and irritability.’<sup>82</sup> Consequently, Nicky Hager believes that if Section 11 were removed and a nuclear-powered warship came to visit, ‘people would feel unsafe (and uneasy, disappointed, indignant etc) because of the visit associating New Zealand with the very real policie[s] and strategies that the vessel was used for.’<sup>83</sup> Hence, the portrayal of the nuclear-free legislation as a moral decision resonates with New Zealanders.

Robert Green, the Co-Coordinator of the Peace Foundation’s Disarmament and Security Centre, mentioned an interesting paradox. He quoted Jonathan Schell as saying that ‘the fissure that nuclear weapons have created between our political selves and our moral selves, [as a result of which] we are compelled to choose between a position that is politically sound but immoral and one that is morally sound but politically irrelevant.’<sup>84</sup> This statement shows the difficulty of political opposition to nuclear weapons and that such opposition is largely ineffective or irrelevant especially if it comes from a country without much political leverage such as New Zealand.

Members of the peace movement advocating the continuation of the ban on nuclear-powered ships on symbolic or moral grounds believe this ban will help New Zealand to promote nuclear disarmament and abolition. In the end, the debate comes down to a question of definition: What does it actually mean to be ‘nuclear-free?’ And, if a country wants to express genuine opposition to nuclear arms, what needs to be done? The 1986 Corner Report explored this problem of definition in detail. The Corner committee established eight nuclear-free levels:

*Level 1. No stationing of nuclear weapons or nuclear power generators in New Zealand. (This has always been New Zealand’s position.)*

*Level 2. No joint facilities that play a direct part in the nuclear strategy. (This has always been New Zealand’s position.)\**

*Level 3. No transit of nuclear powered or armed vessels or aircraft through or over New Zealand sea or land, and no stopping in New Zealand harbours or airports.*

*Level 4. No training or exercising of our armed forces with a nuclear weapon state.*

*Level 5. No installations in New Zealand which have any connection with the military operations of a nuclear country.\*\**

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<sup>82</sup> Stephen Levine et. al., *Waging Peace Towards 2000*. Auckland, Foundation for Peace Studies, 1995, p. 33.

<sup>83</sup> Personal Communication with Nicky Hager, op. cit.

<sup>84</sup> Jonathan Schell, *The Abolition*, 1984, quoted in Robert Green, *The Naked Nuclear Emperor: Debunking Nuclear Deterrence: A Primer for Safer Security Strategies*. Christchurch, The Raven Press, 2000, p. 19.

*Level 6. No alliances with a nuclear state.*

*Level 7. No alliance or military relationship with a country (e.g. Australia) which has an alliance with a nuclear state or provides facilities which assist a nuclear strategy.*

*Level 8. No equipment or units in New Zealand Armed Forces which could in any circumstances assist a nuclear state [italics in original].*<sup>85</sup>

So far, New Zealand has adopted the first three levels of being nuclear-free, including the banning of nuclear-powered weapons on Level 3. The Corner Report remarked that

many of the people making submissions argued that a nuclear free New Zealand must incorporate the first six elements. A smaller number argue that it requires all eight elements of rejection. Others may stop with the second element, arguing that even without the ban on ship visits New Zealand territory is nuclear free. New Zealand's policy is now at Level 3. No other member of the Western alliance has gone beyond Level 2.<sup>86</sup>

This clearly shows that it is a matter of strictness of moral discrimination of what elements of rejection are necessary to classify a country as 'nuclear-free.' It is up to individual interpretation how many elements to adopt to truly further the cause of disarmament and potentially the eventual abolition of nuclear weaponry.

Obviously, nuclear-powered warships are part of a larger military apparatus which also includes nuclear arms. As a result, one could argue that a continued rejection of nuclear-propelled vessels indirectly serves the larger cause of opposition to nuclear arms. But what about foreign air force planes that have never been prohibited from entering New Zealand? Why is the ban on nuclear-powered warships so essential to New Zealand's opposition to nuclear weapons when other war-related machinery regularly passes through New Zealand without endangering the country's anti-nuclear stance? Although military airplanes were not solely developed for the nuclear war-fighting infrastructure, they too are part of a military apparatus which involves nuclear weaponry. In that sense, the ban on nuclear-powered ships based on its symbolic meaning for nuclear disarmament seems selective.

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<sup>85</sup> Defence Committee of Enquiry, *Defence and Security: What New Zealanders Want*. Wellington, The Committee, 1986, pp. 62-63.

<sup>86</sup> *Ibid*, p. 63.

## Nuclear-Free: A Question of National Identity

The *Nuclear Free Act* is not only a symbol of New Zealand's political and moral opposition to nuclear arms. In fact, over the years, New Zealand's nuclear-free legislation has become widely regarded as New Zealand's declaration of independence after decades of following decisions made by its more powerful American ally and its British mother country. There is pride many New Zealanders take in being nuclear-free. Therefore, the symbolism described in the previous section does not only apply to the opposition to nuclear weaponry. Rather, it is a twofold issue affecting both New Zealanders' perception of their nuclear-free gesture by other countries as well as New Zealanders' perception of their own country and identity. This section will examine the subject of national pride in relation to the ban on nuclear-powered ships. It will analyze how New Zealanders would perceive a potential change in the ban on nuclear-powered ships and how it could affect their perception of national identity.

Prior to New Zealand becoming an officially nuclear-free country, some people thought that New Zealand was not sufficiently independent. This is reflected in a statement by former Prime Minister Norman Kirk many years before the Labour Government under David Lange came to power. Kirk declared that 'all too often we have heard American policy announced in Wellington with a New Zealand accent.'<sup>87</sup> Thus, New Zealand was about to embark on a journey to define itself as a nation independent from its larger and more powerful allies. In the wake of the 1984 election, politicians like Mike Moore were quoted as saying that New Zealand will 'be a good friend and a good ally but never again a good colony.'<sup>88</sup> This rhetoric struck a cord with New Zealanders and drove the message home that New Zealand was entering a new era of nationhood with its anti-nuclear policy. The perception was that New Zealand had finally made a decision that was not imposed on New Zealand by a foreign government. As a result, David Lange explained that 'our assertion of independence had lifted our spirits as a country. Our nuclear-free policy was becoming part of our national identity.'<sup>89</sup> Consequently, the nuclear-free legislation assumes a very important position with regard to New Zealanders' perception of their country and themselves.

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<sup>87</sup> Stuart McMillan, *Neither Confirm Nor Deny: The Nuclear Ships Dispute between New Zealand and the United States*, quoted in Eleanor Hodges, 'David and Goliath in the Ocean of Peace: Case Studies of "Nuclearism," "Nuclear Allergy" and "the Kiwi Disease."' , Unpublished PhD Thesis, University of California at San Diego, 1990, op. cit. p. 141.

<sup>88</sup> Rt. Hon. Mike Moore, *Evening Post*, 11 October 1984, quoted in Nicola Costello, 'New Zealand's Nuclear-Free National Identity: The Evolution of an Image, 1970-1995.', Unpublished MLitt Thesis, University of Auckland, 1997, p. 77.

<sup>89</sup> David Lange, *Nuclear Free: The New Zealand Way*. Auckland, Penguin, 1990, p. 201.

New Zealand's stand in defiance of nuclear weapons and American pressure gave New Zealanders a new feeling of national self. Indeed, 'within a year New Zealand's anti-nuclear policy had assumed a whole new meaning; it had come to represent New Zealand's democratic and sovereign right to determine its own interests and formulate its own security policies without outside interference.'<sup>90</sup> As the *Dominion Sunday Times* observed, 'Labour has managed to translate nuclear fears into non-nuclear pride for many New Zealanders.'<sup>91</sup> For that reason,

New Zealand becoming nuclear free should not be seen as an aberration as some have suggested, but should be seen in its historical context as a further manifestation of New Zealand's increasing maturity, reflecting an increasing independence in foreign policy, and regional orientation in defence and security policy.<sup>92</sup>

This shows that the nuclear-free legislation cannot be considered independently of the factor of national identity. The two issues have become inseparably linked over the years.

The National Government under Jim Bolger failed to appreciate the extent to which nuclear-free had become a part of New Zealanders' way of life. This became clear when the Somers Committee went about its research on the safety of nuclear-powered vessels. Kevin Clements was one of the authors who concluded at the time that 'there may be irrational elements to it, but New Zealand's Nuclear Free Zone Act was a declaration of independence.'<sup>93</sup> As a result,

amending this piece of legislation was perceived by many New Zealanders as amounting to the damage or even the destruction of New Zealand's nuclear-free image. Many New Zealanders were not about to let that happen because this image had become a focus of deep and widespread national pride.<sup>94</sup>

There can be little doubt that many New Zealanders today still see nuclear-free as an important part of being a New Zealander. As Nicky Hager described, the nuclear-free legislation is 'a way of life in the sense of having ongoing significance as a sign of wanting independent and ethical foreign policies.'<sup>95</sup> However, to what extent would a possible removal or modification of the ban on nuclear-powered ships alter New Zealand's nuclear-free identity and New Zealand's image as

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<sup>90</sup> Costello, op. cit. p. 42.

<sup>91</sup> 'Nuclear Ban Brings Feeling of Power to the People,' *Dominion Sunday Times*, 2 August 1987.

<sup>92</sup> Robert White, *Nuclear Free New Zealand: The Policy in Action*. Working Paper No. 9, Auckland, Centre for Peace Studies, University of Auckland, 1999, p. 129.

<sup>93</sup> Kevin Clements, 'Kiwi No-Nuke Policy at Risk,' *Bulletin of the Atomic Scientists*, v.48, no.1, 1992, p. 7.

<sup>94</sup> Costello, op. cit. p. 109.

<sup>95</sup> Personal Communication with Nicky Hager, op. cit.

a nuclear-free country? After all, it is just one part of the nuclear-free legislation and, regardless of any changes to Section 11, the ban on nuclear arms would remain unchanged.

Nevertheless, the ban on nuclear-powered ships has been portrayed as an integral part of New Zealand's oppositional stance towards nuclear weapons as the previous section illustrates. As Jon Johansson put it, this is the result of a 'fantastic exercise of leadership'<sup>96</sup> on the part of David Lange. Johansson argued that Lange 'rhetorically framed it beautifully. He inculcated that policy into our sort of political culture.'<sup>97</sup> ACT Party member Ken Shirley believes that 'we have spent the last twenty years now almost rather than educating people, indoctrinating them into our mantras.'<sup>98</sup> Ewan Jamieson agrees that many New Zealanders 'have been indoctrinated into believing that our nuclear exclusion legislation is an all important expression of our sovereign independence and would oppose its annulment for that reason alone.'<sup>99</sup> Twenty years on, the feeling that the nuclear-free sentiment is part of the New Zealand way of life seems to have strengthened. Roderic Alley stated that 'the longer the legislation has remained in place, the more it's become kind of inculturated.'<sup>100</sup> Whenever the debate came up in New Zealand to modify or repeal the ban on nuclear-powered ships, there were always people arguing that any such move would damage this nuclear-free image.

Moreover, it is important to consider how New Zealanders would perceive a policy change. Phil Goff explained that New Zealanders feel pressured by the United States to finally remove Section 11. As a result, 'the more people try to twist our arms to tell us what we should do, the less receptive we as New Zealanders traditionally have been to ... such pressures. So it becomes, to a degree, an issue of sovereignty ... as well as an issue of disarmament and environmental concern.'<sup>101</sup> Consequently, Robert White feels that a repeal of Section 11 would tell people that 'we've given in, again, to the U.S. like a lot of other countries already did years and years ago and New Zealand is no longer standing tall as a completely nuclear-free country.'<sup>102</sup> This is seconded by Alyn Ware who thinks that any move towards a repeal or modification of the ban on nuclear-powered ships would be seen as giving in to the demands of the United States.<sup>103</sup> This is also Bunny McDiarmid's opinion who argued that amending or repealing Section 11 'would be

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<sup>96</sup> Interview with Jon Johansson, op. cit.

<sup>97</sup> Ibid.

<sup>98</sup> Interview with Ken Shirley, ACT Party MP, Auckland, 4 December 2004.

<sup>99</sup> Personal Communication with Ewan Jamieson, op. cit.

<sup>100</sup> Interview with Roderic Alley, op. cit.

<sup>101</sup> Interview with Phil Goff, op. cit.

<sup>102</sup> Interview with Robert White, op. cit.

<sup>103</sup> Interview with Alyn Ware, op. cit.

perceived as caving in to the U.S. because that's the only context in which we've had the debate or the discussion or the only context that the National Party ever raises it in.'<sup>104</sup> Similarly, Nicky Hager thinks that a removal of Section 11 'would be a very public gesture of capitulation to the US pressures. It would harm this aspect of many NZers sense of pride and national identity arising from the policy.'<sup>105</sup> This shows that there is a strong possibility that a change of legislation could impact negatively on New Zealanders' perception of themselves and their country.

Others, however, feel that how a change of the ban on nuclear-powered ships is seen depends on how the issue is presented. Denis McLean, for example, points out that he does not 'think the Americans have been demanding anything of us. They've in effect ... shrugged and said: "Fine, off you go."<sup>106</sup> Ewan Jamieson agrees with that analysis.<sup>107</sup> Moreover, Ken Shirley completely dismissed the sentiment that a policy shift would be perceived as giving in to American demands. In his opinion, 'it's almost a terrible admission of inferiority to actually even suggest that.'<sup>108</sup> Another parliamentarian, who would like to remain anonymous, stated that the credibility of the ban on nuclear weapons is actually damaged by Section 11.<sup>109</sup> Therefore, removing Section 11 would improve the nuclear-free legislation and would not come as a result of foreign pressure but because of a decision arrived at by politicians domestically. Politicians might argue that the ban on nuclear-powered ships does not advance the cause of nuclear disarmament and that there is little to worry about in terms of safety. In the end, the impact a repeal of Section 11 would have on New Zealand's nuclear-free identity and perception as a sovereign country depends on the domestic political circumstances and the reasons given for a repeal.

In any case, the symbolic status of the nuclear-free legislation for New Zealanders cannot be dismissed. It is a matter of national identity for many and any discussion about the advantages and disadvantages of repealing Section 11 has to take that domestic factor into account. Although this is not an issue that can be discussed easily in scientific terms like the safety issue, it is nevertheless an important dimension that has become part of the New Zealand way of life. In the words of Bunny McDiarmid, 'it's part of the psyche of the country. It's part of ... the way that we're perceived internationally. It's something that people feel in some ways proud about. And

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<sup>104</sup> Interview with Bunny McDiarmid, op. cit.

<sup>105</sup> Personal Communication with Nicky Hager, op. cit.

<sup>106</sup> Interview with Denis McLean, former Secretary of Defence and New Zealand Ambassador to the United States, Wellington, 24 January 2005.

<sup>107</sup> Personal Communication with Ewan Jamieson, op. cit.

<sup>108</sup> Interview with Ken Shirley, op. cit.

<sup>109</sup> Interview with Person X, Parliamentarian, Wellington, 22 February 2005.

that's not a nothing.'<sup>110</sup> This shows the importance of the nuclear-free image for New Zealanders and the sensitivity with which any discussion about the legislation has to be handled. Any change of the ban on nuclear-powered ships would have to involve careful scrutiny so as not to endanger New Zealand's nuclear-free national identity.

### The Clean-Green Image: Dependent on the Ban on Nuclear-Powered Ships?

New Zealanders are very protective of their country's 'clean-green' image in a polluted world. Many connect this image to the legislation that made New Zealand nuclear-free almost 20 years ago. Numerous people argue that any potential alteration of the *Nuclear Free Act* could harm this valuable image which is perceived as beneficial for both tourism and trade. In fact, the 'clean-green' image may have helped New Zealand trade in the past when regular New Zealand labels for overseas sale were replaced with labels proclaiming that the merchandise was produced in a nuclear-free environment. This section will first scrutinize the value of the 'clean-green' image in terms of trade and then assess whether any change to the ban on nuclear-propelled ships would affect the image negatively.

The emergence of New Zealand's 'clean-green' image can be traced to the 1980s. The two events that are associated with the appearance of the image are 'the Rainbow Warrior incident (1985) and the passing of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act (1987).'<sup>111</sup> Nicola Costello asserted in her thesis that 'the phrase "clean, green and nuclear free New Zealand" was ... created by New Zealanders to give expression to this new element of their nations identity.'<sup>112</sup> Therefore, it is not surprising that whenever there was a discussion about reviewing Section 11, some have argued that a repeal of the ban on nuclear-powered ship visits would adversely affect New Zealand's 'clean-green' image. For example, in 1992, when the Somers Committee was working on its report, Glenys Mather of Glendene asked: 'Where is the concern for public opinion, for the safety of the environment, for our clean, green example which has given a little hope to a world in need of radically changing its use of re-

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<sup>110</sup> Interview with Bunny McDiarmid, op. cit.

<sup>111</sup> K. Sanderson et. al., 'Economic Risks and Opportunities from the Release of Genetically Modified Organisms in New Zealand,' Wellington, 2003, quoted in John Knight et. al., 'Trust and Country Image: Perceptions of European Food Distributors Regarding Factors that Could Enhance or Damage New Zealand's Image—Including GMOs,' *University of Otago, School of Business* [University Online] (September 2003)

<<http://divcom.otago.ac.nz/marketing/trustandcountry/trustandcountry.pdf>>, accessed 8 December 2004, p. 20.

<sup>112</sup> Costello, op. c it. p. 79.

sources, and for our children and future generations?’<sup>113</sup> Thus, some New Zealanders would like to maintain Section 11 to protect the ‘clean-green’ image.

From an environmental viewpoint, recent studies have shown that New Zealand is not as clean and green as people portray it to be. As an article in *E: the Environmental Magazine* asserted, New Zealand suffers from ‘choking traffic (especially in the largest city, Auckland, which has London levels of air pollution).’<sup>114</sup> In addition, ‘New Zealand has the second-highest rate of car ownership in the world, and in Auckland that translates to nearly one car for every two people. Only two percent of Auckland’s population uses public transportation, down from 58 percent in the 1950s. That’s a lower rate than Los Angeles.’<sup>115</sup> These figures are quite significant for a country that claims to deserve to be regarded as clean and green compared to other countries. Joanna Wane of the *Sunday Star Times* summed it up: ‘Clean, green and nuclear-free—a cliché, and not always strictly true from an environmental perspective. But it’s almost become shorthand for the way the world sees New Zealand and how we see ourselves.’<sup>116</sup> New Zealand may be a clean and green country, but it is highly questionable whether this is due to New Zealand’s nuclear-free stance. It seems much more likely that a low level of population has kept the country clean and green.

Other authors who have scrutinized New Zealand’s ‘clean-green’ image confirm this analysis. Tom Buhrs and Robert Bartlett concluded in their book *Environmental Policy in New Zealand: The Politics of Clean and Green?* that

New Zealand is a land little affected by industrial pollution, over-population, traffic congestion, noise, urban decay. It is a country associated with national parks, scenic beauty, wilderness areas, beautiful deserted beaches, green pastures and a friendly population – an image which is carefully cultivated in tourism brochures and in our trade promotions.<sup>117</sup>

Their analysis also showed that ‘the clean and green image is and always has been an inflated, if not false, representation of the country’s environmental conditions and awareness.’<sup>118</sup> In 2003, the University of Otago’s School of Business conducted a study entitled ‘Trust and Country: Per-

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<sup>113</sup> Glenys Mather, ‘Nuclear Ships,’ *New Zealand Herald*, 22 August 1992.

<sup>114</sup> Jaime deBlanc-Knowles and Jim Motavali, ‘Clean and Green: New Zealand is a Study in Environmental Contrasts,’ *E: the Environmental Magazine*, v.14, no.3, May/June 2003, p. 22.

<sup>115</sup> Ibid.

<sup>116</sup> Joanna Wane, ‘Nuked,’ *Sunday Star Times*, 9 May 2004.

<sup>117</sup> T. Buhrs and R. Bartlett, *Environmental Policy in New Zealand: The Policy of Clean and Green*, Oxford, 1993, quoted in King et. al., op. cit. loc. cit.

<sup>118</sup> Ibid.

ceptions of European Food Distributors Regarding Factors that Could Enhance or Damage New Zealand's Image – Including GMO.' This study concluded that 'favourable perceptions of New Zealand as a country-of-origin for food products are dependent mainly on confidence and trust in production, hygiene and quality control standards, rather than on diffuse images of "clean green" landscape.'<sup>119</sup> Interestingly, a survey conducted by Massey University in 2001 even found that 42 percent of New Zealanders found that the representation of the 'clean-green' image was a myth.<sup>120</sup> Thus, previous studies have concluded that the 'clean-green' is inflated. A sizeable portion of New Zealanders seems to acknowledge that.

Still, many New Zealanders are convinced that the 'clean-green' image is valuable and is enhanced by the nuclear-free legislation. As such, any amendment to the *Nuclear Free Act* such as a modification of Section 11 could prove harmful to this image. For example, *The Press* quoted Phil Goff as saying that 'nobody suggests that nuclear-powered ships create a huge danger to society but we think they create a potential risk and part of our marketing of New Zealand both for tourism and for trade is our clean green image. That is connected with our non-nuclear status.'<sup>121</sup> However, Jonathan Milne of the *Sunday Star Times* cast doubt on that assertion. He argued that 'despite the popular perception that the nuclear-free policy contributes to New Zealand's clean, green image, and so to trade and tourism, there seems no evidence to back that up.'<sup>122</sup> This claim needs to be investigated more closely.

The 'Trust and Country' study provides very interesting information in this regard. The researchers interviewed 17 European food distributors and asked them about what value they ascribed to various New Zealand attributes like the nuclear-free legislation and the 'clean-green' image. Of the 17 company representatives interviewed, only four were even aware that New Zealand was nuclear-free. Therefore, the researchers found that 'the "Nuclear-Free New Zealand" brand seems rather ineffectual.'<sup>123</sup> As a British respondent explained, New Zealand's nuclear-free legislation '*had very little publicity over here. I think it might be a big thing for New Zealanders but it's sort of like a big noise in a small pond. Issues that are big in New Zealand are miniscule somewhere else [italics in original].*'<sup>124</sup> Furthermore,

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<sup>119</sup> Ibid, p. 3.

<sup>120</sup> Ibid, p. 21.

<sup>121</sup> Phil Goff, quoted in Seth Robson, 'The Cost of NZ's Principles,' *The Press*, 9 October 2002.

<sup>122</sup> Jonathan Milne, 'Troubled Waters,' *Sunday Star Times*, 25 July 2004.

<sup>123</sup> King et. al., op. cit. p. 70.

<sup>124</sup> Ibid, p. 52.

countries having nuclear power generation were still regarded as appropriate countries to import food from, even in a country like Germany where there is an active programme in place to dismantle this means of generation. Respondents did not consider that presence of nuclear power stations in France, for example, had any impact on perceptions of French food or wine.<sup>125</sup>

Hence, if not even land-based nuclear power stations are a factor when it comes to purchasing food products, ship visits by nuclear-propelled vessels are even less likely to bring about any negative effect on New Zealand trade.

As these findings show, New Zealand's 'clean-green' image has little influence over trade. Moreover, few distributors abroad are aware of the nuclear-free legislation which is often alleged to have influenced trade positively through the 'clean-green' image. In addition, even the trade of countries with nuclear power plants was not found to be negatively influenced which shows that there is little concern over the quality of food even if it was grown in the vicinity of a land-based nuclear power plant. Therefore, any potential change to the ban on nuclear-propelled ships would be highly unlikely to have a negative impact on New Zealand trade. Domestically, the 'clean-green' image may suffer as a result of a change to the ban on nuclear-powered vessels. But that would be unlikely to affect overseas trade which is the key concern of New Zealand politicians who are reluctant to review Section 11 as a result. Internationally, however, few people would probably even notice that a change of legislation has occurred.

## Conclusion

In general, this chapter makes evident that there are many dimensions that are connected to the ban on nuclear-powered ships. It is not just a one-sided issue that has to do with whether or not such vessels are safe. Rather, a range of other associations has to be examined to decide whether a continued ban on nuclear-propelled ships is in New Zealand's national interest. As the above discussion shows, the symbolic value of the nuclear-free legislation has to be taken into account. In the end, it is an individual judgment whether a continued ban on nuclear-powered ships will help uphold New Zealand's opposition to nuclear weapons. Moreover, what is moral and what is not is everybody's individual decision and cannot be generalized in strictly moral logic. It is not entirely clear why New Zealand rejects nuclear-powered ships on moral grounds

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<sup>125</sup> Ibid, p. 51.

but allows the entry of foreign military aircraft which could also carry out a nuclear strike much like nuclear-powered vessels. As a result, the validity of the rejection of nuclear-powered ships only on moral grounds is questionable.

In addition, symbolism plays a role in New Zealanders' perception of themselves as a sovereign people. New Zealand's refusal to accept the USS *Buchanan* and to adopt a non-nuclear policy at a time when the world's superpowers were engaged in a dangerous nuclear arms race was, in a way, a demonstration that New Zealand was becoming a more independent country. The ban on nuclear-powered ships is part of that nuclear-free legislation. Consequently, many people are afraid that repealing Section 11 could erode the nuclear-free stance as a whole and, thereby, reduce New Zealand's national independence again. This is an understandable worry and an important factor in the consideration about what should be done with Section 11. Lastly, the 'clean-green' image is yet another argument that has been mentioned numerous times in support of maintaining the ban as it stands. However, the analysis here shows that there is no discernible linkage between the nuclear-propelled ships ban and the 'clean-green' image.

## CHAPTER FOUR

### NUCLEAR-FREE NEW ZEALAND TODAY

Ever since the National Party abandoned the idea to repeal the ban on nuclear-powered ships based on the findings of the Somers Report, there has been very little media attention devoted to the nuclear-free legislation. In 1995, two years after the Somers Report had been published, the British Government announced that it would from now on comply with New Zealand's nuclear-free legislation. The British Government lodged an official application for HMS *Monmouth* to visit Wellington.<sup>1</sup> The ship was guaranteed to be neither nuclear-armed nor nuclear-powered. Moreover, France sent its frigate *Nivose* to visit Wellington in 1997, which was hailed as 'a signal that the European nuclear powers have come to terms with New Zealand's antinuclear position and are prepared to visit and cooperate in the naval field without requiring access for their nuclear submarines and the nuclear-powered aircraft carrier France is building.'<sup>2</sup> Ships of other navies had already visited New Zealand to commemorate the Royal New Zealand Navy's 50<sup>th</sup> anniversary in 1991. The United States remained the only country to be vociferously opposed to the legislation. This chapter will first introduce recent developments in New Zealand politics to explore how the circumstances have changed since the nuclear-free policy was first implemented. That will include an analysis of the National Party's Creech Report which recommended the removal of Section 11 to improve New Zealand's relationship with the United States. After that, the chapter will investigate the influence of Section 11 on the New Zealand economy. The last part of the chapter will examine New Zealand's defense relations with the United States after the ANZUS crisis.

#### Back on the Agenda: Reviving a Twenty-Year-Old Problem

In February 2005, it was exactly 20 years since the Lange Government refused to accept the visit of the USS *Buchanan* to New Zealand. Little did people then expect that the Labour Party would actually follow through on its promise to inscribe the anti-nuclear policy in law. It was even less likely that the policy would survive the next National Government. Various events

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<sup>1</sup> Pauline Swain, 'British Navy Ships Due Back in NZ Waters,' *The Dominion*, 3 June 1995.

<sup>2</sup> Robert Miles, 'French Naval Visit Leads to Inevitable Comparisons with Anzac Frigates,' *National Business Review*, 18 April 1997.

that occurred over time like the end of the Cold War, the National Party's Somers Report on the safety of nuclear-propelled ships, and the American decision to remove all nuclear weaponry from their surface warships and attack submarines, presented challenges to the anti-nuclear legislation and its continued relevance. However, against all odds, the anti-nuclear law survived until this day. In recent years, there was almost no media coverage of the law and few politicians in New Zealand wished to get involved in yet another argument about the legislation.

This changed in October 2003. It was Bill English, the leader of the National Party who said that 'his "gut feeling" was that "we should invite US ships here."' <sup>3</sup> English added that 'in many ways the policy is much more about symbolism than reality. I think a way through may well be to simply invite a ship and they send one which is not going to bother New Zealanders.'<sup>4</sup> The debate erupted quickly and ultimately resulted in the replacement of Bill English by the new National Party leader, Don Brash. In May 2004, Don Brash himself came under fire when Minister of Foreign Affairs and Trade Phil Goff and Prime Minister Helen Clark accused him of having remarked to a group of American senators in January 2004 that National would repeal the ban on nuclear-powered ships if it came to power. In a controversial move, Phil Goff released the secret record by officials on which the allegations were based. The report quotes Dr. Brash as saying that 'if the National Party was in Government today we would get rid of the nuclear propulsion session today, by lunchtime even.'<sup>5</sup> Although Brash could not recall having made the comment, the discussion broke out anew on the advantages and disadvantages of prohibiting nuclear-powered ships from coming to New Zealand.

On 5 May 2004, shortly after Don Brash's alleged remarks became public, the National Party's Creech Report was released. The taskforce, led by the former National Deputy Prime Minister Wyatt Creech, concluded that New Zealand should model its nuclear-free agenda on the policy regarding nuclear-powered ships in Denmark. The Creech Report noted that

the contrasting feature between Denmark and New Zealand is that Denmark maintains its nuclear free status as a matter of policy—it did not pass a specific law. The major impediment to improving the relationship with the United States is the existence in law of Section 11 of the *New Zealand Nuclear Free Zone, Disarmament and Arms Control Act*

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<sup>3</sup> John Armstrong, 'English Fails to Steer Way Through Nuclear Minefield,' *New Zealand Herald*, 22 October 2003.

<sup>4</sup> Ibid.

<sup>5</sup> Speech by Mark Peck, General Debates, *Hansard*, 23 June 2004.

1987. The Danish experience shows that a law is not essential to maintain a nation's nuclear free status.<sup>6</sup>

Therefore, the taskforce recommended that New Zealand should repeal the legislated ban on nuclear-powered ships but maintain it as a policy ban. The report concluded that 'the Danish approach is the only option acceptable to a consensus of New Zealanders that has a realistic opportunity of normalising the relationship with the United States.'<sup>7</sup> The Danish policy and its applicability to the case of New Zealand will be analyzed in Chapters Five and Six and will not be looked at further in this chapter.

Understandably, with the controversy around Don Brash's 'lunchtime'-remark still being dragged through the media, the Creech Report received its fair share of criticism. The timing of the report's release was also harshly criticized. While the National Party had announced that the report would not come out for a few more weeks, the report was rushed out early 'on the lame pretext that National had been forced to release it because the contents had been leaked.'<sup>8</sup> Phil Goff attacked the move in Parliament stating that 'in just half an hour's time, under the cover of the hikoi, the National Party will release the long-awaited Creech report on the nuclear ships ban. It is no coincidence that it is being released today. That is the policy the National Party least wanted to release, and we will not learn much from what it states.'<sup>9</sup> The hikoi, a protest march regarding the New Zealand foreshore and seabed had received high media publicity because of its importance to the rights of the Maori people. Therefore, after the embarrassment of the Brash remark, the National Party might have sought to avoid further media attention on the nuclear-free issue. This may have been the motivation for releasing the report early when most of the media was focused on the important hikoi.

The reason why the National Party had commissioned a taskforce to explore alternatives to the current legislated ban on nuclear-powered ships was to find a way to improve New Zealand's relationship with America. The report is even entitled *The Relationship Between New Zealand and the United States*. At first, the Creech Report establishes that 'it is a single clause in the nuclear free legislation (Section 11) and not the nuclear free policy as such that is the major im-

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<sup>6</sup> New Zealand National Party Taskforce, 'The Relationship Between New Zealand and the United States.', Unpublished Report, Wellington, National Party, 2004, p. 5.

<sup>7</sup> Ibid. p. 7.

<sup>8</sup> Armstrong, op. cit.

<sup>9</sup> Speech by Hon. Phil Goff, General Debates, *Hansard*, 5 May 2004.

pediment to the normalisation of the NZ/US relationship.’<sup>10</sup> Denis McLean supports that analysis. In his opinion, if a political party gathered the courage to take a lead on the issue and said ‘we stand on this and if they then succeeded, repealed it, we would have probably fully restored relations with the Americans in almost no time flat.’<sup>11</sup> Ewan Jamieson was more cautious and emphasized that ‘NZ might be better off in that a significant gesture on our part could be perceived abroad as a real attempt to offer a basis for reconciliation with past friends and allies [emphasis in original].’<sup>12</sup> Therefore, removing Section 11 might help improve relations with the United States.

But not only the relationship with the United States is discussed in the report. The Creech Report argues that Australian politicians think that New Zealand is ‘not pulling its weight on defence matters, and is becoming unpredictable and generally unreliable. Some were more blunt—in global issues, New Zealand in the Australian perspective is becoming irrelevant.’<sup>13</sup> This assessment is echoed by Ken Shirley. He finds that the ban on nuclear-powered ships ‘souring our relation with Australia and that is serious.’<sup>14</sup> Denis McLean confirmed that, in 1987, New Zealand ‘unilaterally broke a trilateral partnership with Australia and the United States seriously compromising Australian defence interests, leaving them, as you will, with an open flank on one side and they were really pissed off about it.’<sup>15</sup> Michael Bassett believes that the anti-nuclear stance is not the only reason why New Zealand is seen as not serious on defense. Rather, the wider defense posture has to be taken into account. Dr. Bassett drew attention to the sale of military aircraft that the Labour Government under Helen Clark canceled. Because of

“an incredibly benign strategic environment” in the Asia-Pacific region, the Government announced in May 2001 that it was scrapping the country’s air combat and strike capability, downsizing the Navy, and allocating the bulk of Government spending, some \$700 million, to strengthening the Army.<sup>16</sup>

Robert Patman, Associate Professor of Political Studies at Otago University, concluded that ‘this policy angered and alarmed Canberra and, to a lesser extent, Washington. It was seen as a serious

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<sup>10</sup> New Zealand National Party Taskforce, op. cit. p. 6.

<sup>11</sup> Interview with Denis McLean, former Secretary of Defence and New Zealand Ambassador to the United States, Wellington, 24 January 2005.

<sup>12</sup> Personal Communication with Ewan Jamieson, retired Chief of Defense Staff Air Vice Marshall, 10 February 2005.

<sup>13</sup> New Zealand National Party Taskforce, op. cit. p. 33.

<sup>14</sup> Interview with Ken Shirley, ACT Party MP, Auckland, 4 December 2004.

<sup>15</sup> Interview with Denis McLean, op.cit.

<sup>16</sup> Robert Patman, ‘Gaining Strength by Standing Firm,’ *New Zealand Herald*, 27 July 2004.

degradation of New Zealand's military capabilities.<sup>17</sup> Moreover, as Michael Bassett argued, the 'deal, which was really tantamount to a gift, left people in Washington thinking: Hang on, these people cannot be serious.'<sup>18</sup> In general, 'decisions made by both the Labour and National Governments, the Lange, Palmer and Moore, Bolger Governments all contributed towards the notion that New Zealand was not serious about defense.'<sup>19</sup> This explains to some extent why New Zealand is not seen as serious on defense matters.

The National Party Taskforce casts doubt on the analysis that New Zealand is located in a benign strategic environment. The committee argued that 'in the last fifteen years the optimism of the post War period has been somewhat damaged. The coups in Fiji and tensions between tribal institutions and democracy in other states have demonstrated the fragility of democratic institutions in some South Pacific nations.'<sup>20</sup> Moreover, 'inevitably the impact of events distant from us does affect New Zealand's interests and we are drawn in, as the East Timor situation demonstrates.'<sup>21</sup> This is also Jon Johansson's view. In his opinion, 'New Zealand cannot be seen to be in a benign strategic environment.'<sup>22</sup> Ken Shirley fully agrees. From his point of view, 'the south-west Pacific is no longer a benign region - with worrying levels of instability emerging in several Pacific Island nations - and perpetrators of international terror are known to take advantage of chaotic situations in unstable nations.'<sup>23</sup> For this reason, the Creech committee stated that 'we believe it not to be in New Zealand's interest to be vague in this area [of defense]. The Government should go beyond asserting where New Zealand does not fit—it should give a clear indication of where we do fit.'<sup>24</sup> The committee argued that

the nearly twenty years since the ANZUS split has led to operational difficulties, and a continuing, albeit subtle, diminishing of New Zealand's operational effectiveness. In an era characterised by increased instability, it is important that these trends be reversed. New Zealand should explore the opportunity to improve the security relationship, particularly as it affects operational effectiveness.<sup>25</sup>

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<sup>17</sup> Ibid.

<sup>18</sup> Interview with Michael Bassett, former Minister of Health and Political Historian, Auckland, 14 March 2005.

<sup>19</sup> Ibid.

<sup>20</sup> New Zealand National Party Taskforce, op. cit. p. 27.

<sup>21</sup> Ibid, p. 26.

<sup>22</sup> Interview with Jon Johansson, Lecturer of Political Science, Wellington, 18 February 2005.

<sup>23</sup> Ken Shirley, quoted in Kevin Taylor, 'National Party Stalls Decision on Nuclear Ship Policy Until Review,' *New Zealand Herald*, 13 August 2003.

<sup>24</sup> New Zealand National Party Taskforce, op. cit. p. 26.

<sup>25</sup> Ibid, p. 55.

Since the National Party sees Section 11 as an obstacle to improved defense relationships with Australia and the United States, removing the section could help enhance the military relationship and New Zealand's national security. This will be discussed in further detail later in this chapter.

International terrorism is also mentioned as a reason to improve relations with the U.S. and Australia. The report contended that

what is sometimes described as the "arc of instability" reaches down through Asia into part of South East Asia just north of Australia. As we saw with the Bali bombings, Islamic extremism and the associated terrorism is not solely directed at the United States or confined to the Middle East.<sup>26</sup>

Furthermore, 'while the risk of terrorist attacks in New Zealand may not be high, we cannot afford to be complacent or discount the possibility even within the current policy setting on ship visits. Government policy against terrorism must remain vigilant.'<sup>27</sup> Thus, better military relations with New Zealand's former ANZUS partners could enhance New Zealand's ability to fight terrorism.

However, the substance of this argument is questionable. Keith Locke, a Green Party MP, finds that it is 'absurd to think New Zealand needed American nuclear bombs and warships to keep terrorists at bay.'<sup>28</sup> In Locke's estimation, 'our best defence against terrorism is to stay away from a direct association with America's global agenda.'<sup>29</sup> It is, indeed, unclear how the danger of international terrorism relates to the ban on nuclear-powered ships. Of course, Section 11 inhibits New Zealand-United States military cooperation to some extent but it is unlikely that terrorist attacks will be carried out in or around New Zealand. Therefore, the terrorism argument is debatable at best.

The Creech committee also concluded that removing Section 11 would help New Zealand's economy in its pursuit for a free trade agreement (FTA) with the U.S. The report stated that 'Australia's FTA with the United States is almost certainly a result of their close relationship. From a list that includes more than fifty states scheduled to hold free trade negotiations with the United States.'<sup>30</sup> Thus, as Max Bradford maintained, Section 11 'has poisoned the New Zealand-

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<sup>26</sup> Ibid, p. 28.

<sup>27</sup> Ibid, p. 40.

<sup>28</sup> Taylor, op. cit.

<sup>29</sup> Ibid.

<sup>30</sup> New Zealand National Party Taskforce, op. cit. p. 58.

U.S. relationship, particularly where it matters in the trade area.’<sup>31</sup> As this was one of the central points of contention in recent political debates, the economic aspect will be discussed in detail in the following section.

## Section 11 and the New Zealand Economy

One of the most important worries after the decision to refuse the *Buchanan* visit in 1985 was that this could disadvantage the New Zealand economy. Although the American administration denied plans to apply sanctions to New Zealand, some believed that a trade backlash was possible. Over the years, this worry has mostly faded although some people continue to believe that New Zealand trade has been harmed by the subsequently established nuclear-free legislation. Today, New Zealanders again focus on their trade relations with the United States. America recently concluded a Free Trade Agreement with Australia which many believe would have automatically included New Zealand had it not been for the ban on nuclear-propelled ship visits in the nuclear-free legislation. This section will first focus on the history of New Zealand-American trade since 1976. It will analyze the data available to find out whether there are any perceptible clues that hint at worsened trade relations with the United States after 1987. Second, the section will examine the relationship between the ban on nuclear-powered ships and FTA negotiations between New Zealand and the United States.

### *Post-ANZUS New Zealand-U.S. Trade Relations*

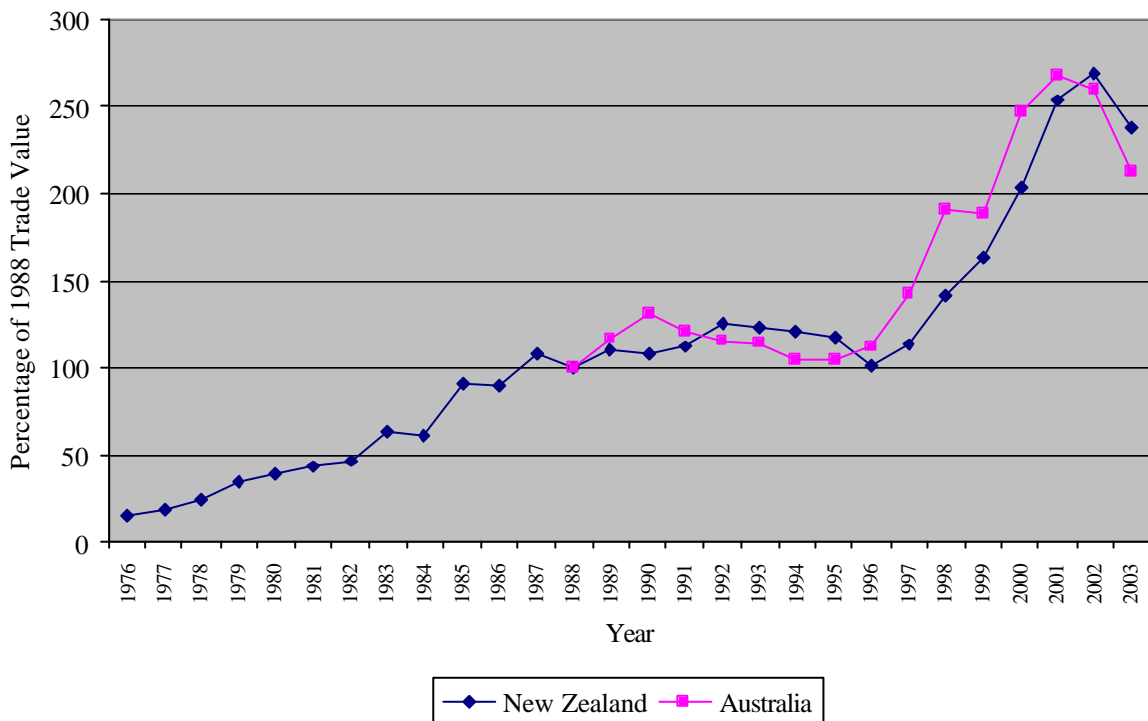
The most convenient though, obviously, not foolproof way to find out whether New Zealand trade has suffered in the past as a result of the nuclear-free legislation is to compare New Zealand trade figures to that of another country. For practical purposes, this study compares the figures of New Zealand trade with the United States with those of Australia. The trade figures can be seen in Figure Three. Unfortunately, the earliest figures available for Australian trade with the United States from the *Australian Bureau of Statistics* only date back to 1988. *Statistics New Zealand*, on the other hand, provides trade data all the way back until 1976. For that reason, the export values for New Zealand and Australia for 1988 were set at 100 percent to better enable the reader to compare the growth of exports of both countries to the United States over time. Export

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<sup>31</sup> Interview with Max Bradford, former Minister of Defence, Wellington, 13 January 2005.

values for all other years are represented as a percentage of the 1988 values. It becomes clear from the diagram that the relative growth numbers displayed are remarkably similar for both countries. Between 1992 and 1995, Australian trade even went back more than New Zealand's. Overall, New Zealand exports seem to follow Australia's in both growth and decline. The maximum export value for Australia to date was reached in 2001 with 268.03 percent that of the 1988 value. One year later, New Zealand reached its maximum trade value with 268.58 percent of its 1988 value.

Figure Three: Growth of Exports to the United States Compared<sup>32</sup>



These figures support the view that trade between New Zealand and the United States has not suffered as a result of the nuclear-free legislation. Australian trade with the United States did not grow more than New Zealand's and even declined faster than New Zealand's in recent years. Moreover, New Zealand's exports to the United States grew by 30 percent between 1984 and

<sup>32</sup> 'Exports (including Re-Exports) to Principal Countries,' *Statistics New Zealand, Overseas Trade* [Statistics Online], (2003) <<http://www.stats.govt.nz/domino/external/web/SchoolsCorner.nsf/htmldocs/Overseas+trade>>, accessed 11 October 2004.  
 'International Trade in Goods and Services, Australia TABLE 10a. Merchandise Exports, Country and Country Groups, Australia, FOB Value (\$million),' *Australian Bureau of Statistics* [Statistics Online], (30 September 2004) <<http://www.abs.gov.au/ausstats/abs@.nsf/lookupresponses/fcb0e8867c013dc9ca256db000001331?opendocument>>, accessed 25 October 2004.

1985, in the period shortly after New Zealand rejected the visit of the USS *Buchanan*. Even the period from 1986 to 1987 in which the policy became law saw an 18 percent increase in exports. In short, there is no visible correlation between trade and the nuclear-free policy. These findings are in complete agreement with statements from the American government which announced early on that there would be no negative implications in trade for New Zealand as a result of the nuclear-free policy.

### *A Free Trade Agreement with the United States?*

Australia recently concluded a free trade agreement with the United States which will be phased in over the next 15 years. At this point, it is impossible to say whether Australia's future growth of exports to the United States will become vastly different from New Zealand's as a result. Nevertheless, two reports have attempted to explore what the likely long-term effect of an Australia-U.S. Free Trade Agreement (AUSFTA) on New Zealand will be. According to the preliminary assessment of a report prepared for the Ministry of Foreign Affairs and Trade and the treasury, 'the general view is that a liberal, comprehensive AUSFTA would hurt investment in the New Zealand economy and the retention of highly skilled employees.'<sup>33</sup> In specific,

- Some foreign direct investment that would otherwise be directed to New Zealand could be expected to be diverted to Australia.
- Some New Zealand investment funds that would otherwise be invested in New Zealand or in one or other of our major markets could be expected to be diverted to Australia.
- Respondents expected that the effects in various sectors of the economy would be markedly different.
- Those sectors that indicated a moderate to large negative impact were often heavily weighted in terms of their importance to the New Zealand economy.
- Those exporters operating in niche markets were in general relatively unconcerned about the impacts of an AUSFTA on their sector.<sup>34</sup>

In addition, 'New Zealand exports to Australia and the US [are likely to] decrease by US\$36 million and US\$7 million respectively.'<sup>35</sup> These findings paint a rather bleak picture of the economic development that can be expected in New Zealand as a result of an AUSFTA without an FTA between New Zealand and the United States.

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<sup>33</sup> Ralph Lattimore et. al., 'A US-Australia Free Trade Agreement: A Qualitative Assessment of the Business Impacts on New Zealand.', Unpublished Report, Wellington, NZ Institute of Economic Research (Inc.), 2002, p. 7.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid, p. 3.

Robert Scollay of the APEC Study Centre at the University of Auckland conducted a similar study at the same time. Scollay found that

an Australian-U.S. FTA potentially disadvantages New Zealand trade in two ways. In the U.S. market Australian competitors achieve a margin of preference over their New Zealand competitors, while in the Australian market New Zealand loses the margin of preference it previously enjoyed over the U.S. as a result of [closer economic relations] CER, since the new FTA places the U.S. on an equal footing with New Zealand in that market.<sup>36</sup>

It is an interesting observation that ‘the negative effect on New Zealand exports to Australia is much greater than that on New Zealand exports to the U.S. The fall in exports to Australia is in fact four-and-a-half times the size of the fall in exports to the U.S.’<sup>37</sup> Moreover, Scollay pointed out that

in terms of New Zealand’s overall economic welfare, the results show a slight negative impact from an Australia-U.S. FTA. This however contrasts sharply with the significant positive welfare gains that New Zealand could expect to enjoy from a New Zealand-U.S. FTA or a trilateral FTA including all three countries.<sup>38</sup>

Altogether, both reports conclude that a potential FTA between the U.S. and Australia excluding New Zealand would impact negatively on the New Zealand economy.

Simultaneously to the two reports written in New Zealand, the United States-New Zealand Council in Washington commissioned its own research on the potential effects of a U.S.-New Zealand FTA. According to the report’s analysis, ‘the US merchandise exports to New Zealand would rise by about 25 percent as a result of an FTA.’<sup>39</sup> Similarly, ‘New Zealand merchandise exports to the United States will also increase strongly. They are projected to rise by \$732 million, or 51 percent, under a US-New Zealand FTA and by \$703 million, or 49 percent, under a trilateral free trade agreement.’<sup>40</sup> The report goes on to say that

free trade between the United States and New Zealand will have a negative effect on the economic welfare of Australia while, similarly, free trade between the United States and

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<sup>36</sup> Robert Scollay, *The Impact on New Zealand of a Free Trade Agreement Between Australia and the United States*. Auckland, APEC Study Centre, University of Auckland, 2002, p. 1.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid, p. 2.

<sup>39</sup> Fred Bergsten and Robert Scollay, *The Case for a Model Free Trade Agreement Between the United States and New Zealand*. Washington, Institute for International Economics, 2002, p. 10.

<sup>40</sup> Ibid, p. 11.

Australia will have a negative effect on the economic welfare of New Zealand. By contrast, there will be a positive impact on both Australia and New Zealand if the United States simultaneously establishes free trade with both.<sup>41</sup>

This shows that an FTA between New Zealand and the United States could be highly beneficial for the New Zealand economy. It also exemplifies that both Australia and New Zealand would have likely been better off had the U.S. established a trilateral FTA. In the end, Phil Goff summed it up as follows:

We would like an agreement with the United States. That would be beneficial according to work that we've done, to both countries. The National Association of Manufacturers in the United States has said that we're one of the five countries they think that should be the first to have new negotiations with. The president of the American Chamber of Commerce has expressed his open support for it. We have a large group within the American Congress that's prepared to support it, a large number of corporates that are in favor of it. But the initiative needs to come from the administration.<sup>42</sup>

Thus, from a New Zealand perspective, an FTA with the United States would be seen as a beneficial and desirable development.

### *Section 11: An Impediment to Free Trade with the U.S.?*

The New Zealand media has repeatedly reported that the failure of New Zealand to conclude an FTA with the United States at the same time as Australia was largely due to the continued ban on nuclear-powered ships which still aggravates the United States government. Therefore, it is necessary to investigate whether that assessment is well founded. It is also important to assess New Zealand's chances of being considered for FTA negotiations in the near future. Ken Shirley feels that the ban on nuclear-powered ship visits is 'an impediment, a deliberate impediment. There is no justification whatsoever for us not to be on the same footing as Australia to negotiate that.'<sup>43</sup> Denis McLean remarked that the United States and Australia do not take New Zealand seriously any more since it failed to act upon the findings of the Somers Report and repeal Section 11. In his opinion, the United States thinks of New Zealand as 'some responsible and committed western country [that] sort of wobbled off into no-man's-land.'<sup>44</sup> Therefore, Mr.

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<sup>41</sup> Ibid, p. 12.

<sup>42</sup> Interview with Phil Goff, Minister of Foreign Affairs and Trade New Zealand, Auckland, 11 March 2005.

<sup>43</sup> Interview with Ken Shirley, op. cit.

<sup>44</sup> Interview with Denis McLean, op. cit.

McLean does not find it surprising that ‘we’re nowhere near the negotiating list. We keep on pretending that we’re still out there. As far as I understand it we have got no priority at all so far.’<sup>45</sup>

However, many people believe that there is little to no connection between the nuclear-free legislation and trade. As Alyn Ware explained, ‘often the political questions don’t really impact on the trade questions although some people think they do. It’s more like the trade issues run on their own merits.’<sup>46</sup> Robert White was more direct. He maintains that there is no impact of the legislation on trade, ‘none at all. Absolutely no.’<sup>47</sup> Peter Wills agreed and stated that he did not ‘think ... that, in actual fact, it has any effect on that [trade].’<sup>48</sup> Still, Peter Wills acknowledged that ‘New Zealand has a lower status in comparison with Australia, for example, as a result of this ongoing dispute. And because of that, for instance, we haven’t got what people see as such favorable trade relations.’<sup>49</sup> Michael Bassett feels that all of those claims linking trade and the legislation prohibiting visits of nuclear-powered vessels is ‘smart theorizing, none of it based on any demonstrable, measurable fact.’<sup>50</sup> In his opinion, removing Section 11 of the *Nuclear Free Act* would probably lead to ‘some immeasurable ... gains in terms of improved linkages with the United States which would be beneficial.’<sup>51</sup> Hence, trade in general is perceived by many as being entirely independent of Section 11.

Other factors would have to be considered as well. For example, former ‘Trade Minister Lockwood Smith, on pragmatic grounds, advocated ending the [New Zealand] marketing boards’ monopolies so as to eliminate a perceived obstacle to a free trade agreement with the United States.’<sup>52</sup> However, this plan was met by strong domestic resistance and was eventually abandoned. For former U.S. President Bill Clinton, neither the existence of marketing boards nor Section 11 constituted a problem for concluding an FTA. He had been interested in a ‘five-way [free trade] agreement taking in New Zealand, Australia, Singapore, Chile, and the United States,

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<sup>45</sup> Ibid.

<sup>46</sup> Interview with Alyn Ware, International Coordinator for the Parliamentary Network for Nuclear Disarmament and International Consultant for the Lawyers’ Committee on Nuclear Policy and the Disarmament and Security Centre, Wellington, 7 January 2005.

<sup>47</sup> Interview with Robert White, retired Associate Professor of Physics and Director of the Centre for Peace Studies, Auckland, 15 March 2005.

<sup>48</sup> Interview with Peter Wills, Associate Professor of Physics and Member of the Centre for Peace Studies, Auckland, 3 March 2005.

<sup>49</sup> Ibid.

<sup>50</sup> Interview with Michael Bassett, op. cit.

<sup>51</sup> Ibid.

<sup>52</sup> Stephen Hoadley, *New Zealand United States Relations: Friends No Longer Allies*. Wellington, New Zealand Institute of International Affairs, 2000, p. 174.

dubbed Pacific Five or P5.<sup>53</sup> According to Associate Professor Stephen Hoadley's analysis, this plan did not materialize because of the following reasons:

- Congress did not allow for 'fast track' negotiations,
- the end of President Clinton's presidency,
- the World Trade Organization (WTO) Millennium Round on trade liberalization which could render regional FTAs redundant, and
- the protests at the 1999 WTO meeting in Seattle.<sup>54</sup>

Hence, the failure of New Zealand to conclude an FTA with the United States at the same time as Australia may not be related to the existence of Section 11 at all. It may have more to do with domestic U.S. politics and the circumstances in the WTO.

Nonetheless, it is quite clear that U.S. negotiators use the existence of Section 11 as leverage. Phil Goff explained that 'for them [the Americans] it is still a live issue and obviously in the context of discussions on wider issues such as free trade agreements, they are going to raise that as what they see as ... a unique opportunity for them to provide some leverage on our policy.'<sup>55</sup> The Deputy Chief of Mission of the American Embassy in Wellington, David Burnett, went even further. He said that 'my personal view is that the status quo benefits us as an embassy because we always have leverage on anything that New Zealanders want. For them to get any attention in Washington at all they got to give something.'<sup>56</sup>

As a result, Wayne Mapp, a National MP and former member of the Creech Committee, is quite certain that without the ban on nuclear-powered ships, 'a free-trade agreement with Australia would simultaneously also have been a free-trade agreement with New Zealand. They would have done both because ... it wouldn't have crossed their minds to actually treat us separately.'<sup>57</sup> David Burnett is also convinced that New Zealand would have entered negotiations with the United States on an FTA automatically at the same time as Australia had it not been for Section 11. Although Mr. Burnett does not see 'any direct linkage or impediment'<sup>58</sup> coming from the ban on nuclear-powered ships, he clearly stated that the ban is one important aspect of the entire U.S.-New Zealand relationship. Therefore, the ban on nuclear-powered ships may have

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<sup>53</sup> Ibid, p. 175.

<sup>54</sup> Ibid, pp. 175-176, a 'fast track' negotiation precludes the option of Congress to amend a negotiated outcome.

<sup>55</sup> Interview with Phil Goff, op. cit.

<sup>56</sup> Interview with David Burnett, Deputy Head of Mission of the U.S. Embassy in New Zealand, Wellington, 22 February 2005.

<sup>57</sup> Interview with Wayne Mapp, National Party MP and former Member of the Creech Committee, Auckland, 12 November 2004.

<sup>58</sup> Interview with David Burnett, op. cit.

caused Australia to conclude an FTA with the United States excluding New Zealand. But politicians in New Zealand disagree whether Section 11 will be a significant impediment to an FTA in the future.

Both America's Ambassador to New Zealand, Charles Swindells, and U.S. President George W. Bush have denied any linkage between the ban on nuclear-powered vessels and the fact that New Zealand has not yet been invited to enter free trade negotiations with the United States. As Mr. Swindells announced in a speech on 10 October 2003,

some here have tried to link New Zealand's ban on nuclear-propelled ship visits to the lack of a US commitment on an FTA. ... Arguments by some that Washington has resurrected this issue in a bid to alter New Zealand policy are dead wrong. We understand and respect New Zealand's right to determine its own security policies.<sup>59</sup>

Shortly thereafter, on 14 October 2003, President George W. Bush was asked in an interview whether Section 11 was the reason New Zealand was not invited to free trade negotiations with the U.S. In response, he declared:

No, not really. I mean, we haven't gotten started with New Zealand. The nuclear policy, obviously, makes it difficult for us to have a military alliance. But we're friends with the New Zealand[er]s. We respect the New Zealand people. But Australia is farther along the road, when it comes to trade discussions ... The people of New Zealand shouldn't read anything into it other than, we just haven't gotten started. And I respect the people of New Zealand. I respect that great country.<sup>60</sup>

Therefore, while National Party politicians and other individuals in New Zealand may argue that the existence of Section 11 makes it unlikely that New Zealand will not enter free trade negotiations with the U.S. in the future, there is no definite evidence on which to base such an assertion. The above two statements clearly show that United States politicians and diplomats do not support that line of argument.

According to this assessment, Section 11 may well have been one of the reasons that caused New Zealand to be excluded from FTA negotiations with the United States so far. Nevertheless, the ban on nuclear-propelled ships does not appear to be a barrier preventing an FTA with the United States. While U.S. negotiators may raise the existence of Section 11 as leverage, high level politicians and diplomats have assured New Zealand that trade and defense matters

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<sup>59</sup> Charles Swindells, 'Certainly Friends But Not Allies,' *New Zealand Herald*, 10 October 2003.

<sup>60</sup> 'Interview of the President by Malcolm Brown, Channel News Asia,' *The White House* [U.S. Government Online], (14 October 2003) <<http://www.whitehouse.gov/news/releases/2003/10/20031018-5.html>>, accessed 31 March 2005.

will continue to be treated separately. Generally, the continued existence of Section 11 may slow down the process of concluding a free trade agreement with the U.S. whereas a removal of Section 11 could speed up that process. However, the Section's continuation would not constitute an insurmountable obstacle to FTA negotiations.

## Post-ANZUS U.S.-New Zealand Defense Relations

As Chapter One illustrated, prior to the rift with the United States, ANZUS was an important military alliance and the ANZUS council meetings provided an opportunity for New Zealand politicians to meet their American and Australian counterparts on a regular basis. While New Zealand is still officially a member of ANZUS, it has not been allowed to return to active membership after the dispute that arose over New Zealand's nuclear-free stance. Although ANZUS is today widely regarded as inoperative for New Zealand, military relations with the United States and Australia have not faded. However, the continued existence of Section 11 has been identified as preventing the revival of ANZUS. Therefore, the Creech Report argued that another reason for removing the ban on nuclear-powered ships is to improve military relations. This section will explore current defense relations between New Zealand and the United States and the role of ANZUS today.

Shortly after the dispute over nuclear ship visits erupted, many New Zealanders were worried about retaliatory actions from the United States. However, after a research tour of the U.S. in 1986, Associate Professor Stephen Hoadley observed that

there was no nugget of hostility [towards New Zealand], no wish to do harm, only puzzlement, disappointment, or occasional annoyance among officials. All expressed positive feelings towards New Zealand and indicated they would welcome New Zealand back into ANZUS, albeit with some reservations, if nuclear ship visits were restored.<sup>61</sup>

This general attitude has not changed over the years, even after the New Zealand parliament passed the *Nuclear Free Act* in 1987. Should New Zealand unexpectedly decide to repeal Section 11, the United States would likely still consider restoring New Zealand as a full member of ANZUS if the New Zealand government so wished.

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<sup>61</sup> Hoadley, op. cit. p. 51.

Although the nuclear-free legislation has remained unchanged over the years, U.S.-New Zealand military relations have slowly improved. This is probably due in large part to New Zealand's continued military support despite the ANZUS crisis. New Zealand participated in a peacekeeping operation in the Sinai in the 1980s, sent support teams to help in the Gulf War in 1990-1991, and pledged troops to the war in Bosnia in 1994.<sup>62</sup> In response, 'positive adjustments were made to the no-military-contact policy at the working level'<sup>63</sup> from the American side. As a result, the U.S. State Department announced in February 1994 that 'we have decided to restore senior-level contacts between U.S. officials with their New Zealand counterparts for discussions on political, strategic, and broad security matters.'<sup>64</sup> Therefore, while the dispute over ANZUS persisted, New Zealand and the United States were able to deepen their military relations outside of the framework of ANZUS. New Zealand's continued support of American military endeavors was awarded with a relaxation of the restrictions imposed on New Zealand because of the *Bu-ghanan* dispute.

Throughout the later 1990s, the relationship further improved. New Zealand became increasingly active in regional conflicts, engaging in peacekeeping missions to East Timor, Bougainville, and in the Solomon Islands. When U.S. President Bill Clinton visited New Zealand in 1999, he stated that future military exercises would be dealt with 'on a case by case basis.'<sup>65</sup> Although Clinton did not promise a full resumption of joint military exercises, his declaration was portrayed as a further improvement of U.S.-New Zealand military relations. In the wake of the 2001 terrorist attacks on the United States, New Zealand also supported the U.S. military campaign against Afghanistan's Taleban regime. After returning from a trip to New York in November 2001, Phil Goff emphasized New Zealand's role in the recent conflict areas and hinted that 'the more the US acknowledges that New Zealand has a significant role to play, the less sense it probably makes to put in place any barriers to that co-operation continuing.'<sup>66</sup> Thus, New Zealand's continued willingness to help the United States in military matters led to a further improvement of the relationship between the two countries although ANZUS remained inoperative.

Nonetheless, critics remained adamant that New Zealand would be unable to regain the reputation and access it enjoyed prior to the ANZUS crisis. In a speech given in Auckland, the

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<sup>62</sup> Ibid, pp. 52-54.

<sup>63</sup> Ibid, p. 54.

<sup>64</sup> 'U.S.-New Zealand Relations,' Statement from the U.S. Department of State, 18 February 1994, quoted in *ibid*, p. 55.

<sup>65</sup> Bill Clinton, quoted in *ibid*, p. 57.

<sup>66</sup> Guyon Espiner, 'Goff Hints at US Thaw,' *Sunday Star Times*, 25 November 2001.

former Australian Defence Minister Peter Reith argued that ‘the awful truth for New Zealanders is that although George Bush rang your PM in the aftermath of September 11 basically your international reputation has suffered since you abandoned Anzus.’<sup>67</sup> In addition, Bill Clinton’s 1999 announcement fell short of the hoped for ‘breakthrough’ in New Zealand-United States military relations. Instead, ‘the continuing ban on joint exercises has considerably weakened the New Zealand Defence Force’s ability to operate with forces from other countries and has frustrated the Australians, who have to conduct separate exercises with their two major allies.’<sup>68</sup> Thus, Ken Shirley claimed that ‘the removal of the ban on nuclear-propelled ships is the key to reactivating our involvement in Anzus, which in turn would put us on equal footing with Australia in facilitating freer trade access to the US market.’<sup>69</sup> According to these arguments, New Zealand-U.S. military relations may have slightly improved since the ANZUS dispute but are nowhere near the pre-1985 level of cooperation.

The Creech Report acknowledged that New Zealand has been active militarily in the past while hinting that New Zealand’s record of involvement overseas is increasingly seen as a thing of the past. As David Burnett argued, New Zealanders ‘still see themselves in a large measure under the U.S. security umbrella regardless whether they’re in ANZUS or not. And they still assume that if they did need our help, that we would give it. And I think that’s probably a reasonable assumption. So there is kind of a free-rider effect here.’ Others reject the allegation that New Zealand is not pulling its weight in terms of defence. For example, Bunny McDiarmid contended that ‘New Zealand has gone off and fought in God knows how many other countries’ wars over the years and they cannot accuse New Zealand of not helping out. I mean, we’re a tiny little country stuck at the bottom of the world.’<sup>70</sup> The former Prime Minister Jim Bolger also argued that ‘New Zealand has never been a freeloader, as a tour of the military cemeteries around the world would show very, very clearly. New Zealanders have never been freeloaders.’<sup>71</sup> Nonetheless, as Mr. Burnett’s attitude suggests, in foreign political circles, there is some perception of New Zealand as a free rider.

Although high-level access to politicians in the United States has been officially restored and Prime Minister Helen Clark was invited to visit the White House in 2002, the Creech Report

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<sup>67</sup> Guyon Espiner, ‘US Wants Change to No-Nukes Law,’ *Sunday Star Times*, 17 March 2002.

<sup>68</sup> John Armstrong and Fran O’Sullivan, ‘Negotiating the Nuclear Trap...,’ *New Zealand Herald*, 21 March 2002.

<sup>69</sup> Ken Shirley, quoted in Vernon Small, ‘Nuclear Ban Not Spiking Trade Deal, Says Goff,’ *New Zealand Herald*, 8 October 2002.

<sup>70</sup> Interview with Bunny McDiarmid, Member of Greenpeace Aotearoa/New Zealand, Auckland, 10 March 2005.

<sup>71</sup> Speech by Rt. Hon. Jim Bolger, Motion—Nuclear-Free New Zealand Policy, *Hansard*, 17 June 1993.

argued that New Zealand still stands to gain significantly from better relations with the U.S. As the report explains, ‘in quantifiable terms this means regular briefings with officials and more high-level contacts between the two countries. Less quantifiable, but more importantly, there would be a greater willingness on the part of the United States to take the interests of New Zealand into account.’<sup>72</sup> Moreover, Denis McLean stated that ‘there has to be a quite powerful incentive for people to be bothered picking up your case [in Washington]. A favorite saying in Washington is: “There is only so much oxygen in the air.”’<sup>73</sup> David Burnett confirmed Mr. McLean’s views. According to Mr. Burnett, New Zealand is unwilling to respond to American calls to at least review Section 11 which ‘makes it hard to convince people in Washington that they ought to be a bit more interested in New Zealand.’<sup>74</sup> Hence, removing Section 11 could benefit New Zealand politically by giving it more direct access to decision-makers in Washington.

However, supporters of Section 11 argue that the past 20 years provide evidence enough that there is no reason to change the legislation. Although its implementation led to a dispute with the United States resulting in the loss of New Zealand’s ally status and its suspension from ANZUS and exercises with U.S. forces, none of these outcomes seems to have had a lasting negative effect on the country. Robert White argued that ‘New Zealand, has a huge number of other military arrangements ... with the U.S. involving all sorts of interactions and activities.’<sup>75</sup> According to Dr. White, ‘these were in action before ANZUS and they carried on right through the ANZUS process or certainly ..., if they weren’t there before ANZUS, they grew up during the early ANZUS period.’<sup>76</sup> As a result, ANZUS is just ‘political piffle on top.’<sup>77</sup> In Dr. White’s opinion, New Zealand may no longer be an active member of ANZUS but the fact that a range of other military agreements endured the dispute shows that the damage done to New Zealand’s military relations is marginal.

Taking all of these arguments into account, how can the military relationship between the United States and New Zealand develop from here? Ewan Jamieson is pessimistic. In his opinion, ‘in the future we will have so little of any real value to contribute to regional collective defence that partnership of the ANZUS type is no longer a realistic option of interest to past partners.’<sup>78</sup>

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<sup>72</sup> New Zealand National Party Taskforce, op. cit. p. 57.

<sup>73</sup> Interview with Denis McLean, op.cit.

<sup>74</sup> Interview with David Burnett, op. cit.

<sup>75</sup> Interview with Robert White, op. cit.

<sup>76</sup> Ibid, for further information see Hoadley, op. cit. pp. 96-99.

<sup>77</sup> Interview with Robert White, op. cit.

<sup>78</sup> Personal Communication with Ewan Jamieson, op. cit.

Roderic Alley also does not see much of a future for New Zealand in ANZUS. He believes a return of New Zealand to ANZUS would cause 'a certain kind of embarrassment. The naughty boy has been in the sin-bin for twenty years or whatever it is, comes in out of the cold. Well, with what credibility does New Zealand sit down at the table having been readmitted on those terms? Is there some humiliation in that?'<sup>79</sup> For that reason, David Burnett explained that the United States Government is

not suggesting that New Zealand would even want to return to the old ANZUS structure. But, at least, this [the removal of Section 11] would open the door for discussion of a future relationship. So we're not looking so much at: can we return to the past, the good old days? But the question is: What do we do in the future and what do we do over the next few years?<sup>80</sup>

Therefore, 'we can have a forward-looking discussion that wouldn't even necessarily amount to a treaty.'<sup>81</sup> This is an interesting prospect as it clearly indicates that there is a willingness on the American side to consider ways to increase military relations outside of the ANZUS structure. At the same time, however, the repeal of Section 11 seems to be a prerequisite for that to happen.

This section shows that the military relationship between the United States and New Zealand has slowly improved after reaching a low shortly after the ANZUS dispute erupted. New Zealand continued to supply troops for various military and peacekeeping missions which was rewarded with the formal restoration of high-level contact to American politicians and the selective resumption of military exercises involving both the American and the New Zealand military. As a result, Stephen Hoadley concluded that 'New Zealand's military and diplomatic usefulness in endeavours of value to the United States can compensate for an absence of a formal alliance and direct bilateral military contacts.'<sup>82</sup> In his estimation, 'it is possible that New Zealand can develop other capacities to compensate for those allowed to deteriorate, and to adopt an international posture based on diplomatic quality and depth rather than military quantity and scope.'<sup>83</sup> Hence, the post-ANZUS years illustrate that military cooperation with the United States is possible without a definite framework of a treaty relationship.

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<sup>79</sup> Interview with Roderic Alley, retired Associate Professor of Political Science, Wellington, 17 February 2005.

<sup>80</sup> Interview with David Burnett, op. cit.

<sup>81</sup> Ibid.

<sup>82</sup> Hoadley, op. cit. p. 221.

<sup>83</sup> Ibid, p. 222.

Nevertheless, the disadvantages arising from the restrictions on troop exercises, the supply of intelligence, and ready access to political decision makers in the United States would have to be taken into consideration to assess to what extent New Zealand's military relationship has suffered as a result of the ANZUS dispute. In any case, it appears that the United States is not intent on realigning New Zealand's foreign policy with that of the United States. The willingness on the side of the U.S. to create a new defense relationship with New Zealand outside of the old ANZUS framework demonstrates this.

## Conclusion

Since the end of the Cold War, there was hardly any mention of the ban on nuclear-propelled vessels until the leaders of the National Party, Bill English and his successor Don Brash, declared their interest in revisiting Section 11 in order to improve New Zealand's relationship with the United States for security and trade reasons. Trade, which assumed a central position in the National Party's considerations, is the reason most often cited in the media for removing Section 11. The examination presented here shows that trade has not been negatively influenced by the ban in the past. While the ban on nuclear-powered ships is named as a reason why New Zealand did not receive a free trade agreement with the United States at the same time as Australia, there is no conclusive evidence demonstrating that Section 11 is an insurmountable obstacle to an FTA in the future. In addition, the Creech Report argued that New Zealand should firmly assert its standpoint on military relations and security and reverse the difficulties in terms of military cooperation that have occurred over the past 20 years. This chapter finds that U.S.-New Zealand military cooperation has improved after the ANZUS crisis, despite continuing restrictions on military exercises and ready access to high-level politicians. The United States still sees the removal of Section 11 as a prerequisite of further deepening the mutual relationship but appears willing to consider a more liberal approach to joint defense matters without necessitating a return to ANZUS.

## CHAPTER FIVE

### ANTI-NUCLEAR IN A NUCLEAR WORLD

Many New Zealanders are proud of their country's nuclear-free legislation. It is a piece of legislation that embodies New Zealand's opposition to nuclear weapons proliferation and the call for nuclear disarmament. For that reason, many New Zealanders believe that amending or repealing the ban on nuclear-propelled ships would erode this symbolic opposition. First, this chapter will investigate how New Zealand's nuclear-free position is seen internationally. Thereby, it will determine the extent to which the ban on nuclear-powered ships is viewed as an essential part to maintaining New Zealand's image as a nuclear-free country and as a proponent for nuclear disarmament. Second, the chapter will study Denmark's policy of handling requests for nuclear-propelled ship visits and how this corresponds to the National Party's proposed solution to better relations with the United States. Next, the chapter will analyze the likelihood of future nuclear-powered ship visits to New Zealand if Section 11 were removed. The chapter will conclude with an examination of the American position toward the New Zealand legislation. While the majority of the thesis is focused on investigating the various aspects of the ban on nuclear-propelled vessels from the New Zealand perspective, that section will be devoted to discussing the American point of view and its influence on Section 11.

#### New Zealand's Anti-Nuclear Status From an International Perspective

When New Zealand adopted its nuclear-free stance, other countries noted that New Zealand did not want to have a part in America's nuclear weapons posture and was willing to risk its status as an American ally to push for global nuclear disarmament. The American response, which has been detailed in Chapter One, shows that the United States took the threat arising from New Zealand's anti-nuclear attitude seriously and made an example of New Zealand to deter other countries from adopting similar legislation. Through its nuclear-free stance, New Zealand undoubtedly gained a reputation as a credible proponent of nuclear weapons disarmament. However, it is unclear to what extent the ban on nuclear-propelled ships is seen as contributing to New Zealand's nuclear-free reputation in the world. That is what this section seeks to find out.

Over the years, New Zealand has become a country recognized for its achievement and engagement in nuclear disarmament matters. This is because ‘New Zealand determinedly pursued [its] nuclear free status that has given it a unique place in the global disarmament movement.’<sup>1</sup> Kate Dewes and Robert Green agree that ‘Aotearoa/New Zealand won admiration and respect from many non-aligned states for being the first Western-allied state to legislate against nuclear weapons and thereby renounce nuclear deterrence.’<sup>2</sup> According to Dewes and Green, ‘over the years the peace movement has forged close relationships with citizens in Western nuclear and allied states. Their support has helped counter the pressure from their governments on A/NZ.’<sup>3</sup> For that reason, New Zealand was able to play a leading role in nuclear disarmament issues. The most famous of New Zealand’s efforts in the fight for nuclear weapons disarmament was New Zealand’s World Court Project in 1996 aimed at declaring the use of nuclear weapons illegal and, thereby, challenge nuclear deterrence. As a result of its involvement in the case, New Zealand ‘was awarded with [the] Honorable Mention Award of the UNESCO in 1998.’<sup>4</sup> Therefore, New Zealand has a proud record as a proponent for nuclear disarmament.

New Zealand is also a member of the New Agenda Coalition which does not just advocate nuclear disarmament but the abolition of nuclear weaponry altogether. The New Agenda Coalition consists of seven member countries including Brazil, Egypt, Ireland, Mexico, New Zealand, Sweden, and South Africa.<sup>5</sup> As Phil Goff illustrated,

the New Agenda Coalition achieved some success at the Nuclear Non-Proliferation Treaty Review Conference just 2 months ago, when nuclear powers pledged an unequivocal undertaking to accomplish the total elimination of their nuclear arsenals. The session that achieved that goal was chaired by the New Zealand ambassador for disarmament, Clive Pearson, and we should be proud of his and New Zealand’s achievement.<sup>6</sup>

Therefore, ‘we have been at the forefront of initiatives to advance the Treaty on the Non-Proliferation of Nuclear Weapons and the Comprehensive Nuclear-Test-Ban Treaty, working with the New Agenda Coalition to do so. We have established a South Pacific Nuclear Free Zone

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<sup>1</sup> Sisira Edirippulige and Yujiro Iwamoto, ‘Comparative Study of Japan and New Zealand’s Response to the Nuclear Proliferation in South Asia,’ *Japan Society for Promotion of Science (JSPS)*, v.32, no.3, 2002, p. 687.

<sup>2</sup> Kate Dewes and Robert Green, *Aotearoa/New Zealand at the World Court*. Christchurch, The Raven Press, 1999, p. 19.

<sup>3</sup> *Ibid*, p. 42.

<sup>4</sup> Edirippulige and Iwamoto, *op. cit.* p. 702.

<sup>5</sup> Graham Kelly, Nuclear Free Zone Extension Bill (Second Reading), *Hansard*, 29 May 2002.

<sup>6</sup> Hon. Phil Goff, Nuclear Free Zone Extension Bill (First Reading), *Hansard*, 5 July 2000.

Treaty.’<sup>7</sup> Furthermore, ‘we have worked in the International Atomic Energy Agency and through the Pacific Forum to maximise the safeguards put in place to prevent accidents involving shipments of nuclear material, and for the States responsible for the shipment of that material to accept full liability, in the event of any such accident.’<sup>8</sup> Moreover, Matt Robson, the Minister for Disarmament and Arms Control, emphasized that ‘as a co-sponsor with Brazil we have succeeded in having the United Nations by overwhelming majority in successive years support the Southern Hemisphere being free of nuclear weapons.’<sup>9</sup> No doubt, New Zealand has established itself on the international disarmament scene.

Among advocates of the ban on nuclear-propelled ships within New Zealand there is a real worry that a modification or repeal of Section 11 would have a negative impact on New Zealand’s ability to advance the cause of nuclear disarmament. As Nick Wilson argued, ‘the media publicity around “weakening the law” could potentially reduce New Zealand’s ability to advocate for nuclear disarmament internationally.’<sup>10</sup> Alyn Ware also believes that changing or removing Section 11 would weaken the nuclear-free legislation. In his opinion, ‘if we strengthen it that would have a much more positive role on the international disarmament agenda. If we weakened it, I think it would have a negative impact on the international disarmament agenda.’<sup>11</sup> The current Government supports this claim. Prime Minister Helen Clark, for example, said that ‘New Zealand has gained international recognition over the past 20 years from its nuclear-free policy. “Part of our international personality is very strong advocacy for nuclear disarmament.”’<sup>12</sup> As a result, she claimed that ‘what I know is that removing that clause from the legislation would be seen internationally as New Zealand backing down on a policy that Governments of all shades have held for 20 years.’<sup>13</sup> Similarly, Nicky Hager argued that ‘any change [t]o the legislation would be trumpeted around the world as New Zealand backing down and abandoning the “nuclear free policy” (with details of which parts of the policy were changing and why going unno-

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<sup>7</sup> Hon. Phil Goff, Nuclear Free Zone Extension Bill (Second Reading), *Hansard*, 29 May 2002.

<sup>8</sup> *Ibid.*

<sup>9</sup> Hon. Matt Robson, Nuclear Free Zone Extension Bill (Second Reading), *Hansard*, 29 May 2002.

<sup>10</sup> Nick Wilson, ‘A Brief Review of the Discussion Paper of a National Party Taskforce Relating to New Zealand’s Nuclear-free Legislation.’, Unpublished Essay, International Physicians for the Prevention of Nuclear War (NZ), 2004, kindly supplied by Nick Wilson, in possession of the author.

<sup>11</sup> Interview with Alyn Ware, International Coordinator for the Parliamentary Network for Nuclear Disarmament and International Consultant for the Lawyers’ Committee on Nuclear Policy and the Disarmament and Security Centre, Wellington, 7 January 2005.

<sup>12</sup> ‘Troubled Waters,’ *Sunday Star Times*, 25 July 2004.

<sup>13</sup> Helen Clark, quoted in Helen Tunnah, ‘Clark Pokes Fun at Nuclear Ban Review,’ *New Zealand Herald*, 4 May 2004.

ticed).<sup>14</sup> Therefore, according to that interpretation, any change made to the ban on nuclear-powered weapons would negatively affect New Zealand's international reputation as an advocate of nuclear disarmament.

However, most people abroad do not even seem to be aware of New Zealand's ban on nuclear-propelled vessels. Although many people from abroad sent encouraging articles to be printed in New Zealand newspapers in support of New Zealand's nuclear-free stance, the large majority of submitters seemed to be oblivious to the nuclear propulsion ban. As Vic Hummert from Richmond, Indiana, wrote, 'your courageous struggle to ban nuclear weapons continues to draw the interest of people engaged in peace issues.'<sup>15</sup> Moreover, Susanne Sklar, the Disarmament Coordinator of Greenpeace Great Lakes in Chicago, conveyed that 'your country's wisdom is a source of hope to many people here; please continue in your integrity and courage! Chicago is a nuclear-weapon-free zone. Other towns and cities are joining the movement.'<sup>16</sup> In another submission she wrote that 'here in Chicago we have created a peace garden which is one living definition of peace ... We shall plant a shrub in honour of New Zealand at our nuclear-free picnic this July.'<sup>17</sup> Jonathon Cook from Brookline, Massachusetts, stated that 'Americans by the millions are indebted to New Zealand for a commitment to world survival. Many of us actively support your government's courageous anti-nuclear weapon policy by purchasing New Zealand products whenever possible.'<sup>18</sup> Cook continued by saying that 'I urge you not to back down at the pressure of a Nuclear bully. When challenged, try citing your alliance with the millions of Americans who long for a nuclear-free earth. You and so many Pacific nations are contributing to our safety and future.'<sup>19</sup> Similarly, Ernest Morgan from Burnsville, North Carolina, implored the New Zealand Government to 'not let our Government bully you into the nuclear club!'<sup>20</sup> Hence, there is ample evidence of support from the United States for New Zealand's ban on nuclear arms.

Supporting letters also came in from Canada. Martin Haase from Nova Scotia stated that 'along with many Canadians, I applaud New Zealand's decision to remain a nuclear-free country and to bar ports to nuclear armed ships. New Zealand has set an example which I hope many na-

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<sup>14</sup> Personal Communication with Nicky Hager, Researcher and Writer, 10 April 2005.

<sup>15</sup> Vic Hummert, 'Some Americans Admire NZ's Stand,' *Auckland Star*, 16 October 1985.

<sup>16</sup> Susanne Sklar, 'Nuclear-Free,' *Auckland Star*, 5 January 1987.

<sup>17</sup> Susan[ne] Sklar, 'Nuke-Free Chicago,' *New Zealand Times*, 6 July 1986.

<sup>18</sup> Jonathon Cook, 'USA Thanks,' *Dominion Sunday Times*, 15 March 1987.

<sup>19</sup> Ibid.

<sup>20</sup> Ernest Morgan, 'Nuclear Bully,' *New Zealand Herald*, 1 December 1989.

tions will follow, especially Canada.<sup>21</sup> That was echoed by Peter Brow of Operation Dismantle from Ottawa. His submission reads: 'How encouraging and inspiring your country's nuclear weapons free stance is to the thousands of Canadians who are concerned about the global arms race.'<sup>22</sup> In addition, David Lange received a telegram from the general secretary of the Canadian Anglican Church 'applauding the bold stand taken by the Government of New Zealand in refusing to permit access to nuclear capable vessel.'<sup>23</sup> Thus, again, the main focus of the submissions was to express support for the prohibition of the entry of nuclear weapons to New Zealand.

Some rare articles did mention the ban on nuclear-powered ships in their letters of encouragement. One such letter to the editor came from Mataiasi Lutu from Suva in Fiji who wrote that 'the Prime Minister of New Zealand should be congratulated for stopping nuclear-powered ships from visiting his country. He is one of the few world leaders who cannot be fooled around by evil men.'<sup>24</sup> The Campaign for Peace and Democracy East and West sent another supportive letter from the United States which stated that 'we believe it to be incontestable ... that the decision to limit the entry of nuclear-powered or nuclear-armed ships from your ports represents the clearly expressed wishes of the people of New Zealand.'<sup>25</sup> Furthermore, the letter said that 'we recognise that steps to create zones of peace, or nuclear-free zones ... represent not only a moral choice of great importance but an exceedingly practical step towards world peace.'<sup>26</sup> Therefore, some submitters from abroad were aware of and encouraged the continuation of the ban on nuclear-propelled ships while the majority focused their praise and support on the ban on nuclear arms which they saw as the main aim of the nuclear-free legislation.

Considering that the ban on nuclear-propelled ships does not seem to be very widely known abroad, it appears unlikely that its removal or modification would endanger New Zealand's ability to continue to credibly act as a proponent of nuclear weapons disarmament and elimination. Besides, as this section shows, New Zealand has gained a very respectable position on the international level given its commitment to nuclear disarmament. New Zealand as a country practices what it preaches: it keeps its country free of nuclear weaponry while pushing for their elimination internationally. Would that change if Section 11 were gone? An overwhelming majority of New Zealanders is opposed to nuclear weapons which would remain unchanged even

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<sup>21</sup> Martin Haase, 'Nuclear Example,' *New Zealand Times*, 26 January 1985.

<sup>22</sup> Peter Brow, 'Inspiring Stance,' *New Zealand Times*, 6 July 1986.

<sup>23</sup> 'Churches Back NZ,' *Auckland Star*, 28 December 1985.

<sup>24</sup> Mataiasi Lutu, 'Congratulations,' *Auckland Star*, 25 July 1986.

<sup>25</sup> 'Americans Support NZ,' *New Zealand Herald*, 7 July 1986.

<sup>26</sup> Ibid.

if the ban on nuclear-propelled vessels were repealed. New Zealand's ban on nuclear weaponry would endure, maintaining New Zealand's credibility as a nuclear-free country and honest advocate of disarmament.

## The Danish Policy in Perspective

New Zealand's nuclear-free stance has often been compared to Denmark's policy of handling nuclear ship visits. Before New Zealand adopted its nuclear-free legislation, it even considered adopting the exact same policy as Denmark which was later ruled out. In recent times, the Danish policy has again been proposed as an alternative to New Zealand's current legislated ban on nuclear-powered vessels. Prior to assessing the feasibility of that proposition which will be discussed in Chapter Six, it is necessary to establish what exactly the Danish policy is and how requests for nuclear-powered ship visits are dealt with. Thereby, this section will examine the similarities and differences of the Danish and New Zealand policies.

As Robert White remarked in his book *Nuclear Ship Visits: Policies and Data for 55 Countries*, in Denmark, 'there has been no visit by a nuclear-powered ship since 1964 because of stringent Danish safety rules, requiring a technical description of the nuclear plant more detailed than NATO countries are apparently willing to give.'<sup>27</sup> In New Zealand's case, as Appendix B shows, Section 11 of the *Nuclear Free Act* states clearly that 'entry into the internal waters of New Zealand by any ship whose propulsion is wholly or partly dependant on nuclear power is prohibited.'<sup>28</sup> Thus, Denmark receives no visits by nuclear-propelled vessels because foreign powers are unwilling to submit the detailed technical descriptions of their vessels required by the Danish Government. As a result, Denmark does not prohibit visits by nuclear-powered ships. Should a foreign government request a visit by a nuclear-powered ship and satisfy the Danish Government's request for a detailed technical description of the ship, Denmark would technically have to accept the visit. This shows that there is no actual prohibition on nuclear-powered warships in Denmark. Instead, only strict security requirements keep such warships out of Danish ports.

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<sup>27</sup> Robert White, *Nuclear Ship Visits: Policies and Data for 55 Countries*. Dunedin, Tarkwode Press, 1989, p. 28.

<sup>28</sup> 'New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act,' *CyberPlace – Peace* [Online NGOs], [date unknown] <<http://canterbury.cyberplace.org.nz/peace/nukefree.html>>, accessed 26 March 2005.

This stands in stark contrast to the Creech Report's assessment and recommendation. The report noted that 'the Government of Denmark has as a matter of policy determined that it would not welcome a visit by nuclear powered or nuclear-armed vessels. Unlike New Zealand, this policy has not been made the law of Denmark. In this regard, New Zealand is unique.'<sup>29</sup> Although it is true that Denmark has a policy ban on nuclear-armed warships, Denmark does not ban nuclear-powered ships, not even by policy. The above statement quoted from the Creech Report is meant to say that New Zealand could repeal Section 11 without having to worry about nuclear-propelled ship visits. In a critique of the Creech Report, Robert White underscored that

before permission is granted for nuclear powered vessels to berth in Danish ports the following documents must be available: a safety report giving a technical description of the nuclear power plant in the ship so Danish authorities can evaluate the safety-related standards in the ship; an emergency plan approved by Danish authorities in case of any radioactive release or other nuclear dangers; a satisfactory liability agreement covering such nuclear incidents.<sup>30</sup>

This is not tantamount to a policy ban as the Creech Report argues. While it shows that Denmark has clear concerns about safety procedures, it would not be disinclined to accept a nuclear-powered ship visit if its requirements were met. Requiring all of the above named details might well be intended to discourage visits by nuclear-propelled vessels but not to prevent such visits altogether. For that reason, it cannot be argued that scrapping Section 11 from the law in New Zealand and maintaining it as a policy ban would correspond to the Danish policy.

In the mid-1970s, New Zealand basically had a Danish policy on ship visits. As Robert White described, between 1972 and 1975, 'the position was that visits by nuclear powered vessels would be allowed, but only if sufficient information was provided to the New Zealand authorities for an adequate assessment of the safety of the vessels involved.'<sup>31</sup> During that time, no nuclear-powered ship visits to New Zealand occurred and 'there was no suggestion from the US during the 1972-75 period of any likely impact on New Zealand's involvement in ANZUS because of the government's position on nuclear powered vessel visits, like that seen in 1986.'<sup>32</sup> This demonstrates that a Danish policy for New Zealand is plausible. However, if a New Zealand

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<sup>29</sup> New Zealand National Party Taskforce, 'The Relationship Between New Zealand and the United States.', Unpublished Report, Wellington, National Party, 2004, p. 47.

<sup>30</sup> Robert White, 'National's Ludicrous Proposal for a Policy of Nuclear Hypocrisy,' *The Peace Foundation*, Winter 2004, p. 1.

<sup>31</sup> Robert White, 'New Zealand's Nuclear Free Policy Must Not Be Changed.', Unpublished Submission to the National Party Taskforce, March 2004, kindly supplied by Robert White, in possession of the author, p. 9.

<sup>32</sup> Ibid.

Government wished to remove Section 11 and adopt the Danish policy instead, Parliament would have to adopt a law requiring foreign governments to submit the same documents that Denmark requires. This is because it is the documents which foreign governments are unwilling to submit which keep nuclear-powered ships out of Denmark and not a merely stated policy.

## The Prospects of Future Ship Visits

The most immediate problem associated with a potential repeal of Section 11 is the potential of future nuclear-powered ship visits. Thus, if Section 11 were gone and a future government wanted to permit a nuclear-ship visit, there would be no law to keep it from doing so. Consequently, the ultimate reason why New Zealand has such legislation is distrust on the domestic political level. When the Labour Government passed the *Nuclear Free Act*, it created a law which was meant to bind future governments. New Zealand does not need a legislated ban on nuclear-propelled vessels to keep such ships out of domestic harbors. However, since the Labor Government of the 1980s feared that the next National Government would reverse New Zealand's nuclear-free stance and permit nuclear ship visits again, it passed the law to prevent this from happening. However, if Section 11 were repealed, it would be up to every future government to decide its own policy regarding nuclear-propelled ship visits. Therefore, this section sets out to assess the likelihood of future ship visits by nuclear-powered vessels to New Zealand ports.

Some people think that if New Zealand removed Section 11 from the *Nuclear Free Act*, New Zealand would be obligated to accept nuclear-powered ship visits. Thus, there is a fear that even if there were still a policy ban prohibiting nuclear-propelled vessels from visiting, it would eventually disappear altogether. Bunny McDiarmid asked: 'So what happens next? What happens after that when they really want to test that policy? Do we just fold and say: well, it's just a policy so we can't actually legally keep them out?'<sup>33</sup> For that reason, people in the peace movement want to keep the law banning nuclear-propelled vessels unchanged.

However, it is not entirely true to assert that repealing Section 11 would mean the New Zealand Government would have to accept nuclear-powered ship visits if they were requested. Before any visit by a foreign warship can take place, the foreign government has to send in a special note requesting permission for the ship visit. Regardless of whether a specific piece of legis-

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<sup>33</sup> Interview with Bunny McDiarmid, Member of Greenpeace Aotearoa/New Zealand, Auckland, 10 March 2005.

lation exists, every government has the right to reject ship visits at any time. As David Burnett explained,

New Zealand always had the right under international law to refuse any of our ships for any reason whatsoever. They did not need legislation to tie the government's hands. It was a matter of choice for the government and that's still the case today. We don't send in ships that are not wanted.<sup>34</sup>

Therefore, removing the legislation does not mean that the New Zealand Government would not have any means of keeping nuclear-powered ships out of New Zealand ports.

### *The Potential of Visits by Nuclear-Propelled Vessels*

But how likely is it that nuclear-propelled ships would come to visit New Zealand again? There is a near consensus among the people interviewed for this study that such vessels are highly unlikely to return to New Zealand. Wayne Mapp stated that the Americans 'indicated to me and others privately that they don't want to push New Zealand's public tolerance. So if this is part of a process of rebuilding trust and a relationship what you don't try to do is actually do the very thing that ... aggravated it.'<sup>35</sup> Max Bradford agrees that sending nuclear-powered ships back to New Zealand would 'be pretty damn stupid ... because that's tantamount to kind of re-igniting the whole debate again.'<sup>36</sup> Moreover, Nick Wilson finds that the U.S. Administration 'may decide that strategically it would cause too much furor and it would be better not to [send nuclear-powered ships] because obviously any event like that would create a lot of media publicity and it would be seen around the world on news stations as people protesting.'<sup>37</sup> In Nicky Hager's opinion, 'there might be a quiet agreement to have a big announcement of New Zealand's change of policy, but then not to inflame local public opinion by an immediate visit.'<sup>38</sup> For that reason, Alan Poletti expects that 'a sensible U.S. Administration ... would send in conventionally-powered warships and ... continue to do that for some years.'<sup>39</sup> Hence, if New Zealand decided

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<sup>34</sup> Interview with David Burnett, Deputy Head of Mission of the U.S. Embassy in New Zealand, Wellington, 22 February 2005.

<sup>35</sup> Interview with Wayne Mapp, National Party MP and former Member of the Creech Committee, Auckland, 12 November 2004.

<sup>36</sup> Interview with Max Bradford, former Minister of Defense, Wellington, 13 January 2005.

<sup>37</sup> Interview with Nick Wilson, Chairperson of the International Physicians for the Prevention of Nuclear War (NZ), Wellington, 10 February 2005.

<sup>38</sup> Personal Communication with Nicky Hager, op. cit.

<sup>39</sup> Interview with Alan Poletti, Professor of Physics and former Member of the Somers Committee, Auckland, 20 December 2004.

to remove Section 11, such a move is seen as unlikely to result in any visit of a nuclear-powered ship in the near future.

People interviewed for this research were unsure what the reaction of the New Zealand population would be if the ban on nuclear-propelled vessels were repealed and the United States did decide to request a ship visit. Bunny McDiarmid thinks that ‘you’d get protests. I don’t think removing the legislation means that you remove people’s opposition to it.’<sup>40</sup> Alyn Ware agrees that there would be massive protests on the harbors again organized by the peace squadrons. In his opinion, ‘if there was a move backwards people would rally back very, very quickly. I mean the consciousness here is that: we don’t need it; we’re safe without it. What would be the crazy reason for having them here?’<sup>41</sup> In Peter Wills’ opinion,

if you sent a ship within the next five years there would be such a hell of a stink from so many people that there would be so much protest that it would be very, very difficult and it would ... seem to have to be some overriding strategic imperative on the part of the United States to make that worthwhile.<sup>42</sup>

According to this point of view, protest could only be prevented if there was some widely acknowledged, vital reason for sending a nuclear-powered ship to New Zealand. Although Nick Wilson finds that protest would be extremely likely in case of a nuclear-propelled warship visit, he thinks ‘it wouldn’t actually be a very real issue until a ship came. Maybe if the law changed and nothing happened there would be a bit of a commotion but it wouldn’t be such a big media event.’<sup>43</sup> In contrast, Michael Bassett believes that ‘the “who-ha” would be over the legislation, not over the actual arrival of the ship.’<sup>44</sup> Therefore, there is little doubt among people from the peace movement that people would protest if nuclear-powered ships did come back to visit New Zealand.

On the other hand, those in support of a repeal of Section 11 found that protest, at least on a significant scale, was unlikely to occur today. Alan Poletti, for instance, expressed uncertainty ‘whether the same sort of public outcry would be whipped up again ... I would suspect not.’<sup>45</sup> Ken Shirley also doubts that many people would protest the arrival of a nuclear-powered warship.

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<sup>40</sup> Interview with Bunny McDiarmid, *op. cit.*

<sup>41</sup> Interview with Alyn Ware, *op. cit.*

<sup>42</sup> Interview with Peter Wills, Associate Professor of Physics and Member of the Centre for Peace Studies, Auckland, 3 March 2005.

<sup>43</sup> Interview with Nick Wilson, *op. cit.*

<sup>44</sup> Interview with Michael Bassett, former Minister of Health and Political Historian, Auckland, 14 March 2005.

<sup>45</sup> Interview with Alan Poletti, *op. cit.*

He said that ‘people like me were out there protesting because I rejected the nuclear arms race ... I wouldn’t be out there today.’<sup>46</sup> Moreover, Max Bradford explained that protest was unlikely ‘because I don’t think there is that big a movement now. And the other people particularly don’t seem to worry about these sort of things.’<sup>47</sup> However, since a level of anti-Americanism is present, ‘there may well be an anti-American protest.’<sup>48</sup> Michael Bassett agrees that in case of a protest, the protesters ‘wouldn’t be down there [at the harbor] because of the nuclear power, they’ll be down there because they’re anti-American.’<sup>49</sup> Thus, although protest is possible, it may be mainly focused at American global politics rather than the nuclear-powered aspect of the visiting ship.

### *Technical Aspects and Their Influence on Nuclear-Powered Ship Visits*

A further aspect that requires attention is the technical side of any potential visit by a nuclear-powered ship. A number of interviewees mentioned that it was, technically speaking, highly unlikely for any nuclear-propelled ship visits to take place. Wayne Mapp pointed out that ‘other than the aircraft carriers, they [the Americans] don’t have any nuclear-propelled surface vessels.’<sup>50</sup> Denis McLean finds it extremely doubtful that aircraft carriers would come to visit New Zealand. He stated that ‘it’s always been presumed that the aircraft carriers are too big.’<sup>51</sup> Max Bradford emphasized that ‘our ports are not big enough for the carriers and nuclear-powered ballistic submarines don’t stop in ports anyway.’<sup>52</sup> Although this might be the case for ballistic missile submarines, the more common attack submarines have visited New Zealand in the past and have also been cleared of their nuclear weapons like the surface vessels. However, Mr. Bradford thinks that visits by submarines to New Zealand are very improbable because Australia has not received any visits by American submarines in recent years either.<sup>53</sup> Consequently, nuclear-powered ships might not come for a visit to New Zealand anyway even if there was no longer a legislated ban on nuclear-propelled ship visits.

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<sup>46</sup> Interview with Ken Shirley, ACT Party MP, Auckland, 4 December 2004.

<sup>47</sup> Interview with Max Bradford, op. cit.

<sup>48</sup> Ibid.

<sup>49</sup> Interview with Michael Bassett, op. cit.

<sup>50</sup> Interview with Wayne Mapp, op. cit.

<sup>51</sup> Interview with Denis McLean, former Secretary of Defence and New Zealand Ambassador to the United States, Wellington, 24 January 2005.

<sup>52</sup> Interview with Max Bradford, op. cit.

<sup>53</sup> Ibid.

From a technical point of view, it has been confirmed that the only nuclear-powered surface vessels remaining in the American Pacific fleet today are five aircraft carriers. The relevant information confirming this has been attached to this report under Appendix C.<sup>54</sup> Beside the aircraft carriers, there are 35 nuclear-powered submarines still present in the Pacific. Of those, six are ballistic missile submarines which are still nuclear-armed and normally do not visit foreign ports for security reasons. Three other ballistic missile submarines are currently being converted to guided missile submarines. Lastly, there are 26 attack submarines (SSNs). In the past, a few SSNs have visited New Zealand ports. That is why some people feel that even if there are no surface vessels that could fit into New Zealand ports, it is still a distinct possibility that nuclear-powered submarines could come for a visit. However, David Burnett, conveyed that ‘we don’t usually send submarines into port.’<sup>55</sup> When specifically asked about how this statement could be reconciled with past U.S. submarine visits to New Zealand, Mr. Burnett stated that ‘the technology has changed and I can’t see any particular operational reason [for sending nuclear-powered submarines here].’<sup>56</sup> Therefore, aircraft carriers are too big to visit New Zealand ports and nuclear-powered submarine visits would not be requested.

Nevertheless, that answer is not completely satisfactory. As Robert Mann suggested, there is still the ‘possibility of mooring the ship offshore and ferrying in people.’<sup>57</sup> This would effectively circumvent having to send in nuclear-powered vessels through the narrow and shallow harbor passages. This possibility shows that it is not technically impossible for nuclear-powered ships to come to New Zealand. But, as Denis McLean said, aircraft carriers ‘wouldn’t come in our way anyway because they’re so useful.’<sup>58</sup> This observation is supported by David Burnett who stated that ‘the only time that I can imagine us trying to send in a nuclear-propelled aircraft carrier would be for tsunami relief.’<sup>59</sup> The United States would probably not wish to send any aircraft carriers to New Zealand in any other circumstance. Mr. Burnett argued that ‘the most likely thing that would happen [after removal of Section 11], at least initially, is that we would ...

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<sup>54</sup> ‘United States Navy Fact Files,’ *United States Navy* [Governmental Department Online], (1 March 2005)

<<http://www.chinfo.navy.mil/navpalib/factfile/ffiletop.html>>, accessed 3 March 2005.

<sup>55</sup> Interview with David Burnett, op. cit.

<sup>56</sup> Ibid.

<sup>57</sup> Interview with Robert Mann, retired Senior Lecturer of Biochemistry and Consultant Ecologist as well as former Vice-President of the Campaign for Nuclear Disarmament (NZ) and founding Committee Member of the New Zealand Foundation for Peace Studies, Auckland, 21 December 2004.

<sup>58</sup> Interview with Denis McLean, op. cit.

<sup>59</sup> Interview with David Burnett, op. cit.

move our Coastguard icebreakers from Hobart, where they now operate, back to Lyttelton.’<sup>60</sup> That is the location from the where the Coastguard operated prior to the 1984 dispute. According to the *Sunday Star Times*, ‘it would save \$US5m (\$NZ7.8m) a year in fuel costs [for the Coastguard] by operating out of Lyttelton rather than Hobart.’<sup>61</sup> Furthermore, Mr. Burnett believes that ‘we would probably see an increase in military vessels that don’t belong to the Navy.’<sup>62</sup> He also mentioned that American ships would probably start using New Zealand shipyards for repairs again which U.S. policy currently prohibits. Therefore, there seems little indication that the United States would send any nuclear-powered ships to New Zealand if Section 11 were removed. Accordingly, Nicky Hager stated that ‘what I am sure of, is that neither the US nor New Zealand opponents of the nuclear free policy are interested in actual visits by nuclear powered vessels.’<sup>63</sup> As Chapter Two showed, only ten of the pre-1984 foreign ship visits to New Zealand were nuclear-powered. In light of the extremely low frequency of nuclear-powered ship visits in the period prior to 1984 and the public opposition to such visits in New Zealand, there is indeed little reason to believe that such vessels would return to New Zealand any time soon.

Overall, it seems improbable that the United States would file a request for a nuclear-powered ship visit even if the New Zealand Government decided to repeal Section 11. In an attempt to get over past differences, it would seem imprudent for the United States Administration to send a nuclear-powered vessel to New Zealand because that could easily tear open old wounds. From a technical perspective, such visits seem most unlikely as the nuclear-powered surface ships are too large to fit into New Zealand harbors. Moreover, the technology for nuclear-propelled submarines appears to have changed which also likely rules out nuclear-powered submarine visits. Consequently, removing Section 11 does not appear likely to lead to nuclear-powered vessel visits to New Zealand.

## America the Intransigent?

With regard to the anti-nuclear legislation, the United States has earned a reputation as a stubborn country unwilling to compromise its principles to accommodate a friendly country’s legislation. As previously stated, the United States is the only country that has refused to com-

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<sup>60</sup> Ibid.

<sup>61</sup> ‘Troubled Waters,’ op. cit.

<sup>62</sup> Interview with David Burnett, op. cit.

<sup>63</sup> Personal Communication with Nicky Hager, op. cit.

promise its NCND-policy over the years while other countries such as Britain and France have revised their military doctrines enabling them to give the New Zealand government assurances that their visiting vessels are not nuclear-armed. Moreover, the United States is the only country that still refuses to send any kind of warship to New Zealand as a sign of its continued dismay over the anti-nuclear legislation. United States spokespeople often argue that the U.S.-New Zealand relationship is still suffering from 'unfinished business'<sup>64</sup> concerning the anti-nuclear legislation and that the U.S. will not simply 'get over it.'<sup>65</sup> From the U.S. point of view, it is up to New Zealand to improve the relationship by repealing Section 11. However, there is no mention of the United States having to compromise its stance. Therefore, might the current 'unfinished business' actually be due to U.S., rather than New Zealand, obduracy?

Members of the peace movement maintain that the prolonged difference of opinion with the United States is not caused by New Zealand's ban on nuclear-propelled vessels but by the American response to it. Robert White said that

it's very likely that if the U.S. would just offer a conventionally-powered warship visit, the government would accept it. And that could be the end of the matter. Just keep these attack submarines away and things could be much more restored to a normal situation. And Section 11 could just sit there and it would be no problem.<sup>66</sup>

Indeed, the problem the British and French navies had with New Zealand's anti-nuclear legislation ended when their navies finally decided to send a conventional, non-nuclear-armed vessel to New Zealand in compliance with the *Nuclear Free Act*. Therefore, Helen Clark feels that since 'the ships are neither nuclear-powered nor nuclear-armed, ... all America need[s] do is seek approval for their return.'<sup>67</sup> Instead, 'the Americans adopt this silly attitude: We can't divide our fleet between ... nuclear-powered and conventionally-powered. That's rubbish.'<sup>68</sup> Great Britain and France were able to do it. And, in the case of Denmark, the United States itself regularly 'divided' its naval fleet along those lines. However, much like with the case of New Zealand, maintaining their long-held position regarding this subject has become a matter of principle for the American Government.

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<sup>64</sup> Victoria Main, 'Unfinished Business,' *Dominion Post*, 24 September 1999.

<sup>65</sup> Charles Swindells, 'Certainly Friends But Not Allies,' *New Zealand Herald*, 10 October 2003.

<sup>66</sup> Interview with Robert White, retired Associate Professor of Physics and Director of the Centre for Peace Studies, Auckland, 15 March 2005.

<sup>67</sup> 'Troubled Waters,' op. cit.

<sup>68</sup> Interview with Robert White, op. cit.

As the previous section shows, the United States does not seem to have the intention to send nuclear-powered ships to New Zealand. Conventionally-powered vessels, which would be the most likely vessels to come visit after a potential repeal of Section 11 can already come to visit with Section 11 in place. Therefore, Alyn Ware finds the American approach to resolving the dispute over the ban on nuclear-powered vessels misguided. From his point of view, 'if they [the Americans] don't want to send a nuclear-powered ship anyway, then there is no problem. All the ships they want to send they can send anyway.'<sup>69</sup>

However, that does not appear to be the point of the continued American criticism of New Zealand's ban on nuclear-propelled vessels. Rather, the rejection of the USS *Buchanan* seems to have left a lasting mark in the memory of U.S. Navy officials and other Americans involved in the *Buchanan* affair. People like Richard Armitage, Paul Wolfowitz, Robert Zollick, and Jim Kelly were all involved in the negotiating process in the 1980s and are still or again part of the U.S. Administration today and 'some of these people have long memories.'<sup>70</sup> Undoubtedly, this has a profound effect on their dealing with New Zealand. In Robert White's opinion, 'the U.S. Navy is the most intransigent of all the U.S. services. They're very, very strong on their own ways. And they won't forget that for a very long time. So the symbolism on one side is that the U.S. are not going to forget that we said no to them.'<sup>71</sup> Although 20 years have passed since the *Buchanan* dispute, many officials actively involved in the affair still hold high offices in Washington making it hard for the United States to change its long-held opinion about the nuclear-free legislation which caused them so much embarrassment.

In New Zealand, few believe that it would be strategically advantageous for the United States to send their vessels to New Zealand again. Phil Goff emphasized this:

Is there any strategic needs for the Americans to have nuclear-powered or armed vessels here? No. The only reason one might come would be simply to demonstrate that ... the policy no longer existed. But the policy does exist and they haven't to this time been prepared to in any way look at compromising on neither confirm nor deny.<sup>72</sup>

Robert White furthered this point by asking: 'Why should we buckle for ... what ... has no real basis in strategic considerations and only reflects the stubbornness of the U.S. Navy?'<sup>73</sup> Indeed,

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<sup>69</sup> Interview with Alyn Ware, op. cit.

<sup>70</sup> Interview with Person X, Parliamentarian, Wellington, 22 February 2005.

<sup>71</sup> Interview with Robert White, op. cit.

<sup>72</sup> Interview with Phil Goff, Minister of Foreign Affairs and Trade New Zealand, Auckland, 11 March 2005.

<sup>73</sup> Interview with Robert White, op. cit.

‘most of the visits that we used to have, even including the conventionally-powered warships from the U.S. were waving their flag or rest and recreation for the crew and some fresh food.’<sup>74</sup> Furthermore, since only so few past ship visits were nuclear-powered,

any claim that it is now necessary for any strategic reasons to repeal our nuclear powered vessel ban to accommodate a visit pattern of this scale does not even warrant scrutiny, particularly with 30% less SSN in the US Pacific Fleet than 12 years ago, and about 15% less than in the Cold War period around 1980.<sup>75</sup>

Arguably, little has changed in the regional strategic environment since then. Therefore, there is no readily apparent need for the United States Navy to send nuclear-powered vessels to New Zealand for strategic reasons because the current disputes raging in the world are far away from New Zealand so as not to necessitate a U.S. Navy visit to New Zealand.

In addition, some individuals interviewed for this research expressed the view that, despite the American declaration that no nuclear weapons remain on their navy vessels except for the ballistic missile submarines, the ban on nuclear weapons could still be an impediment to a possible resumption of American ship visits. Ewan Jamieson made the point that ‘preservation of their NCND [policy] is still at the heart of the US objection to our legislation.’<sup>76</sup> Therefore, if the United States requested a ship visit and the New Zealand Government asked for an assurance that the particular ship to visit was free of nuclear weapons, the U.S. Navy would have to refuse to give any such assurance. Robert Mann remarked that ‘we are, I’m sorry to say, dealing with a government that has a record of lying and of deceit. So that is another reason for mature New Zealanders why they’re in no hurry to abandon the present policy and law.’<sup>77</sup> This argument is also highlighted by Roderic Alley who noted that ‘you’d be unwise to say that a big power, not just the U.S., could always be trusted on these issues.’<sup>78</sup> As a result, although the ban on nuclear-powered ships is the main obstacle to a better relationship with the United States, the ban on nuclear weapons cannot be completely dismissed as a factor in establishing better relations.

As Robert White established, ‘one objection [to future ship visits] that might be raised is that both the Americans and British still operate NCND policies, and might refuse to visit while

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<sup>74</sup> Ibid.

<sup>75</sup> Robert White, ‘New Zealand’s Nuclear Free Policy Must Not Be Changed,’ *op. cit.* p. 7.

<sup>76</sup> Personal Communication with Ewan Jamieson, retired Chief of Defense Staff Air Vice Marshall, 10 February 2005.

<sup>77</sup> Interview with Robert Mann, *op. cit.*

<sup>78</sup> Interview with Roderic Alley, retired Associate Professor of Political Science, Wellington, 17 February 2005.

our legislation stands unchanged.’<sup>79</sup> However, since the Royal Navy has resumed ship visits despite the British NCND-policy, ‘NCND is no longer a problem here.’<sup>80</sup> Robert White’s research shows that ‘the British High Commissioner, Martin Williams, revealed that the British Government gives an assurance to the New Zealand Government that any visiting Royal Navy warship would not be carrying nuclear weapons.’<sup>81</sup> Therefore, that may be the reason why New Zealand accepted British ship visits in the past despite the continued existence of the NCND-policy. In effect, the United States has given New Zealand a similar assurance. As former U.S. Ambassador to New Zealand Josiah Beeman stated in 1994, ‘the simple and obvious fact is that with the implementation of this important [1991] decision, United States troops, aircraft, surface vessels, and attack submarines deployed in this region are not nuclear-armed.’<sup>82</sup> David Burnett even went so far as to say that Helen Clark ‘can declare victory on the armaments issue. We’ve disarmed our ships.’<sup>83</sup>

Nevertheless, the U.S. has reserved the right to ‘redeploy tactical weapons if international events so dictated.’<sup>84</sup> Therefore, Robert White believes that the current American NCND statement, ‘leaves an element of doubt through the final proviso. This presents a problem for those arguing for a repeal of the NPV ban, and for the authorities who have to grant clearance for visits.’<sup>85</sup> Dr. White cited the former Defense Secretary Wilhelm Cohen as saying that the ‘nuclear weapons capability on surface ships has been eliminated, but the capability to deploy Tomahawk Land Attack Missiles armed with a nuclear warhead on submarines has been maintained.’<sup>86</sup> A U.S. military document published in March 2005 which has since disappeared from the *Defense Technical Information Center* homepage stated that ‘to maximize deterrence of [weapons of mass destruction] WMD use, it is essential US forces prepare to use nuclear weapons effectively and that US forces are determined to employ nuclear weapons if necessary to prevent or retaliate against WMD use.’<sup>87</sup> This suggests that U.S. attack submarines could be re-fitted with nuclear

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<sup>79</sup> Robert White, ‘New Zealand’s Nuclear Free Policy Must Not Be Changed,’ op. cit. p. 3.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid, p. 4.

<sup>82</sup> Josiah Beeman, quoted in John Armstrong, ‘US Gives Wink on Visits by N-Ships,’ *New Zealand Herald*, 15 December 1994.

<sup>83</sup> Interview with David Burnett, op. cit.

<sup>84</sup> Armstrong, ‘US Gives Wink on Visits by N-Ships,’ op. cit.

<sup>85</sup> Ibid, p. 3.

<sup>86</sup> William Cohen, *Annual Report to the President and Congress*, quoted in ibid.

<sup>87</sup> ‘Joint Publication 3-12: Doctrine for Joint Nuclear Operations, Final Coordination (2),’ *Defense Technical Information Center* [U.S. Defense Information Online], (15 March 2005) <[www.dtic.mil/doctrine/jel/ddraaftt\\_pubs/3\\_12fc2.pdf](http://www.dtic.mil/doctrine/jel/ddraaftt_pubs/3_12fc2.pdf)>, accessed 7 April 2005, p. III-1.

warheads should the American Administration deem it necessary. With the United States currently engaged in its war on terrorism, that possibility cannot be excluded.

However, the United States has confirmed several times that it has removed all of the nuclear warheads from its vessels. As George Bush Senior said in 1992, ‘our statement is still neither confirm nor deny, but we’ve said we don’t have these weapons on board... we mean it.’<sup>88</sup> Therefore, as Robert White observed, ‘all vessels in the US Pacific Fleet likely to visit are now free of nuclear weapons. The only obstacle to the resumption of visits, should New Zealand want this, is the ban on nuclear powered vessels.’<sup>89</sup> Whether the United States will re-deploy nuclear arms on its naval vessels in the future is uncertain. As for now, however, it is almost certain that the continued adherence to the NCND-policy by the United States would not inhibit a resumption of American ship visits.

In the end, it becomes apparent that there is a significant element of pride on the American side which keeps the United States from accepting New Zealand’s ban on nuclear-powered ships. Other countries like France and Britain have since consented to New Zealand’s terms of ship visits and have resumed normal relations. For the United States, however, maintaining their stance has seemingly become as much a matter of principle as for New Zealand. Although nuclear-powered ship visits from America are unlikely to occur, the United States is likely to continue using the ban on nuclear-powered ships as leverage on the New Zealand Government. Like the British and French navies, the U.S. Navy has declared that its naval vessels are free of nuclear weapons. Therefore, despite a continuation of the NCND-policy, it can be said with near certainty that U.S. Navy vessels are free of nuclear weapons in accordance with U.S. assurances in this regard. Having said that, it is possible that the United States does re-arm its ships as part of its new defense posture. For that reason, monitoring the future armament of the United States ships is advisable. Overall, this section illustrates that a certain degree of stubbornness on the part of the United States contributes to keeping the ban on nuclear-powered ships alive as a factor in the New Zealand-U.S. relationship.

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<sup>88</sup> George Bush Sr., quoted in Mike Munro, ‘Weapons Removal May Clear Way—Bush,’ *Dominion Post*, 4 July 1992.

<sup>89</sup> Robert White, *Nuclear Free New Zealand: The Policy in Action*. Working Paper No. 9, Auckland, Centre for Peace Studies, University of Auckland, 1999, p. 28.

## Conclusion

This chapter addressed the international aspect of the ban on nuclear-powered vessels. It is often asserted today that a repeal of Section 11 would erode New Zealand's standing as a nuclear-free country and promoter of nuclear disarmament. However, changing the nuclear-powered ships ban is unlikely to affect the high standing New Zealand has acquired in such matters as disarmament. Since a majority of people abroad seems unaware of the existence of Section 11, there appears to be no reason to suspect that New Zealand's reputation would suffer as a result of a change or repeal of the ban. The chapter also considered the National Party's recommendation to adopt a 'Danish solution' in New Zealand. The research presented here finds that the National Party Taskforce misrepresents the Danish policy. Therefore, the Taskforce's recommendation to simply repeal Section 11 and maintaining the ban as policy misses the mark.

As the analysis in this chapter shows, it is highly unlikely that a repeal of Section 11 would result in visits by nuclear-propelled vessels. It would be unwise of the United States to request a nuclear-powered ship visit as this could easily stir up protest in New Zealand which could strain the bilateral relationship again. Nevertheless, the United States has continued to push for the repeal of the ban on nuclear-powered vessels amidst claims to the contrary. Today, the United States is the only country that openly refuses to comply with New Zealand's nuclear-free legislation so that not a single U.S. naval vessel has visited New Zealand since 1984. Undoubtedly, inflexibility on the part of the United States has contributed to the prolongation of this difference of opinion.

## CHAPTER SIX

### THE FOUR ALTERNATIVES

The preceding chapters have discussed the various elements and nuances of the debate surrounding the ban on nuclear-powered vessels. In a broader perspective, there are four potential courses of action for New Zealand. First, the nuclear-free legislation could be applied more widely to include New Zealand's Exclusive Economic Zone (EEZ). After all, one interviewee reasoned that repealing Section 11 'would be backtracking but what we would want to see is a forward momentum towards nuclear non-proliferation and disarmament.'<sup>1</sup> Therefore, rather than 'backtracking,' New Zealand could extend the ban because such ships 'haven't [yet been] prohibited from our Exclusive Economic Zone.'<sup>2</sup> As a result, New Zealand could consolidate its opposition to nuclear weapons proliferation. Second, the ban could be repealed and maintained as a policy ban as the Creech Report recommends. After all, the Americans 'will live with glosses on policy as they do with Japan, as they do with Denmark. Where they draw the line is it being in legislation and New Zealand is the only country that's done that.'<sup>3</sup> Hence, it would become easier for New Zealand to improve New Zealand-U.S. bilateral relations while taking into account the symbolic value of the ban on nuclear-propelled ships.

Third, the ban on nuclear-powered vessels could be repealed altogether. In the view of an opponent, 'the ban on nuclear ships was unnecessary and excessive and has more to do with internal Labour Party politics than anything else.'<sup>4</sup> According to that line of argument, there does not appear to be a significant safety problem that warrants maintaining the ban. And improved relationships with Australia and the United States would be advantageous for New Zealand. Fourth, the ban on nuclear-powered ships could continue as it has for the past two decades. After all, 'the bottom line is: it works.'<sup>5</sup> France and Britain have come to accept the ban on nuclear-powered vessels and New Zealand has been able to gain an international reputation as a proponent of nuclear disarmament. All of these four potential ways of proceeding with the nuclear-free

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<sup>1</sup> Interview with Alyn Ware, International Coordinator for the Parliamentary Network for Nuclear Disarmament and International Consultant for the Lawyers' Committee on Nuclear Policy and the Disarmament and Security Centre, Wellington, 7 January 2005.

<sup>2</sup> Ibid.

<sup>3</sup> Interview with Wayne Mapp, National Party MP and former Member of the Creech Committee, Auckland, 12 November 2004.

<sup>4</sup> Interview with Ken Shirley, ACT Party MP, Auckland, 4 December 2004.

<sup>5</sup> Interview with Bunny McDiarmid, Member of Greenpeace Aotearoa/New Zealand, Auckland, 10 March 2005.

legislation will be discussed in this chapter. The arguments surrounding the various positions will be analyzed and the four options will be tested for their feasibility in New Zealand's current social and political circumstances.

## Extending the Legislation to Extraterritoriality

So far, the thesis has not dealt with the possibility of extending the applicability of the entire nuclear-free legislation to include New Zealand's Exclusive Economic Zone. The reason for that has to do with the fact that only two of the people interviewed raised this option as a possible or desirable way to proceed with New Zealand's nuclear-free legislation. Moreover, this potential course of action has not figured very prominently in the recent debate on the nuclear-free legislation. Nonetheless, broadening the applicability of the nuclear-free legislation could be a positive and visible way for New Zealand to assert itself as a truly nuclear-free country. New Zealand would be the first country in the world to declare its entire exclusive economic zone nuclear-free and would be guaranteed media headlines to that extent. But would this course of action be viable considering that the current legislation already seems to cause aggravation in other countries and even within New Zealand?

Both Alyn Ware and Nick Wilson expressed the opinion that they would like to see the nuclear-free legislation applied more widely so as to include New Zealand's EEZ. Alyn Ware is strongly opposed to any move towards repealing the nuclear-powered ships ban. In his opinion, while the nuclear-free legislation has successfully excluded nuclear arms and ships from New Zealand, 'we haven't actually extended that [to] extraterritoriality yet.'<sup>6</sup> Nick Wilson echoed this idea by suggesting that 'maybe the optimal thing ... is to eventually change the law to extend it to the limits of our economic zone.'<sup>7</sup> To achieve that, the Green Party introduced the *New Zealand Nuclear Free Zone Extension Bill* to Parliament in 2000. The bill intended to

- extend the zone to include the 200 mile exclusive economic zone,
- extend the prohibition on nuclear weapons and nuclear powered ships from land and internal waters to the EEZ, and

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<sup>6</sup> Interview with Alyn Ware, *op. cit.*

<sup>7</sup> Interview with Nick Wilson, Chairperson of the International Physicians for the Prevention of Nuclear War (NZ), Wellington, 10 February 2005.

- prohibit the passage in the EEZ of nuclear waste destined for nuclear fuel reprocessing.<sup>8</sup>

According to Alyn Ware's own research,

the government, upon advice from the Foreign Ministry, stated that they would not support the Bill because it would violate State obligations to allow innocent passage in territorial waters and freedom of navigation in EEZs, and also because it would lead to political retaliation from the nuclear weapon states (NWS) and nuclear transport states (NTS).<sup>9</sup>

After having been referred to a select committee, the bill was discussed in Parliament on 29 May 2002. As the Deputy and Acting Prime Minister Jim Anderton said that day,

New Zealand has earned credibility and influence as a leading proponent of nuclear disarmament because we have always acted in a manner consistent with international law. Without the weight of international law and opinion behind us, any unilateral action would be futile at best, and at worst would undermine our standing as a good citizen on nuclear disarmament and other international issues.<sup>10</sup>

Accordingly, the bill was defeated with seven in favor and 108 opposed to it being passed. In fact, only the Green Party MPs voted for the bill. Consequently, a move to extend the applicability of the nuclear-free legislation has already been attempted once and been decisively defeated.

While a number of people in the peace movement might like to see New Zealand extend its nuclear-free legislation to include the EEZ, few seem to regard it as workable. Unquestionably, extending the ban to the EEZ would show other countries that New Zealand was serious about nuclear disarmament and its concern for nuclear weapons proliferation. At the same time, there could be a potentially damaging backlash from the international community against an attempt by New Zealand to circumvent international law in its quest for nuclear disarmament. It would become difficult for New Zealand to argue that nuclear weapon states such as the United States should abide by the rules of international disarmament conventions such as the Nuclear Non-Proliferation Treaty if New Zealand itself were in violation of such an international convention. The governing party and most of the opposition parties are not prepared to pursue this op-

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<sup>8</sup> Alyn Ware and Kate Dewes, 'From Symbolic Gesture to Statutory Ban: The Aotearoa-New Zealand Experience,' *The Lawyer's Committee on Nuclear Policy Inc.* [NGO Online], (1-4 September 2000) <<http://www.lcnp.org/disarmament/nwfz/NewZealandExperience.htm>>, accessed 26 February 2005.

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

<sup>10</sup> Jim Anderton, in Answer to a Question by Jeanette Fitzsimons, *Hansard*, 29 May 2002.

tion. Hence, any suggestion to work at extending the applicability of the legislation seems unrealistic at this time.

## A Ban Without Legislation

Chapter Five has already established that the Creech Report's recommended course of action would not lead to a 'Danish solution.' However, what if the New Zealand Government decided to repeal Section 11 and instituted the exact same policy on nuclear-powered ship visits as Denmark? Denmark has been able to retain the status of a U.S. ally over the years but has not received any nuclear-powered ship visits since 1964. In a sense, this is what the Labour Government under David Lange set out to achieve. It wanted to retain ANZUS while keeping nuclear-armed and nuclear-powered ships out of New Zealand ports. Since this did not work out, the National Party Taskforce has recommended repealing Section 11 while maintaining it as a policy ban. At first sight, this looks like a win-win scenario. The ban on nuclear-powered ships would continue, albeit only on a policy basis, which would appease the anti-nuclear movement. At the same time, the legislated ban on nuclear-powered vessels would be removed and with it a 20-year-old impediment to improved relations with the United States. Potentially, this could clear the way for a free trade agreement with the United States and better military ties.

However, the Creech Report's recommendation to adopt the Danish model after repealing Section 11 is criticized as opportunistic and dishonest. Bunny McDiarmid expressed clear disgust by stating that 'I think it's a copout actually. I think they're trying to have their cake and eat it, too.'<sup>11</sup> Not only that, in her opinion, the Creech Report's approach 'amounts to like prostitution or selling yourself, to be honest.'<sup>12</sup> Thus, she feels that 'their whole approach to this is very dishonest.'<sup>13</sup> This is echoed by Alyn Ware who finds that 'if you believe that something should not happen, i.e. a nuclear power plant should not come into your port on a vessel, then you should just say that. You shouldn't like say: Oh well, one won't come in anyway but we'll say they're allowed to come in just for sort of semantic purposes.'<sup>14</sup> Helen Clark agrees that 'either you have the courage of your convictions or you don't. Pretending otherwise is nonsense and to have a

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<sup>11</sup> Interview with Bunny McDiarmid, *op. cit.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> Interview with Alyn Ware, *op. cit.*

Clayton's policy is dishonest.<sup>15</sup> Furthermore, Nick Wilson believes that adopting a policy ban 'would be seen as the ... economic interest dominating over ... what a lot of people see as a sort of important moral standing.'<sup>16</sup> To Nicky Hager, the Danish policy 'is nothing to do with section 11. It is an attempt to find the least contentious or less conspicuous way of achieving a policy change that the US would acknowledge as a backdown.'<sup>17</sup> Phil Goff underscored that 'the Creech Report has sunk without trace. It was an attempt at a compromise that would satisfy nobody ... The National Party keeps trying to get off the hook.'<sup>18</sup> In his opinion, the National Party 'sits on the fence persuading nobody and winning very little support for its position on either side.'<sup>19</sup>

Indeed, criticism of the Creech Report's recommendation to repeal Section 11 while maintaining it as a policy ban came not only from members of the peace movement but also from those who are in favor of a complete repeal of the ban on nuclear-propelled vessels. Ken Shirley, for example, degraded the report's findings as 'absolute tautology and I actually despise the National Party for coming to that position.'<sup>20</sup> Bunny McDiarmid asked pointedly: 'If they're arguing that the policy would be the same thing as the law, why change it?'<sup>21</sup> Similarly, Associate Professor Roderic Alley argued that people in the peace movement would say: 'If we're going to be attacked for being anti-nuclear, why don't have something solid in its place that is worth something in terms of principle and our standing around the world. Whereas, if that's taken out, it just becomes a policy ban. Isn't that just like leaves blowing in the wind?'<sup>22</sup>

Hence, there is a feeling that the National Party would like to have an FTA with the U.S. so badly that it is willing to sacrifice a principled stand on nuclear warships without having the courage to openly express their wish to completely do away with the ban on nuclear-propelled ships. Moreover, Alyn Ware contended that if Section 11 were repealed, this would be perceived internationally as New Zealand saying: 'This is no longer a concern to us. Therefore this is safe. We don't have problems with nuclear-powered vessels coming into our ports.'<sup>23</sup> However, if the policy remained in place, then, clearly, New Zealand would still have a problem with nuclear-

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<sup>15</sup> Nick Venter, 'Nuclear Ships OK Under Nats' New Plan,' *Daily News*, 6 May 2004.

<sup>16</sup> Interview with Nick Wilson, op. cit.

<sup>17</sup> Personal Communication with Nicky Hager, Researcher and Writer, 10 April 2005.

<sup>18</sup> Interview with Phil Goff, Minister of Foreign Affairs and Trade New Zealand, Auckland, 11 March 2005.

<sup>19</sup> Ibid.

<sup>20</sup> Interview with Ken Shirley, op. cit.

<sup>21</sup> Interview with Bunny McDiarmid, op. cit.

<sup>22</sup> Interview with Roderic Alley, retired Associate Professor of Political Science, Wellington, 17 February 2005.

<sup>23</sup> Interview with Alyn Ware, op. cit.

powered ships coming into the ports. Therefore, the action of repealing Section 11 would send out a message which would be hard to reconcile with the continuation of the ban.

A Danish policy may have been a viable course of action when the Labour Government first declared New Zealand a nuclear-free country. But 20 years have passed since.

If New Zealand had opted for a Danish style policy there might well have been no ANZUS rift. Nuclear weapons capable vessels would very likely have continued visiting New Zealand in spite of the ban on nuclear powered vessels, as they did Denmark which has not seen a nuclear powered vessel since 1964 but has had regular visits by other US Navy ships. And New Zealand might have remained in ANZUS as Denmark has in NATO.<sup>24</sup>

However, New Zealand adopted legislation which caused the rift with the United States. As Wayne Mapp adequately observed, ‘changing the law doesn’t restore the pre-84 status instantly because the previous twenty years has actually happened. So it takes some time to sort of get back to that situation. And whether we would really get back to it is another matter anyway.’<sup>25</sup> Nonetheless, David Burnett stated that ‘if the propulsion ban were lifted, even the policy were in place and we’d never have a nother ship visit other than Coastguard, that would at least open the door to a serious discussion of how to divide regional responsibilities for security issues without going back to ANZUS.’<sup>26</sup> This seems to indicate that the United States might be satisfied with a ‘Danish solution’ despite the fact that it still wouldn’t be allowed to send its nuclear-powered warships to New Zealand.

But whatever the case may be, while adopting the Danish policy may be a way to improve relations with the United States, it does not appear to be practicable from a New Zealand perspective. Implementing the Danish policy in New Zealand today would likely be seen by many as solely motivated to get on a better footing with the United States. This, in turn, could be perceived as surrendering some of New Zealand’s sovereignty to the United States. Since many New Zealanders feel that the nuclear-free legislation is symbolic of New Zealand making its own foreign policy decisions, the impression of ‘caving in’ to the United States on that particular issue could cause significant difficulties to the initiating party. In the end, many people would probably

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<sup>24</sup> Robert White, *Nuclear Free New Zealand: 1987 – From Policy to Legislation*. Working Paper No. 8, Auckland, Centre for Peace Studies, University of Auckland, 1998, p. 33.

<sup>25</sup> Interview with Wayne Mapp, National Party MP and former Member of the Creech Committee, Auckland, 12 November 2004.

<sup>26</sup> Interview with David Burnett, Deputy Head of Mission of the U.S. Embassy in New Zealand, Wellington, 22 February 2005.

see a move to implement the Danish policy as opportunist and dishonest although it may be well intentioned.

## Removing the Ban on Nuclear-Powered Ships

A number of individuals in New Zealand have voiced support for a repeal of Section 11. In their opinion, the ban on nuclear-powered ships has never had any real legitimacy and was added to the nuclear-free legislation to sour the relationship between New Zealand and the U.S. As a result of that, New Zealand was suspended from ANZUS and, more recently, snubbed when Australia got an FTA with the U.S. while New Zealand did not. In addition, opponents of the ban do not think that there is a significant safety risk associated with nuclear-propelled vessels that would warrant their exclusion from New Zealand ports. Furthermore, they believe that the symbolic value of the ban is overstated.

Besides, a number of people also feel that New Zealand has never been a nuclear-free country anyway. Therefore, whether or not New Zealand bans nuclear-powered ships would not make much of a difference. In Ken Shirley's opinion, 'to say we're nuclear-free is just scientifically a nonsense.'<sup>27</sup> As Mr. Shirley declares in his article 'New Zealand's No Nuke Nonsense,'

radiation of natural origin permeates the whole environment and is essential for life. Heat and light from the sun are radiation products from what is essentially a very large nuclear reactor. While most cosmic radiation is absorbed by the atmosphere, significant amounts reach the Earth's surface.<sup>28</sup>

Denis McLean argues as well that the idea of a nuclear-free New Zealand is

a delusion, as we know. I mean, New Zealand experiments with nuclear product and nuclear materials. New Zealand uses ... radioactive material for agricultural selection, uses radioactive material wholesale for medical research and so on. I mean, it's a fiction. And somehow we live by this extraordinary delusion.<sup>29</sup>

However, few people have ever asserted that New Zealand was 100 percent nuclear-free. No politician or member of the peace movement ever said that there was no natural radiation in New

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<sup>27</sup> Interview with Ken Shirley, op. cit.

<sup>28</sup> Ken Shirley, 'New Zealand's No Nuke Nonsense,' in *Liberal Thinking*. Wellington, ACT New Zealand Parliamentary Office, 2003, p. 27.

<sup>29</sup> Interview with Denis McLean, former Secretary of Defence and New Zealand Ambassador to the United States, Wellington, 24 January 2005.

Zealand. The concept of a nuclear-free zone such as New Zealand has nothing to do with the complete absence of all things nuclear such as natural background radiation. In the case of New Zealand, the policy solely characterizes an area without nuclear arms and nuclear-powered vessels. If 'nuclear-free' defined an area completely devoid of all nuclear elements, then there would be no nuclear-free zones anywhere. For that reason, dismissing the notion of a nuclear-free zone on the grounds that radiation is natural and exists even in New Zealand is specious.

Proponents of a repeal of Section 11 also like to point out that the ban on nuclear-powered ships is obsolete. Ken Shirley, for instance, called the ban 'an anachronism. And it's at least ten years out of date.'<sup>30</sup> This is also Denis McLean's opinion. He feels that the ban on nuclear-powered ships should have ended after the Somers Report showed that the danger of an accident involving the release of radioactivity from a naval nuclear reactor was minuscule.<sup>31</sup> He attributes the failure to act and repeal Section 11 to a lack of courage among political parties in New Zealand. He explained that 'what the Americans have looked for from successive New Zealand Governments now ... for twenty years is courage, real courage. And they're still looking. And the Australians likewise.'<sup>32</sup> Mr. McLean finds that it is 'a strange, strange phenomenon in which we actually go on convincing ourselves that we're leading the world and we're doing something noble and enlightened. And everybody else looks at us and wonders whether we're living on the same planet as everybody else.'<sup>33</sup> *The Press* argued that the contrast between National and Labour today

could not be more complete. Government ministers, when they speak on the subject, give every impression of having closed off their minds when the legislation was passed 20 years ago, and no matter how much the circumstances have changed in the intervening two decades, nothing will make them rethink their attitudes.<sup>34</sup>

So a degree of frustration with the way politicians have handled the debate about Section 11 can be discerned among opponents of the ban. Despite the changes that have occurred over the years, successive governments have failed to repeal the ban because of a lack of initiative. Otherwise, it is highly likely that the National Government under Jim Bolger would have initiated steps to remove Section 11 shortly after the Somers Report came out.

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<sup>30</sup> Interview with Ken Shirley, op. cit.

<sup>31</sup> Interview with Denis McLean, op. cit.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> 'Changing Positions,' *The Press*, 18 June 2004.

Whether the ban is outdated is quite another matter. Chapter Three has dealt with the various reasons for maintaining Section 11. While safety was one of them, symbolism is another reason for keeping the ban in place. Wayne Mapp explained that there ‘is the perception that New Zealand suddenly loses its independence’<sup>35</sup> if the government removed Section 11. Whether or not that would really be the case is another issue. Hence, he said that ‘I suppose this is one of these cases where perception is reality even though it’s not.’<sup>36</sup> That is, indeed, the crux of the matter. Although there might be no apparent reason for keeping the ban in place from a safety perspective, the non-tangible aspects involving symbolism are hard to measure. Therefore, it is difficult to know whether those symbolic aspects are still relevant to New Zealanders. Thus, from a scientific point of view, the ban may not be necessary any more, but from the perspective of symbolism and its meaning for New Zealanders it might still be. For that reason, a government exploring the possibility of repealing Section 11 would have to carefully assess where the public stands.

A decision made in Parliament to remove Section 11 without prior consultation of the New Zealand public could have undesired consequences. If a government managed to repeal the ban without public backing, the next government could re-introduce it and re-inscribe it in law. In such a situation, the United States would be unlikely to trust New Zealand. For that reason, ‘Dr Brash and Foreign Affairs spokesman Lockwood Smith said at the weekend any change in policy would need cross-party support, to ensure foreign policy was not subject to flip-flops under different Governments.’<sup>37</sup> For that reason, if the National Party became the next government and wished to alter the ban on nuclear-powered vessels in any way, ‘the change would need to have the support of future Labour as well as National governments.’<sup>38</sup> Therefore, Wayne Mapp affirmed that ‘you can’t flip flop on deep foreign policy issues depending on which party is in power.’<sup>39</sup> This is especially true in the case of the nuclear-powered ships ban, as it has become an important factor in the U.S.-New Zealand relationship. Of course, it is not the sole or the major defining factor of that relationship but it is a central issue that keeps being brought up. Thus, while the U.S.-New Zealand relationship might improve if Section 11 were gone, it could also worsen if future New Zealand governments started to flip-flop.

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<sup>35</sup> Interview with Wayne Mapp, op. cit.

<sup>36</sup> Ibid.

<sup>37</sup> Helen Tunnah, ‘Clark Pokes Fun at Nuclear Ban Review,’ *New Zealand Herald*, 4 May 2004.

<sup>38</sup> Nick Venter, ‘Northern Nats Give Nod to Nuclear Ships,’ *The Press*, 12 May 2003.

<sup>39</sup> Ibid.

So would it be a viable course of action for a future government to remove Section 11? The short answer is: maybe. The previous chapters show that it can be argued that nuclear-powered ships are, generally speaking, safe because of a low probability of an accident occurring. Moreover, the symbolic value of the ban on nuclear-propelled vessels is debatable. Whether this is reason enough to change the ban is difficult to say because many New Zealanders today feel that the symbolism of the ban is still important. In the end, any move towards repealing Section 11 would have to involve the consent or at least acquiescence of the New Zealand public. Alan Poletti explained that a political party wishing to remove the ban on nuclear-propelled vessels ‘would need to say very clearly what they propose to do and why. And the impression I get about the reports following Brash’s statement is that it wasn’t clearly spelt out what he was suggesting.’<sup>40</sup> As Dr. Poletti argued, ‘the arguments are there. They would have to be marshaled carefully. They would have to be explained.’<sup>41</sup> That is exactly what was missing in previous attempts to repeal the ban.

Section 11 expresses New Zealand’s concern for the safety of nuclear-powered vessels and the potential for radioactive releases from a naval nuclear reactor. Moreover, people have argued that it also symbolizes New Zealand’s stance on nuclear disarmament. An explanation to remove the ban on nuclear-powered vessels because it troubles New Zealand-United States relations does not address the ban itself in any way. If a politician feels that nuclear vessels are sufficiently safe and that the symbolism associated with the ban is overstated, then he or she would have to clarify the reasoning for arriving at that conclusion. However, explaining the alleged irrelevance of Section 11 in the context of U.S.-New Zealand relations will undoubtedly give people the impression that the party wishing to remove the legislation is intent on pleasing the United States while marginalizing the concern for what New Zealanders want. In the end, removal of the ban on nuclear-powered vessels is only a feasible option if a future New Zealand Government can manage to convincingly explain to the public that the ban is not relevant to New Zealand any longer.

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<sup>40</sup> Interview with Alan Poletti, Professor of Physics and former Member of the Somers Committee, Auckland, 20 December 2004.

<sup>41</sup> Ibid.

## Upholding the Status Quo

Most members of the New Zealand peace movement would like to maintain the ban on nuclear-powered ships in its present form. The reasons for this have been detailed throughout this thesis. New Zealanders see their nuclear-free legislation as symbolic in two respects. First, it is seen as a manifestation of New Zealand as a mature country with its own foreign policy independent of that of the United States, Australia, and Great Britain. Therefore, it is symbolic to many in terms of what it means to be a New Zealander. Second, it is regarded as symbolic of New Zealand's opposition to nuclear weapons proliferation. By being the only country in the world to have passed explicit legislation prohibiting the entry of nuclear-armed and nuclear-powered vessels, New Zealand has drawn media attention in the 1980s and gained a reputation as a proponent of nuclear disarmament. Furthermore, the nuclear-free legislation articulates to other countries New Zealand's concern about the safety of nuclear-powered vessels.

In addition, the economy has grown substantially since 1985 with no obvious indication that implementing Section 11 has negatively affected New Zealand's trade relations. This suggests that the United States Government has kept its word and not let the difference of opinion with New Zealand affect trade. Moreover, some people in favor of retaining Section 11 argue that a change of policy could create unrest among New Zealanders. Nick Wilson, for example, is concerned that 'if we had a policy of allowing vessels in I think it would ... generate a lot of social disturbance. And ... that in itself is a negative thing in terms of social cohesion.'<sup>42</sup> Certainly, an attempt to change the ban on nuclear-powered ships would cause a heated discussion among politicians and the New Zealand public. Protests might occur as the previous chapter has found. But whether such protests would occur on a large scale is uncertain. In any case, despite occasional debates about the rationale for maintaining Section 11, the majority of New Zealanders seems to support the continuation of the ban on nuclear-powered ships. Officially, with the exception of the ACT party, all political parties in New Zealand are in favor of maintaining Section 11.

Besides, current U.S. political trends seem to strengthen the feeling among New Zealanders that their nuclear-free legislation should stay in place. As Jon Johansson conveyed, 'so long as George W. Bush is president, there is absolutely no chance whatsoever that there'll be a mood in this country to change the policy to a more rational basis.'<sup>43</sup> Newspapers, and not just from New Zealand, confirm the international dislike of President Bush. As *The London Times* argued,

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<sup>42</sup> Interview with Nick Wilson, op. cit.

<sup>43</sup> Interview with Jon Johansson, Lecturer of Political Science, Wellington, 18 February 2005.

Mr Bush's election win will give the rest of the world a collective heart attack. It expected Mr Kerry to win. At the very least it expected Americans somehow to rein in a man it sees as naïve and dangerously belligerent, with views it finds hard to distinguish from the fundamentalism he so opposes. Americans declined to rein him in. They legitimised him. The rest of the world has been roundly snubbed.<sup>44</sup>

There is a perceptible fear in New Zealand that altering the ban on nuclear-powered ships in any way would cost New Zealand its independence in making its own foreign policy decisions. Naturally, that fear is exaggerated as New Zealand is a signatory to numerous international conventions without having lost its independence to make its own foreign policy decisions. But the fear is there and many New Zealanders do not want to change the law because that could be seen as an attempt to align New Zealand foreign policy with the current American foreign policy which is so widely resented.

Maintaining Section 11 and continuing the current stance towards nuclear-powered vessels is certainly a feasible course of action as the past twenty years have shown. The political and popular support for a continuation exists as well. However, simply maintaining the status quo would also leave a number of issues unaddressed. First, as Chapter Three shows, accidents involving the release of radioactivity from a naval nuclear power plant are unlikely to occur. Second, although New Zealand has become a reputable advocate of nuclear disarmament through its anti-nuclear legislation, it is uncertain to what extent that reputation is related to the ban on nuclear-powered ships. It would still be the only country in the world prohibiting nuclear-armed ship visits by law. Third, while New Zealanders are rightly proud of their nuclear-free national identity, why does it follow that a change of the ban on nuclear-powered ships would erode this image given that the more prominent ban on nuclear arms would remain unchanged? Fourth, New Zealand's clean-green image, although often associated with the nuclear-free legislation, does not appear to depend on a continuation of Section 11. Overall, maintaining the status quo is the easiest option socially and politically. But important issues regarding the continued relevance of the ban would keep being ignored.

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<sup>44</sup> Simon Jenkins, 'America's Cultural Revolution,' *The London Times*, 4 November 2004.

## The Possibility of Holding a Referendum

Of all four possible courses of action, only two are deemed viable. The government could either decide to maintain the status quo or it could decide to work towards a repeal of Section 11. As previously noted, a repeal would require the backing of the New Zealand public. In recognition of that, Don Brash declared shortly after the Creech Report came out that ‘if we reach the judgment that it is in New Zealand’s best interests to make a change, then clearly I would want to lead a constructive public debate on that issue leading to a referendum.’<sup>45</sup> As the *Evening Standard* argued one year earlier, ‘the shedding of a little light would be rather more useful to the public than lots of partisan heat. It may be the ideal subject of a referendum, although one wasn’t held when Labour banned them after coming to power in 1984.’<sup>46</sup> A similar view was expressed in 1991 when the National Party launched its first attempt to repeal Section 11. Then, National MP Michael Laws argued that ‘there would be no consensus until the anti-nuclear policy was taken out of the hands of politicians and determined one way or the other by referendum.’<sup>47</sup> A high level of politicization of the anti-nuclear legislation as a whole has dominated political debates. Therefore, this section will examine the advantages and disadvantages of holding a referendum.

There is a distinct feeling among people outside of the National Party that holding a referendum would amount to legitimizing the National Party’s opinion. Bunny McDiarmid, for example, explained that ‘I think personally they’re just looking for ways to dump it [Section 11].’<sup>48</sup> In her opinion, the National Party could justify a repeal by saying ‘this many people said yes or no and, therefore, we have to get rid of it because that’s what the people want.’<sup>49</sup> Jon Johansson suspects that is true. He argued: ‘You would only do it if you were going to win, right? Why else would you do it? You’re not going to do it to lose.’<sup>50</sup> Wayne Mapp confirmed that ‘you wouldn’t have a referendum on an issue like this unless you are feeling that there is going to be a respectable majority in support.’<sup>51</sup> Therefore, there is a distinct possibility that a referendum would only take place if the party appeared likely to win. The past record shows that the National Party floated the idea of a referendum once at the beginning of the 1990s and dropped the issue when it

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<sup>45</sup> Don Brash, quoted in Audrey Young, ‘Brash Considers Nuclear Ballot,’ *New Zealand Herald*, 23 June 2004.

<sup>46</sup> ‘Time to Look at Nuke Law,’ *The Evening Standard*, 7 August 2003.

<sup>47</sup> John Armstrong, ‘Plea to Get NZ in From Cold on Defence,’ *New Zealand Herald*, 26 April 1991.

<sup>48</sup> Interview with Bunny McDiarmid, op. cit.

<sup>49</sup> Ibid.

<sup>50</sup> Interview with Jon Johansson, op. cit.

<sup>51</sup> Interview with Wayne Mapp, op. cit.

became apparent that the party would lose. As the *Dominion Post* reported then, Don McKinnon told officials of the National Party that ‘there will not be a referendum on nuclear ship visits because the Government’s unpopularity would affect the result.’<sup>52</sup> That is a very contentious reason for not having a referendum. Surely, the National Party would not have felt it was problematic to hold a referendum had the Labour Party been unpopular at the time biasing voters against the Labour Party.

The National Party’s proposal to hold a referendum has also been criticized as pusillanimous and as a way for the party to avoid letting the public know where it stands. As Phil Goff argued, ‘a referendum is what you have when you don’t have the courage of your convictions.’<sup>53</sup> This is supported by Robert Mann who believes that the National Party does not ‘want to spell out a promise like that [repealing Section 11] because they strongly suspect that enough citizens would vote against them because of that and they have good grounds for that.’<sup>54</sup> Ewan Jamieson agreed that ‘on the domestic electoral front ... voter reaction could rebound against the initiating Party due to the general public’s heavily indoctrinated and poorly informed state.’<sup>55</sup> In that sense, holding a referendum would allow the National Party to avoid having to openly state its own position on the ban on nuclear-propelled vessels. This, in turn, could prevent a potential voter backlash from people of different convictions.

Holding a referendum is not only seen as timorous from a domestic point of view. A *Dominion Post* editorial proclaimed that

a policy to have a referendum if it looks like a change in the anti-nuclear law might help improve overseas relationships is far from a courageous stand. Courage is in having a point of principle about a small country’s sovereignty, and in opposing nuclear weapons, and sticking to it through 20 long years of military and diplomatic sideswipes from Washington and Canberra.<sup>56</sup>

Therefore, sovereignty is as much an issue today as it was when the policy was first implemented. But, as the Creech Report pointed out, ‘the Taskforce does not see being at odds with

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<sup>52</sup> Joanne Black, ‘Unpopularity Rules Out Ships Poll—McKinnon,’ *Dominion Post*, 19 November 1991.

<sup>53</sup> Interview with Phil Goff, op. cit.

<sup>54</sup> Interview with Robert Mann, retired Senior Lecturer of Biochemistry and Consultant Ecologist as well as former Vice-President of the Campaign for Nuclear Disarmament (NZ) and founding Committee Member of the New Zealand Foundation for Peace Studies, Auckland, 21 December 2004.

<sup>55</sup> Personal Communication with Ewan Jamieson, retired Chief of Defense Staff Air Vice Marshall, 10 February 2005.

<sup>56</sup> ‘We Are Not Ready to Capitulate,’ *Dominion Post*, 24 June 2004.

another country as a necessary condition for an independent policy line.’<sup>57</sup> This is the problem Don Brash had in mind when he said that ‘of course there is no point putting a proposition to a referendum unless we have some kind of assurance that a change in policy would in fact improve the relationship with the United States.’<sup>58</sup> This statement was quickly interpreted as meaning that

National’s latest policy is to go and ask the United States whether it likes it [the National Party proposal], and then National will put it to the people by way of a referendum. So the United States will be the Lower House, and the people of New Zealand will be the Upper House, in the National Party’s view of the constitution. Once a policy has been signed off by Washington and the Pentagon we are allowed to do it in New Zealand.<sup>59</sup>

Although this critique does not discount the idea of holding a referendum, it shows that some people took offense at the National Party’s framing of the issue in terms of improving relations with the United States. In that sense, the move was seen as a direct attempt to surrender some of New Zealand’s independence to the U.S.

Anti-Americanism is still seen as a major factor that would play a part in people’s decision-making if they were given the chance to vote in a referendum. Michael Bassett asserted that ‘behind a lot of the symbols related to nuclear power and nuclear arms ... is a deeply entrenched anti-Americanism.’<sup>60</sup> Interestingly, Bassett attributes the reason for this widespread anti-Americanism to ‘the Americans [who] are actually to blame in large measure for that because they allowed themselves to go along with Muldoon who was using them for his political purposes.’<sup>61</sup> In any case, Denis McLean finds that ‘the lack of inclination to deal with it now is fostered by developing anti-Americanism because of dislike of Bush and so on.’<sup>62</sup> Although Mr. McLean stated that he shares the dislike for George Bush and his handling of foreign policy, he ‘deeply dislike[s] anti-Americanism, a sort of blind and vocal kind of ignorance or disavowal of what America’s role in the world actually is.’<sup>63</sup> For this reason, Ewan Jamieson doubts ‘that a referendum ... would resolve the issue to the national advantage. The anti-American based prejudices that played a significant role in the introduction of the legislation are stronger than ever to-

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<sup>57</sup> New Zealand National Party Taskforce, ‘The Relationship Between New Zealand and the United States.’ Unpublished Report, Wellington, National Party, 2004, p. 40.

<sup>58</sup> Colin Espiner, ‘Nats Want Time on Nuclear-Ship Issue,’ *The Press*, 17 June 2004.

<sup>59</sup> Hon. Dr. Michael Cullen, Budget Debate, *Hansard*, 17 June 2004.

<sup>60</sup> Interview with Michael Bassett, former Minister of Health and Political Historian, Auckland, 14 March 2005.

<sup>61</sup> *Ibid.*

<sup>62</sup> Interview with Denis McLean, *op. cit.*

<sup>63</sup> *Ibid.*

day.’<sup>64</sup> Thus, anti-Americanism could well lead people to reject the removal of Section 11 not so much because of their belief that the ban should stay but because of their suspicion towards the United States Government.

Besides, there is some concern that if people were allowed to vote in a referendum, people would not be able to make an educated decision because they are not fully aware of all the factors surrounding the issue. As Michael Bassett insisted, holding a referendum would really amount to ‘leaving a great lump of section of the population who can’t sort the symbolism out from the fact. Giving them the opportunity to express an opinion, the validity of which is about worthless.’<sup>65</sup> Bunny McDiarmid thinks that ‘a lot of people probably feel unclear about it.’<sup>66</sup> Moreover, Alyn Ware indicated that ‘there’s a lot of people who ... aren’t aware of the nuclear power aspect of the ships.’<sup>67</sup> Nick Wilson expanded on this point and said that ‘it’s quite hard to explain to people ... what that little bit of adjustment means’<sup>68</sup> if the ban on nuclear-powered ships were modified or repealed. This suggests that it might be advantageous to inform people about the actual characteristics of the ban on nuclear-powered ships and inform them about what a potential change of that legislated ban would really entail.

### *An Educational Campaign?*

An educational campaign could expose people to other points of view on the topic and help them form a balanced opinion on the advantages and disadvantages of having a ban on nuclear-powered ships. But how could a referendum with an educational campaign be conducted? In 1993, New Zealand held one of the most important referenda in the country’s history regarding the electoral system. The way that referendum was handled can be analyzed and evaluated with respect to a potential referendum on the ban on nuclear-powered vessels. One of the interesting facts about the 1993 referendum was that ‘neither party wanted change. Perhaps even more exceptional was the government’s decision to fund a public education campaign that would put the issues before the electors “fairly and without bias.”’<sup>69</sup> This finding demonstrates that political

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<sup>64</sup> Personal Communication with Ewan Jamieson, op. cit.

<sup>65</sup> Interview with Michael Bassett, op. cit.

<sup>66</sup> Interview with Bunny McDiarmid, op. cit.

<sup>67</sup> Interview with Alyn Ware, op. cit.

<sup>68</sup> Interview with Nick Wilson, op. cit.

<sup>69</sup> Alan McRobie, ‘Introduction,’ in Alan McRobie (ed.), *Taking it to the People? The New Zealand Electoral Referendum Debate*. Christchurch, Hazard Press, 1993, p. 9.

parties can set their own opinions aside for a referendum, which would be an essential prerequisite for a possible referendum on Section 11.

The educational campaign in 1993 was carried out over a timeframe of several months. To inform the public, ‘extensive use was made of advertising, both on television and radio, and in the daily press and selected periodicals, to alert electors to the referendum. Television and radio, in particular, were used extensively to draw public attention to the referendum.’<sup>70</sup> As Alan McRobie’s analysis shows, ‘if measured in terms of increased public awareness—the level of public consciousness was reported to have risen from 22 to 86 per cent between April and September—it could be considered to be successful.’<sup>71</sup> Nonetheless, ‘despite an investment of \$3 million of taxpayers’ money in the public education campaign the turnout, officially calculated at only 52.2 per cent, compares unfavourably with the three other referendums not held in conjunction with general elections.’<sup>72</sup> Hence, an educational campaign can increase public awareness of the issue to be voted on. At the same time, it is no guarantee that people will actually come to vote in the referendum, even if it concerns an issue as important as the country’s electoral system.

Moreover, there are indications that too much information may actually keep people from voting. McRobie stated that ‘none of these earlier referendums was preceded by a massive, officially sanctioned, impartially organised, taxpayer-funded public education campaign designed to encourage electors to understand the issues involved before reaching their voting decision.’<sup>73</sup> Therefore, the lower voter turnout in the referendum on the electoral system may be due to an oversupply of information which may have confused more than clarified the issue. The government had appointed an independent panel to impartially organize the educational campaign. As the analysis showed, ‘the panel—and the government—appeared to assume that if people were provided with information they would study it and engage in debate.’<sup>74</sup> However, the findings do not confirm this assumption. For instance, ‘television advertising may have limited value because commercial breaks “are avoided [by viewers] with a regular consistency.”’<sup>75</sup> Thus, some key failures of the way in which the educational campaign was conducted may have contributed to a low voter turnout. As a result, providing information to the public through the media does not

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<sup>70</sup> Alan McRobie, ‘Educating the Public,’ in Alan McRobie (ed.), op. cit. p. 43.

<sup>71</sup> Ibid, p. 47.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> McRobie, ‘Educating the Public,’ op. cit. p. 48.

<sup>75</sup> Stephen Levine and Nigel S. Roberts, ‘A Mirror for Miramar? The 1990 Election in Perspective’, in Elizabeth McLeay (ed), *The 1990 General Election: Perspectives on Political Change in New Zealand*, 1991, quoted in ibid.

mean that people will become more educated about the subject to be discussed in the referendum. Nevertheless, such problems could be taken into account in the future. Therefore, the problems encountered at the 1993 referendum would not necessarily pose a problem for a future referendum.

It is doubtful, however, whether any such discussion or educational campaign would make people question long-held beliefs. Ewan Jamieson maintained that ‘small country xenophobia is a powerful force especially when dealing with the world’s most powerful nation - economically, militarily and politically. Many of them would be impervious to informed debate.’<sup>76</sup> This is confirmed by Bunny McDiarmid who said that ‘lots of people, I think, have made up their minds about this issue and ... there’s probably a significant number of the population now not going to change their minds no matter what goes on.’<sup>77</sup> In general, there is a feeling that the nuclear-free policy’s status as a declaration of national sovereignty could make it very difficult to change Section 11. There would be little point in conducting an educational campaign if people were unwilling to listen to the information provided and stuck to their opinion regardless of whatever might be discussed in the media.

Holding a referendum may not necessarily be an advantageous way of proceeding. As Max Bradford contended, ‘the trouble is once it goes through a referendum it’s very difficult to reopen the debate at all.’<sup>78</sup> For that reason, Nick Wilson argued that a binding referendum ‘could lock you into something which is even suboptimal.’<sup>79</sup> However, Robert White drew attention to the fact that there are no binding referenda in New Zealand. Therefore, Dr. White finds that ‘it would be interesting to see what a ... referendum produced.’<sup>80</sup> Thus, a non-binding referendum could show a general indication as to how the public feels about Section 11 and its relevance in a modern day context.

### *Alternatives to a Referendum*

There are a few other ways to approach such a discussion. For example, there could be a public discussion without a referendum. As Bunny McDiarmid suggested, ‘there is a whole new generation of New Zealanders who would benefit from a discussion around why we have this leg-

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<sup>76</sup> Personal Communication with Ewan Jamieson, op. cit.

<sup>77</sup> Interview with Bunny McDiarmid, op. cit.

<sup>78</sup> Interview with Max Bradford, former Minister of Defense, Wellington, 13 January 2005.

<sup>79</sup> Interview with Nick Wilson, op. cit.

<sup>80</sup> Interview with Robert White, retired Associate Professor of Physics and Director of the Centre for Peace Studies, Auckland, 15 March 2005.

islation ... and is it still relevant today, and why, if it is. I think that's a good idea.'<sup>81</sup> Thus, there could either be a non-binding referendum or a general discussion in public to educate people about the relevance of the ban for New Zealand today. Such a public discussion could engage a new generation of New Zealanders and make them aware of the legislation and its purpose. Furthermore, Max Bradford suggested that 'another Somers-type report which updated, you know, a lot of the material in there ... would be useful. Sort of a piece of background work.'<sup>82</sup> It is doubtful though how a new kind of Somers Report would be received by the New Zealand public and the political community. The Somers Report was so widely criticized when it came out and the same happened with the Creech Report. Therefore, another report in itself would not necessarily help a debate along.

Another interesting option highlighted by Mr. Bradford 'is not to have the votes whipped, in other words you vote on party lines, but to allow a conscience vote.'<sup>83</sup> Thus, every parliamentarian would be allowed to decide where he or she stands on the issue regardless of what the party policy says. Although Max Bradford admits that this would be an unusual step to take, it would still be an interesting approach. In his opinion, before that vote, 'each constituency MP ... would be pretty sure to gage whether his electorate was supportive or opposed ... to his stance or her stance. And the other 60 would have to try and make sure they didn't screw it up either.'<sup>84</sup> In that situation, the public's opinion would be taken into account without having to hold a referendum.

Some people interviewed for this study felt that there was no need for a referendum. Michael Bassett, for instance, presumes that most New Zealanders are actually not very keen on participating in referenda. In his opinion, 'the people can quite quickly realize that politicians are there really to make hard decisions.'<sup>85</sup> For that reason, people would expect the government to think the issue through and make a decision without having to go to great lengths about a referendum. In addition, Ken Shirley suspects that if a situation arose in which the ban on nuclear-powered ships were repealed, most young people, although indoctrinated into the mantra, 'would very quickly appreciate its fallacy.'<sup>86</sup> This is reflected by Jon Johansson, who believes that if a party managed to repeal Section 11 'and then got a ship in and the fish didn't turn green, didn't grow third eyes and no New Zealanders started looking like nuclear war victims, I think that the

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<sup>81</sup> Interview with Bunny McDiarmid, op. cit.

<sup>82</sup> Interview with Max Bradford, op. cit.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Interview with Michael Bassett, op. cit.

<sup>86</sup> Interview with Ken Shirley, op. cit.

typical Kiwi thing is that: She's right, mate.' Thus, there is a wide range of opinions with some calling for a referendum on Section 11 so as to take the citizen's views into account and others expecting parliamentarians to discuss the issue and make a decision based on the information available to the m.

### *Circumstances for a Public Discussion or Referendum*

A discussion or referendum in New Zealand on this highly sensitive topic can only be effectively held when the circumstances for such a discussion are present. Hence, Jon Johansson argued that 'what you got to do is create the circumstances where you can actually have the debate.'<sup>87</sup> In his estimation, 'the circumstances that need to come into play are post-Brash, post-Bush, post-Clark.'<sup>88</sup> There may be some truth to that assessment. Dr. Brash has already been branded pro-nuclear by his opponents. President Bush's foreign policy is likely to continue to alienate many New Zealanders and would make it very difficult for any future government to seek any kind of improvement of the U.S.-New Zealand relationship. Lastly, Helen Clark has been one of the key supporters of the anti-nuclear lobby throughout her political career which makes her an unlikely candidate to get involved in a constructive debate about Section 11 and its continued relevance for New Zealand today. Consequently, a sufficiently objective debate might not be likely in the near future.

Beside those factors mentioned above, the public perception of nuclear issues may have to change as well. Michael Bassett argued that 'getting a rational discussion on nuclear issues, anything to do with the word "nuclear," anywhere near it, is very hard in this country.'<sup>89</sup> The recent change of mind of the Federated Farmers may signify a move towards a less emotional stance regarding nuclear issues. In 1992, the organization, which 'represents 18,500 member farmers and rural families throughout New Zealand,'<sup>90</sup> had 'adopted a policy opposing nuclear reactors in New Zealand.'<sup>91</sup> Federated Farmer's president Owen Jennings had explained that the move 'reflects solidly nuclear-free sentiments among farmers which spill over into the nuclear ships issue.'<sup>92</sup> In February 2005, the organization's vice-president Charlie Pedersen said that 'nuclear

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<sup>87</sup> Interview with Jon Johansson, op. cit.

<sup>88</sup> Ibid.

<sup>89</sup> Interview with Michael Bassett, op. cit.

<sup>90</sup> 'About FFNZ,' *Federated Farmers New Zealand (Inc.)* [Organization Online], (2002) <<http://www.fedfarm.org.nz/about%20FFNZ/index.html>>, accessed 10 April 2005.

<sup>91</sup> Michael Szabo, 'Under a Nuclear Cloud,' *Terra Nova*, no.8, 1992, p. 39.

<sup>92</sup> Ibid.

power could offer New Zealand some very economic and environmentally-friendly options as far as producing electricity at the top end of our country ... Let's join the century that we actually live in.'<sup>93</sup> The chairman of the dairy section for Auckland, John Sexton, joined Mr. Pedersen by stating that 'other countries are doing it. We've almost run out of hydro power, which leaves us gas and coal, and we can't do that because of our commitment to Kyoto.'<sup>94</sup> Thus, a changing attitude towards issues involving nuclear power may help create the circumstances necessary for a discussion on the future of the ban on nuclear-powered vessels.

When the Creech Report was released in 2004, there was not much inclination among politicians to thoroughly debate the ban on nuclear-powered ships and its relevance today. As Denis McLean asserted, 'that discussion revealed once again that the whole issue of nuclear politics in New Zealand is too hot to handle still.'<sup>95</sup> In a way, it illustrated that the circumstances for a more objective discussion about the ban on nuclear-propelled vessels are still not present. By implication, it also showed that it is currently still not sensible to repeal Section 11. But it is within the power of any new government to initiate a public debate to educate people about the ban on nuclear-propelled vessels and how it fits into the modern day New Zealand context.

## Conclusion

In sum, there are four courses of action which a New Zealand government can follow. The first option, extending the applicability of the nuclear-free legislation to New Zealand's EEZ, does not appear to be a viable course of action. Any such move could call New Zealand's reputation as a good international citizen into question because extending the anti-nuclear legislation to the EEZ would be in violation of international law. The second option is to remove Section 11 from the *Nuclear Free Act* while maintaining the ban on nuclear-powered vessels as policy. While this may appear to be a solution to the discussion about what to do with the ban on nuclear-powered ships, it is unlikely to be politically viable. Following that course of action could be easily interpreted to be a means of pleasing the United States which could have a detrimental effect on New Zealanders' perception as their country standing tall and making its own decisions.

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<sup>93</sup> Nicola Boyes, 'NZ Needs Nuclear Power, Say Farmers,' *New Zealand Herald* [Newspaper Online], (18 February 2005) <<http://www.nzherald.co.nz/index.cfm?ObjectID=10111554>>, accessed 24 February 2005.

<sup>94</sup> Ibid.

<sup>95</sup> Interview with Denis McLean, op. cit.

The third option, repealing the ban altogether, may be workable. However, before any attempt can be made to remove Section 11, there would have to be a thorough debate to find out whether the New Zealand public would support such a move. Politicians would have to clearly state why they feel Section 11 should be repealed. If the public then supported the decision to remove Section 11, politicians could initiate the repeal. However, if the debate failed to convince the New Zealand population that the ban on nuclear-powered ships is no longer necessary, any move to alter the legislation would be seen as an action to satisfy the United States in disregard of what New Zealanders want. Hence, removing Section 11 can only be a practicable course of action if it has public backing. Therefore, a removal would have to be preceded by a public discussion or referendum measuring the level of support for the ban. Lastly, maintaining the status quo is undoubtedly a feasible course of action, as the past 20 years have shown. Except in the military and defense areas, there have been no major material disadvantages arising from the legislation. Overall, maintaining the status quo appears to be the most feasible course of action for now despite substantial arguments for a repeal.

## CHAPTER SEVEN

### CONCLUSION

The Labour Government's decision to declare New Zealand a nuclear-free country in 1984 caused New Zealand's suspension from ANZUS and a disagreement with the United States which resulted in the loss of New Zealand's status as a U.S. ally. This study has traced how these changes that occurred 20 years ago have influenced New Zealand's subsequent political debates on the nuclear-free legislation. It has examined the arguments presented by advocates and opponents of the ban on nuclear-powered vessels, which is the only aspect of the *Nuclear Free Act* that still causes problems with the United States. However, considering the fact that the ban on nuclear-propelled vessels has been in force for roughly 20 years and that most New Zealanders still support the ban today, what is the purpose of conducting a study of research on that legislation? The reason is quite simple: During the time period of the ban's existence, some fundamental changes have occurred in the world, principally the end of the Cold War and the decision by the United States and other nuclear weapon states to remove nuclear arms from their warships. Hence, changing circumstances may necessitate a change of legislation. As Max Bradford concluded, 'times change, so should policies.'<sup>1</sup> Therefore, David Burnett stated that 'we [Americans] find it odd that neither the policy nor the legislation has ever been really seriously looked at since it was implemented. I can't think of a single policy in the United States that hasn't been looked at. Because things change, the world changes. Your own needs change.'<sup>2</sup> Thus, it is appropriate to re-examine the need for maintaining legislation such as the ban on nuclear-powered ships, especially when there is a feeling among some politicians that the ban is no longer in New Zealand's interest. Accordingly, the thesis was designed to find out whether the changes that have occurred since 1987 warrant a change of Section 11 of the *Nuclear Free Act*.

#### Revisiting the Thesis Statement

As stated in the introduction, this thesis sought to examine why the ban on nuclear-propelled vessels is being discussed once again today, 20 years after the visit of the USS *Bu-*

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<sup>1</sup> Interview with Max Bradford, former Minister of Defense, Wellington, 13 January 2005.

<sup>2</sup> Interview with David Burnett, Deputy Head of Mission of the U.S. Embassy in New Zealand, Wellington, 22 February 2005.

*chanan* was rejected. The thesis has analyzed the circumstances under which the nuclear-propelled ships ban emerged and has shown what has changed since then. It has scrutinized the viability of arguments presented for and against the ban. Moreover, the thesis has suggested various options on how to proceed and resolve the debate. The thesis concluded by assessing which of the discussed courses of action seems the most promising and politically feasible.

The controversy around the ban on nuclear-propelled vessels re-emerged on the political scene in 2003 after a decade in which there was little to no mention of the subject at all. Some politicians in the National and ACT parties argued that New Zealand was excluded from free trade negotiations with the United States as a direct result of the ban on nuclear-powered ships. Moreover, there was a feeling that New Zealand should strengthen its military ties with the United States again, a reconciliation that is unlikely to occur as long as Section 11 remains in the nuclear-free legislation. When the ban was imposed, nuclear-powered warships were prohibited entry to New Zealand primarily because they were likely to carry nuclear weapons and secondarily because their nuclear reactors were seen as a safety risk. The worry about the safety of naval nuclear reactors has persisted over the years. If the safety risk were to be discounted, this would leave only the presumed link between nuclear propulsion and nuclear arms as the main rationale for keeping U.S. nuclear-propelled ships out of New Zealand harbors. But the arguments are more complex.

#### Four Categories of Argumentation

Through interviews, this author has found four general categories of people involved in the debate about the ban on nuclear-powered vessels. Individuals in the first category base their opposition to nuclear-powered vessels on the safety hazard arising from the remote possibility of a radioactive leakage or even a meltdown of the naval nuclear reactors. In the second category are individuals who oppose nuclear-powered ship visits because such ships are designed to carry nuclear warheads. Although such vessels are currently not nuclear-armed, they are still seen as symbolic representatives of the American nuclear war fighting capability which is used as justification for their continued exclusion. While nuclear-powered vessels have always been viewed as symbolic in that respect, the wish to prevent nuclear weapons from coming into New Zealand's ports onboard those ships was initially at the heart of these people's opposition to nuclear-powered ship visits. Thus, a shift has occurred in the argumentation of individuals in the second

category from opposition predominantly based on keeping nuclear weaponry out of New Zealand to today's symbolically oriented advocacy of Section 11.

The third category consists of those who would like to reverse the consequences the ban on nuclear-powered vessels had on New Zealand's relationships with Australia and the United States. They are first and foremost concerned with re-establishing closer defense ties with New Zealand's former ANZUS partners and with advancing New Zealand's chances of concluding a free trade agreement with the United States. The final category is made up of people who argue that the ban on nuclear-powered ships either never had any legitimacy in the first place or that it does not have any relevance anymore. Naturally, things are never this clear cut and the individuals interviewed for this study cannot be easily put into just one of these categories because there are overlaps. If an individual's predominant concern fits into one group that does not preclude the possibility that he or she also shares concerns related to another category.

This admittedly broad classification leads to three further observations. First of all, the anti-nuclear movement in New Zealand is not a unitary body of activists sharing the same views and arguments. Although members of the anti-nuclear movement all wish to keep the ban on nuclear-propelled ships in place, the reasons for this differ. While some emphasize the concern about the safety of naval nuclear reactors, others stress the symbolic value of Section 11 and its continued importance to New Zealand's oppositional stance towards nuclear arms. Second, individuals wishing to repeal Section 11 cannot be grouped together. For some, New Zealand's suspension from ANZUS and perceived difficulties in trade relations with the United States are reason enough to remove the ban on nuclear-powered ships. Third, others see the ban as a relic of the age of the Cold War or even as a mere product of domestic anti-Americanism. Hence, the thesis illustrated the multitude of opinions and lines of argument which all add a facet to the debate surrounding the ban on nuclear-powered ship visits.

## Contributions and Wider Applicability of Arguments

Numerous interviews conducted to uncover the various lines of argument that define the debate about the ban on nuclear-powered vessels allowed for a detailed analysis of the causes and consequences of Section 11 of the *Nuclear Free Act*. The unique information derived from these interviews is the main contribution to the existing literature. This information helped assess the viability of the alternative courses of action which future governments can follow. Moreover, it

helped establish four general categories of argumentation demonstrating the different reasons for maintaining and repealing Section 11.

Beyond that, several interesting points can be made based on this study of New Zealand's ban on nuclear-propelled vessels. First, as the Labour Party's decision to make New Zealand a nuclear-free country illustrates, a high level of politicization of a discussion surrounding a domestic policy or legislation aimed at altering the behavior of another state can impede efforts to negotiate a solution acceptable to both the country initiating the policy and the country or countries affected by it. In the case of New Zealand, aspects of Groupthink are discernible during the implementation phase of the nuclear-free policy and the subsequent legislation which altered the prospects of a joint solution. Second, once a rift between state actors has occurred, inflexibility on both sides can prolong a difference of opinion and prevent states from reassessing their positions regardless of international events. The thesis showed that while it is argued by some New Zealanders that New Zealand should change its position in relation to nuclear-propelled ship visits, a similar argument has been made for the United States to finally accept the existence of Section 11. Lastly, the research demonstrates that there can be much more to a piece of legislation than meets the eye. Section 11 is not just a clause that prohibits ships with naval nuclear reactors entry into the country's ports. Since it is part of the *New Zealand Nuclear Free Zone, Disarmament and Arms Control Act*, it is also a symbolic manifestation of New Zealand's commitment to arms control, its stand against nuclear weaponry, and ultimately New Zealand's sovereign right to promulgate these ideas as policy. Therefore, a factor such as symbolism that transcends the face value of a piece of legislation can elevate its perceived importance and relevance regardless of whether it is still factually important.

Although this thesis dealt with a specific problem confronting New Zealand-United States relations, the findings can be applied more widely to other cases in international politics. The study presented here shows how a disagreement between state actors can arise and illustrates the difficulty of resolving such a disagreement as time goes on. Intervening variables such as high politicization, government intransigence, and symbolism can further complicate the difference of opinion which can lead to the exclusion of otherwise viable alternative solutions. In the case analyzed in this thesis, it becomes clear that disagreements even among former allies can persist for many years or even decades. Furthermore, if there is a power imbalance with one state much stronger than the other, the stronger state is likely to use its power to press the smaller state to comply or at least use the unresolved problem as a means of leverage in future negotiations. By

implication, this also means that the stronger state is much less likely to change its position, leaving it up to the smaller state to adjust so as to find a suitable solution. Therefore, the research of this thesis illuminated the emergence of a rift between two friendly nations and focused on the various elements that led to the prolongation of that difference of policy.

Several issues could not be addressed in detail. For instance, it is unclear whether New Zealand is located in a more benign strategic environment today than when the *Nuclear Free Act* was passed. Moreover, nuclear waste management is a problem which remains unsolved. In addition, politicians in New Zealand will have to address the question whether an independent foreign policy for New Zealand depends on being at odds with the United States. An exploration of any of these issues could have a significant effect on the debate on whether or not the ban on nuclear-powered ships is still relevant or necessary for New Zealanders. Thorough research in these areas is recommended to provide contributions to the literature related to New Zealand's nuclear-free legislation, but lie beyond the scope of this thesis.

### Future Influences and Intervening Factors

What factors could significantly alter the future course of the debate on nuclear-propelled vessels? To begin with, how the debate will develop depends on the future of nuclear energy. Overall, nuclear power generation is becoming more widespread and acceptable. Hence, people in New Zealand may become more receptive to legally allowing nuclear-propelled vessels to return. The future course of the debate also depends on the position of the United States. For instance, if the U.S. Government entered into free trade negotiations with New Zealand despite Section 11, that would put an end to the argument that the ban on nuclear-powered vessels harms New Zealand's economy. More importantly, should the U.S. government unexpectedly allow New Zealand to return to full ANZUS membership or if the U.S. administration unexpectedly decided to conform to New Zealand's nuclear-free legislation and allowed its Coastguard and conventionally-powered Navy vessels to return, that would bring the disagreement over the nuclear-free legislation to an end. Now being cost-free, the legislation would be without opponents and the debate would end.

## Final Remarks

In conclusion, the debate surrounding the ban on nuclear-powered vessels is colored by people's differing perceptions about the importance of Section 11. Arguments range from factual and scientific considerations such as safety to rather ambiguous matters involving the symbolism of the ban in terms of national sovereignty and opposition to nuclear weapons. As the thesis showed, both the material and symbolic rationales for having the ban are debatable. First, it is widely acknowledged that the danger of a radioactive leakage from a naval nuclear reactor is miniscule. Second, there is no evidence with which to back up the assertion that the ban on nuclear-powered vessels enhances New Zealand's reputation as a proponent of nuclear disarmament. It becomes clear that Section 11 is a ban founded on a general aversion to things nuclear. A high level of politicization has contributed to unwillingness among New Zealanders to inspect the continued usefulness of the ban on nuclear-powered vessels. Indeed, it has become a matter of principle for many to maintain Section 11 regardless of changing circumstances and significant reasons for a repeal.

It is an interesting observation that politicians advocating a repeal of Section 11 have primarily done so by focusing on the implications of Section 11, not on the ban itself. Most of the arguments for a removal of Section 11 deal with how New Zealand can improve relations with the United States regarding defense and trade. It is exactly this focus on the ban's adverse material consequences that has raised concerns that people in favor of repealing the ban on nuclear-powered vessels wish to better relations with the United States without taking the sensitivities or symbolic needs of New Zealanders adequately into account. However, a repeal is likely to receive public backing only if the people feel that nuclear-propelled vessels are sufficiently safe, if they feel that maintaining the ban is no longer essential for their national identity, and if they feel it is no longer important for New Zealand's reputation as a proponent of nuclear disarmament. Thus, a political debate on the future of the ban would have to be preceded by an open discussion to identify how the public feels about the ban itself, not just its material consequences. Until the social and political circumstances for having a discussion emerge, the status quo will persist.

## APPENDIX A

### SECURITY TREATY BETWEEN AUSTRALIA, NEW ZEALAND, AND THE UNITED STATES OF AMERICA (ANZUS)<sup>1</sup>

#### THE PARTIES TO THIS TREATY,

**REAFFIRMING** their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the Pacific Area,

**NOTING** that the United States already has arrangements pursuant to which its armed forces are stationed in the Philippines, and has armed forces and administrative responsibilities in the Ryukyus, and upon the coming into force of the Japanese Peace Treaty may also station armed forces in and about Japan to assist in the preservation of peace and security in the Japan Area,

**RECOGNIZING** that Australia and New Zealand as members of the British Commonwealth of Nations have military obligations outside as well as within the Pacific Area,

**DESIRING** to declare publicly and formally their sense of unity, so that no potential aggressor could be under the illusion that any of them stand alone in the Pacific Area, and

**DESIRING** further to coordinate their efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the Pacific Area,

#### THEREFORE DECLARE AND AGREE as follows:

##### Article I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

##### Article II

In order more effectively to achieve the objective of this Treaty the Parties separately and jointly by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack.

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<sup>1</sup> 'Australian Treaty Series 1952 No 2,' *Australian Legal Information Institute* [Online Institute], (1997) <<http://www.austlii.edu.au/au/other/dfat/treaties/1952/2.html>>, accessed 8 April 2005.

### Article III

The Parties will consult together whenever in the opinion of any of them the territorial integrity, political independence or security of any of the Parties is threatened in the Pacific.

### Article IV

Each Party recognizes that an armed attack in the Pacific Area on any of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

### Article V

For the purpose of Article IV, an armed attack on any of the Parties is deemed to include an armed attack on the metropolitan territory of any of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

### Article VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

### Article VII

The Parties hereby establish a Council, consisting of their Foreign Ministers or their Deputies, to consider matters concerning the implementation of this Treaty. The Council should be so organized as to be able to meet at any time.

### Article VIII

Pending the development of a more comprehensive system of regional security in the Pacific Area and the development by the United Nations of more effective means to maintain international peace and security, the Council, established by Article VII, is authorized to maintain a consultative relationship with States, Regional Organizations, Associations of States or other authorities in the Pacific Area in a position to further the purposes of this Treaty and to contribute to the security of that Area.

### Article IX

This Treaty shall be ratified by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government

of Australia, which will notify each of the other signatories of such deposit. The Treaty shall enter into force as soon as the ratifications of the signatories have been deposited.

#### Article X

This Treaty shall remain in force indefinitely. Any Party may cease to be a member of the Council established by Article VII one year after notice has been given to the Government of Australia, which will inform the Governments of the other Parties of the deposit of such notice.

#### Article XI

This Treaty in the English language shall be deposited in the archives of the Government of Australia. Duly certified copies thereof will be transmitted by that Government to the Governments of each of the other signatories.

**IN WITNESS WHEREOF** the undersigned Plenipotentiaries have signed this Treaty.

**DONE** at the city of San Francisco this first day of September, 1951.

FOR AUSTRALIA:

[Signed:]

PERCY C SPENDER

FOR NEW ZEALAND:

[Signed:]

C A BERENDSEN

FOR THE UNITED STATES OF AMERICA:

[Signed:]

DEAN ACHESON

JOHN FOSTER DULLES

ALEXANDER WILEY

JOHN J SPARKMAN

Instruments of ratification were deposited for Australia, New Zealand and the United States of America 29 April 1952, on which date the Treaty entered into force.

**APPENDIX B**  
**NEW ZEALAND NUCLEAR-FREE ZONE, DISARMAMENT, AND**  
**ARMS CONTROL ACT (PASSAGES)<sup>2</sup>**

**An Act to establish in New Zealand a Nuclear Free Zone, to promote and encourage an active and effective contribution by New Zealand to the essential process of disarmament and international arms control, and to implement in New Zealand the following treaties:**

[...]

*Prohibitions in Relation to Nuclear Explosive Devices and Biological Weapons*

**Article 5. Prohibition on acquisition of nuclear explosive devices -**

- (1) No person, who is a New Zealand citizen or a person ordinarily resident in New Zealand, shall, within the Nuclear Free Zone, -
  - (b) Manufacture, acquire, or possess, or have control over, any nuclear explosive device; or
  - (c) Aid, abet, or procure any person to manufacture, acquire, possess, or have any control over any nuclear explosive device.
- (2) No person, who is a New Zealand citizen or a person ordinarily resident in New Zealand, and who is a servant or agent of the Crown, shall, beyond the New Zealand Free Zone, -
  - (a) Manufacture, acquire, or possess, or have control over, any nuclear explosive device; or
  - (b) Aid, abet, or procure any person to manufacture, acquire, possess, or have any control over any nuclear explosive device.

**Article 6. Prohibition on stationing of nuclear explosive devices -**

No person shall emplant, emplace, transport on land or inland waters or internal waters, stockpile, store, install, or deploy any nuclear explosive in the New Zealand Nuclear Free Zone.

**Article 7. Prohibition on testing of nuclear explosive devices -**

No person shall test any nuclear explosive device in the New Zealand Nuclear Free Zone.

**Article 8. Prohibition of biological weapons -**

No person shall manufacture, station, acquire, or possess, or have control over any biological weapon in the New Zealand Nuclear Free Zone.

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<sup>2</sup> 'New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act,' *CyberPlace – Peace* [Online NGOs], [date unknown] <<http://canterbury.cyberplace.org.nz/peace/nukefree.html>>, accessed 26 March 2005.

**Article 9. Entry into internal waters of New Zealand -**

- (1) When the Prime Minister is considering whether to grant approval to the entry of foreign warships into the internal waters of New Zealand, the Prime Minister shall have regard to all the relevant information and advice that may be available to the Prime Minister including information and advice concerning the strategic and security interests of New Zealand.
- (2) The Prime Minister may only grant approval for the entry into the internal waters of New Zealand by foreign warships if the Prime Minister is satisfied that the warships will not be carrying any nuclear explosive device upon their entry into the internal waters of New Zealand.

**Article 10. Landing in New Zealand -**

- (1) When the Prime Minister is considering whether to grant approval to the landing in New Zealand of foreign military aircraft, the Prime Minister shall have regard to all relevant information and advice that may be available to the Prime Minister including information and advice concerning the strategic and security interests of New Zealand.
- (2) The Prime Minister may only grant approval to the landing in New Zealand by any foreign aircraft if the Prime Minister is satisfied that the foreign military aircraft will not be carrying any nuclear explosive device when it lands in New Zealand.
- (3) Any such approval may relate to a category or class of foreign military aircraft, including foreign military aircraft that are being used to provide logistic support for a research programme in Antarctica, and may be given for such period as is specified in the approval.

**Article 11. Visits by nuclear powered ships -**

Entry into the internal waters of New Zealand by any ship whose propulsion is wholly or partly dependant on nuclear power is prohibited.

*Savings*

**Article 12. Passage through territorial sea and straits -**

Nothing in this Act shall apply to or be interpreted as limiting the freedom of –

- (a) Any ship exercising the right of innocent passage (in accordance with international law) through the territorial sea of New Zealand; or
- (b) Any ship or aircraft exercising the right of transit passage (in accordance with international law) through or over any strait used for international navigation; or
- (c) Any ship or aircraft in distress.

[...]

## APPENDIX C

### NUCLEAR-POWERED U.S. FLEET IN THE PACIFIC (MARCH 2005)

#### **CVN (5) Aircraft Carriers**<sup>3</sup>

USS Abraham Lincoln (CVN 72)  
USS Carl Vinson (CVN 70)  
USS John C. Stennis (CVN 74)  
USS Nimitz (CVN 68)  
USS Ronald Reagan (CVN 76)

#### **SSN (26) Attack Submarines**<sup>4</sup>

USS Asheville (SSN 758)  
USS Bremerton (SSN 698)  
USS Buffalo (SSN 715)  
USS Charlotte (SSN 766)  
USS Cheyenne (SSN 773)  
USS Chicago (SSN 721)  
USS City of Corpus Christi (SSN 705)  
USS Columbia (SSN 771)  
USS Columbus (SSN 762)  
USS Greeneville (SSN 772)  
USS Helena (SSN 725)  
USS Honolulu (SSN 718)  
USS Houston (SSN 713)  
USS Jefferson City (SSN 759)  
USS Key West (SSN 722)  
USS La Jolla (SSN 701)  
USS Los Angeles (SSN 688)

USS Louisville (SSN 724)  
USS Olympia (SSN 717)  
USS Pasadena (SSN 752)  
USS Portsmouth (SSN 707)  
USS Salt Lake City (SSN 716)  
USS San Francisco (SSN 711)  
USS Santa Fe (SSN 763)  
USS Topeka (SSN 754)  
USS Tucson (SSN 770)

#### **SSBN (6) Deep Sea Ballistic Missile Submarines**<sup>5</sup>

USS Alabama (SSBN 731)  
USS Alaska (SSBN 732)  
USS Henry M. Jackson (SSBN 730)  
USS Kentucky (SSBN 737)  
USS Nevada (SSBN 733)  
USS Pennsylvania (SSBN 735)

#### **SSGN (3) Deep Sea Ballistic Missile Submarines Being Converted to Nuclear-Powered Guided Missile Submarines**<sup>6</sup>

USS Georgia (SSBN 729)  
USS Michigan (SSBN 727)  
USS Ohio (SSBN 726)

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<sup>3</sup> 'Aircraft Carriers - CV, CVN,' United States Navy Fact Files [Navy Online], (2 March 2005) <<http://www.chinfo.navy.mil/navpalib/factfile/ships/ship-cv.html>>, accessed 28 March 2005.

<sup>4</sup> 'Attack Submarines - SSN,' United States Navy Fact Files [Navy Online], (15 December 2004) <<http://www.chinfo.navy.mil/navpalib/factfile/ships/ship-ssn.html>>, accessed 28 March 2005.

<sup>5</sup> 'Fleet Ballistic Missile Submarines - SSBN,' United States Navy Fact Files [Navy Online], (28 January 2003) <<http://www.chinfo.navy.mil/navpalib/factfile/ships/ship-ssbn.html>>, accessed 28 March 2005.

<sup>6</sup> 'Guided Missile Submarines - SSGN,' United States Navy Fact Files [Navy Online], (9 January 2005) <<http://www.chinfo.navy.mil/navpalib/factfile/ships/ship-ssgn.html>>, accessed 28 March 2005.

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