

SPECIAL REPORT

A S P I

Securing the Australian frontier
An agenda for border security policy

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November 2015

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Securing the Australian frontier

An agenda for border security policy



John Coyne

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A supplied image 5 March 2015 of liquid methylamphetamine seized by police. Six men have been charged and 230 kilograms of liquid methylamphetamine and 250 kilograms of cocaine seized in two countries as part of a major joint-agency investigation into an international organised crime syndicate. AAP Image/ Australian Customs and Border Protection.

FOREWORD

A nation's border security has always been seen as intrinsically linked to its national security¹ and public confidence in its government's security strategies; the protection of borders is a fundamental principal of sovereignty.² In 2014³ and 2015, being 'tough' on border security has been an increasingly hot political topic. The then Prime Minister Tony Abbott's February 2015⁴ national security statement clearly reveals that the threshold for action at Australia's borders is to be reduced. This change highlights the importance of border security to national security and the electorate's confidence in government.⁵

The traditional ways in which borders have been conceptualised are challenged by an increasingly globalised, connected and interdependent world. Rather than just being a line on a map defined by geographical coordinates, the border is elastic, virtual and psychological. Today, nations are faced with complex and multifaceted border security challenges that transcend both physical borders and traditional sovereignty. For example, Australia's border security agencies implement policies and strategies that make substantial contributions to national security.

In contrast with traditional national security issues and border management, there's little or no public policy dialogue and research on border security. ASPI is pleased to introduce its new Border Security Program to address that shortfall. The Department of Immigration and Border Protection is supporting ASPI's border security research through its sponsorship of the program.

The Border Security Program will provide independent, policy-relevant research and analysis to better inform government decisions and public understanding of border security issues. The research will focus on issues relevant to managing the border continuum to:

- help to support and facilitate legitimate trade and travel
- protect the Australian community from a range of border risks.

This special report includes a section on the Border Security Program and the program's annual research agenda.

The report begins by discussing some key border security concepts and emergent policy challenges before outlining the three pillars of the research agenda.

The content of the report was derived from a three-stage research process:

- a literature review
- a review of corporate reporting and publications
- 82 interviews with participants from across the private, public and not-for-profit sectors.

INTRODUCTION

The Australian border has great economic, social and strategic value. In 2014, each week, an average of 626,000 air passengers, 661 ships, 22,931 ship crew, 21,000 sea passengers, 25 recreational craft, 588,000 air cargo consignments and 55,000 sea cargo consignments arrived in Australia.⁶ The scale of border security transactions already puts immense pressure on the facilitation and intervention capabilities of the Department of Immigration and Border Protection (DIBP) and the Australian Border Force (ABF).⁷ In this context, the DIBP's and ABF's continued development of intelligence-led and risk-based⁸ enforcement strategies isn't a catchphrase, but an organisational imperative.

DIBP analysis suggests that the volume of transactions at the border will 'increase markedly' over the Australian federal budget forward estimates period.⁹ Such increases would push even the department's proposed capabilities to their limits.

Among the ever-expanding legitimate flows of goods and people is an increasing array of diverse and complex non-state security threats that move through or manifest at the Australian border, including international terrorism, transnational serious and organised crime, and global health and quarantine challenges. Added to this is the new challenge of screening passengers leaving Australia to identify those who are potentially travelling to fight in foreign conflicts or participate in terrorist activities.

Those charged with protecting Australia's borders face a strategic operating context with increased complexity, criminal sophistication and transaction volumes, and in a period of greater fiscal constraint.

In May 2014, the then Minister for Immigration and Border Protection, Scott Morrison, announced significant changes to the way Australia's borders will be managed.¹⁰ On 1 July 2015, DIBP and the Australian Customs and Border Protection Service officially amalgamated into one department. At the same time, a new frontline operational enforcement arm—the Australian Border Force (ABF)—was stood up. The ABF consolidates operational staff from both agencies into a single organisational and command structure. The DIBP's remit includes work in the areas of refugee and humanitarian programs, immigration and citizenship, trade and customs, offshore maritime security and revenue collection.

These changes embody the government's policy response to the change in operating context at Australia's borders. This strategic reality calls for continued public policy dialogue on border security strategy and innovation.

Where is the border?

Australia's lack of a shared land border with any other sovereign state makes it hard for many Australians to conceptualise 'the border' and 'border security'. Subsequently, many take a default position that our coastline is our border and that border security involves merely police, security guards and immigration or customs officials patrolling airports and seaports. Both those conceptions are limited to the concept of a *physical* border and don't take into account the complexity of Australia's borders.

The border is a physical space but it's now much more than a line on a map defining where the government's sovereign power begins and ends. It's a complex construct that comprises a combination of connections, conditions and control measures (Figure 1).

Although a nation's border remains a geographic space that the sovereign state must be able to defend with armed force, it is also the point at which the state's legal ability to exercise self-determination through control measures begins. Importantly, for both domestic and national security, the border as a construct is the space in which the government can control who and what enters the nation's sovereign territory, and to what degree and under what preconditions and constraints. An analysis of Australia's practical application of sovereignty through legitimate power fails to provide a definitive universal single point that is the border. Instead, it reveals an almost amorphous environment that's often elastic, virtual and indeed socially and psychologically constructed.

The border, as a construct, is also more than a control point. It's a space where careful management by the state and its partners can present substantial economic, social and security opportunities. To fully understand those opportunities, it's necessary to understand that the border operating context extends from within the nation, through the physical border, to offshore.

In the 21st century, the nature and construct of statehood, sovereignty and citizenship are being challenged to such a point that those terms are becoming more elastic.¹¹ The nature of statehood has always been a hotly contested question. David Kilcullen's controversial argument that the Islamic State (ISIS)—previously thought of as a non-state actor—might be a state illustrates the magnitude of the changes that are occurring.¹² The argument equally challenges the concepts of sovereignty and citizenship.

ISIS claims not only control of territory in the Middle East, but also extraterritorial jurisdiction over Muslims on the basis of religion, and some of those Muslims have declared their allegiance to ISIS's 'caliphate'. A new concept of extraterritorial sovereignty and citizenship is potentially evolving.

To enforce sovereignty, governments have a 'decisionist' prerogative over entry to, and arguably exit from, their territory and the conditions governing entry and exit. In practice, border control has become a domain in which regulation is exercised and compliance is checked based on risk management models.

As highlighted by Chambers,¹³ Australia's Operation Sovereign Borders¹⁴ shows that, in practice, the maritime border has been transformed into a space of security, akin to a frontier, that projects national sovereignty through the interdiction of boat arrivals in an absolute sense. Operation Sovereign Borders pushes the limits of sovereignty towards domination, as a means of control, of the maritime border.

Diplomatic, legal and military conflict has resulted from differing perspectives on the location of borders. In the past, this has often led to the creation of temporary or permanent neutral zones or frontiers (see box).

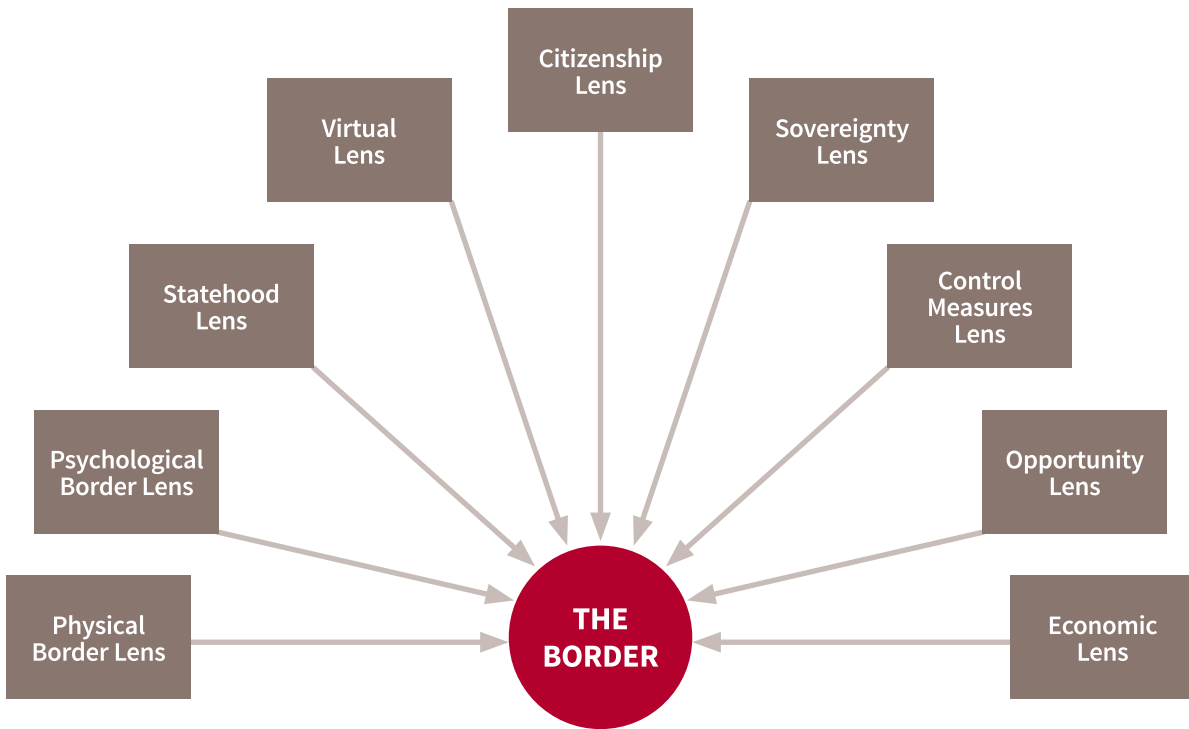
Case study: A border frontier

Following East Timor's vote on self-determination on 30 August 1999, the UN-mandated International Force East Timor (INTERFET) was formed to address the deteriorating humanitarian and security situation.

In October 1999, a company of Australian soldiers approaching the outskirts of the East Timorese hamlet of Motaain came under fire from Indonesian police and militia. A subsequent review of the incident found that the location of the border differed on each group's maps.

Due to the difficulties in establishing the exact location of the border and to avoid clashes, a 1-kilometre exclusion zone was established on each side of the Indonesia – East Timor land border.

Figure 1: The different lenses that contribute to understanding the border



Such uncertainty over the precise location of borders is increasing (the various claims over the South China Sea are cases in point), but a strategy for the creation of frontier spaces would be less effective than greater efforts in international cooperation and integration, especially in order to disrupt transnational non-state threats.

Within and outside Australia, legal and psychological borders are created by citizenship. From a legal perspective, citizenship creates legal borders for access to rights, opportunities, and access to the law and legal protection. At a psychological level, citizenship status creates senses of belonging and vulnerability. In this way, visa and citizenship transitions are border control policy levers that the government can exercise as surely as those at the physical border.

What is border security?

From a Western liberal democratic perspective, the nature of border security has undergone two major periods of change over the past 20 years. Before the 9/11 terrorist attacks in the US in 2001, the border as a physical location of transition or demarcation was becoming increasingly de-securitized and deregulated. In response to economic phenomena such as internationally integrated value chains and global logistics frameworks, there was a policy focus across the West on deregulating and opening border flows through such mechanisms as free trade agreements.

Border agencies using a border transaction approach struggled to stem the flow of illicit commodities in this de-securitized environment. The economic costs of controlling cross-border movements of people and goods in a world in which national logistics were being absorbed into global supply chains gave rise to a risk-based regulatory focus.¹⁵

The 9/11 attacks acted as a catalyst for the evolution of an increasingly militarised and securitised border environment.

In the face of terrorism, the governments of Western liberal democracies increasingly sought to protect their communities from the border inwards. The militarisation of border security is particularly evident in the US, where the Department of Homeland Security uses an approach that's somewhat reminiscent of the walled frontiers of the Cold War. In comparison, both the European Union's Frontex and the UK's Border Force offer examples of the securitisation model (see box). In both cases, performance has been mixed at best.

Case study: The United Kingdom Border Force

In 2008, the UK implemented a unified border security strategy using its UK Border Agency and then its Border Force from 2012. The British experience revealed that the size of border force, cultural resistance, poor planning and outdated IT systems can contribute to poor performance at the border.

A specific, measurable and universally accepted construction of border security is yet to be developed. Given the integrated nature of economies and communities, it may be that a nation can never completely 'secure its borders' in the 21st century. This certainly is the case if a definitive guarantee of security is expected from the state while the government maintains the economically necessary flow of people, goods and value across the national border.

Interconnectedness and integration are key dynamics influencing economic growth. While defining what a border is in today's globalised and high-tech world is difficult, citizens expect that their governments can prevent harms or threats from entering borders.

As with fear of crime more generally, there are some differences between border security as a public policy issue, the perception of risk, the fear of victimisation and the actual risk or threat.¹⁶ Even with the best border security system, a population may still feel concerned about border security.

In an age when diverse non-traditional national security threats affect the day-to-day lives of citizens, there should be little surprise that public interest in border security is increasing. While border security remains a national security imperative, contemporary economic policy seeks to accelerate border reform so that barriers and burdens on trade and travel are removed. This creates a potential conflict space between economic reformers and security professionals over border management—the dichotomy is inherent in the use of the border as a means to facilitate and as a means to restrict.

Reducing the concept of border security to a discussion about balancing between securing and not securing national borders is too simplistic. The balancing metaphor suggests that the policy debate involves a zero sum game. In this construct, increased security measures will reduce the risk of negative consequences (Figure 2). The wicked border problem is reduced to a simple balancing beam. On one end is a simplified construction of border security as an absolute end state; on the other are free trade and travel, without interference.

Reducing the border security challenge to a spectrum (Figure 3) limits decision-makers' opportunities to develop innovative strategies that can be assessed on the basis of their merits, including opportunity costs. Border security may be more akin to an aspirational goal than to an end state. If that's the case, the border security question should then involve a detailed analysis of national risks. More specifically, the challenge could then be recast into a question about what level of residual border security risk governments should accept.

In practice, this is far from being a philosophical or esoteric debate. Operation Sovereign Borders has shown that the decisionist approach can be rapidly changed to an absolute deterrence approach: 'No boats'.¹⁷ Similarly, the response to travellers seeking to participate in conflicts in Syria and Iraq has been changed to an internally focused deterrence power.

Figure 2: The balancing metaphor of border security



Figure 3: The border security spectrum



The absolute deterrence approach or strategy shouldn't be confused with the 'absolute deterrence effect' of such strategies. In our region, there are still many migrants trying to reach destinations via irregular maritime means. While potential irregular migrants may perceive Australian borders to be 'closed', they are still considering other destinations. In this sense, 'absolute deterrence' as a strategic effect or goal can be considered only from the national perspective of the destination country or as an alternative from the perspectives of origin or transit countries.

Border security involves substantially more than building bigger or better security measures. It involves an array of activities focused on facilitation, revenue collection, regulation and control—all related to the seamless movement of people and goods across borders. While Australian authorities perform these activities to achieve a strategic impact, border transactions are rapidly increasing. The risk that a securitised Australian border will have substantial negative economic impacts is real.

The Australian context has included conceptualising the border as a 'system of systems' with a complex array of intertwined control and mitigation capabilities. In responding and shaping responses, border security strategists fine-tune the various systems within the system to achieve strategic outcomes.

The policy challenge of border security, especially enforcement operations, requires us to consider the not so subtle differences between enforcement and police agencies. Unlike most other public sector workers, police officers exercise special discretionary powers that they derive directly from the law and not indirectly by delegation from some other source, such as a minister for police. A police officer, therefore, is the servant of no-one 'save of the law itself' and 'answerable to the law and to the law alone'.¹⁸

Over time, the discretionary powers of the individual police officer have been extended to whole police agencies. While organisations such as the Australian Federal Police (AFP) do receive ministerial direction and work within the national policy framework, they maintain what is by public service standards an unusually high degree of independence from government. For the other Australian law enforcement agencies, strategy priorities for border security are more often than not set by government policy and ministerial direction.

THREATS TO AUSTRALIAN BORDER SECURITY

Traditional conceptions of national security have focused mainly on the threat posed to a state by another sovereign state. More contemporary constructions of national security focus on societal, environmental, economic and political security.¹⁹ This expansion of the concept of security permits border security threats such as irregular migration and transnational and serious organised crime (TSOC) to be considered as national security risks.²⁰

The globalised operating context of sovereign states has ensured that non-state border security threats affect national security.²¹ Arguably, they affect all four of Australia's national security objectives:

- protecting and strengthening our sovereignty
- ensuring a safe and resilient population
- securing our assets, infrastructure and institutions
- promoting a favourable international environment.²²

Many threats and risks are relevant to the management of Australia's border continuum. They include such traditional enforcement threats as TSOC syndicates, people smugglers, human traffickers, espionage agents, illicit drug and firearm importers, terrorists, terror organisations and their supporters. The border risks are further broadened by issues such as counter-proliferation, biohazards and trade-based money laundering. Many of these are interconnected and require sophisticated responses as equally committed to creating a strong economy and a cohesive society as to undertaking enforcement and regulatory compliance.

Analysing Australia's border security threats coherently is a complex and often abstract activity. Official intelligence estimates of border security threats are often based on analyses of historical arrests and seizures. Before being able to even estimate border security threats, it's important to contextualise the 'dark figure' of border security incidents, which is the gap between reported border detections and the total amount of activity (including unreported or undiscovered activity). The dark figure is likely to be substantial, especially for less serious incidents.

Heroin and cocaine seizures in Australia illustrate the challenge of the dark figure of border security issues for policymakers. The drugs remain readily available to Australian users.²³ While detections of them at the border are significant, their continued supply indicates that border seizure figures might not reflect the actual market size.

Australian border security threats, especially those associated with national security, almost exclusively involve non-state actors, making the challenge of border security even more complex and persistent than for more traditional threats to sovereignty.

At the top of the list of pervasive and persistent border threats is TSOC. TSOC is intrinsically linked to a range of high-profit illicit markets (drugs, weapons, precursor chemicals, tobacco) and immigration (people smuggling, trafficking, sexual servitude, indentured labour). The challenge for enforcement agencies targeting TSOC groups is that disrupting global supply chains appears to have only fleeting impacts on domestic markets.

TSOC threats aren't a new phenomenon: their origins appear to be at least as old as national governments and international trade.²⁴ What's new is the rapid expansion of TSOC activities and interests from being localised to being nationalised, then regionalised and finally globalised.²⁵ The increasing scope of this threat has been accompanied by an increase in the complexity of TSOC structures and activities.²⁶ It could also be argued that what has changed is the way sovereign states perceive the TSOC problem and its resulting harms.²⁷

The TSOC threat has become a focal point for a range of private and public sector stakeholders, but there appears to be little evidence of strategy integration beyond the conceptual level in Australia, New Zealand, the UK, Canada or the US.

Contemporary TSOC threats at Australia's borders have the following characteristics:

- When disrupted by law enforcement, TSOC syndicates appear to be easily replaced, indicating increasingly lower barriers for illicit market entry. When law enforcers disrupt a TSOC syndicate, a gap in the global supply chain is created. The limited effects that these disruptions have on the availability of illicit commodities in Australian user markets indicate that the gaps are rapidly filled.²⁸
- There appears to be at least some strategic TSOC entry deterrence in Australia's domestic illicit markets at the retail level. In contrast, there's little evidence of strategic TSOC market deterrence in the border environment to discourage entry into competition in the wholesale market.
- The dynamic business model and flexible organisation of TSOC further complicate attempts to develop proactive strategies to detect, disrupt, prevent and investigate entities. They give criminal groups the opportunity to rapidly identify both risks from enforcement operations and opportunities for exploitation.
- TSOC decision-making is supported by a plethora of open-source information, including information on police strategies and operations. TSOC networks are then able to rapidly change operations or activities and take immediate action when an opportunity or unacceptable risk arises.
- The TSOC model allows for the rapid purchase and employment of new technology at a rate that far exceeds that available to law enforcers.
- The line between illicit and licit TSOC activity continues to grey.

Australia's internal security has also emerged as an aspect of border security because of the presence here of people who may have entered the country legally but who have subsequently become illegal as a result of being in breach of visa conditions (for example, overstayers).

Border security can't prevent terrorism, but it can provide valuable policy levers for combating it.

While border security can't prevent terrorism, it can provide valuable policy levers for combating it. The threat from terrorism at Australia's border involves the inward flow of terrorists, hate preachers and the tools of their trade, but the outward flow of fighters and finance shouldn't be overlooked. While risk-based and intelligence-led operational activity may prevent or disrupt group attacks, the rise of individual or 'lone wolf' terrorists is a much more challenging threat.

Since the turn of the century, there's been a growing realisation in some ASEAN states' policy circles that the region is now entering a period of increased resource scarcity.²⁹ While the opening up of the Vietnamese, Cambodian, Laotian and Myanmar economies has eased the short-term regional resource shortage, scarcity still looms large.

Policy consideration 1

What impact will increased resource scarcity in ASEAN have on Australia's border security?

In the rapidly approaching era of natural resource scarcity, border security will increasingly involve the protection of sovereignty over natural resources to ensure both their sustainable exploitation and access to appropriate royalties. Regionally, non-state actors such as TSOC are directly challenging state sovereignty over natural resources, including fish stocks.³⁰

Protecting others from us

To date, much of the public discussion on border security and control has focused on the protection of Australia and its interests. However, with Australians travelling to participate in criminal activities such as terrorism and organised crime, the nation is increasingly becoming a global exporter of serious and organised crime.³¹

Australian Crime Commission (ACC) reports have noted that serious and organised criminals operating in Australia have international links, particularly to facilitate the inward movement of illicit goods.³² Individual criminals with Australian citizenship are increasingly facilitating offences that directly affect internal and border security in ASEAN states and beyond (see box).

For many years, immigration staff have worked behind the scenes, using border turnarounds and passport cancellations, to prevent registered Australian sex offenders travelling internationally. More recently, DIBP has been questioning more than 400 travellers a day in an effort to prevent the travel of Australian jihadists.³³ Australia's outward-bound processing of passengers continues to improve through the introduction of 'smart gate' technology with facial recognition software and the deployment of the ABF's counterterrorism units.

Case study: Australia's latest criminal exports

In January 2013, two Australian expatriates with links to Australian outlaw motorcycle gangs were allegedly involved in the shooting of two German tourists in Patong, Thailand. The Germans were shot accidentally while the two Australians were attempting to shoot a Danish member of a local organised crime group.

In January 2014, Mohammad Ali Baryalei, an Australian citizen living in Turkey, was arrested for allegedly coordinating the travel of other Australians to participate in the Syrian conflict.

In August 2014, Khaled Sharrouf posted a photo on social media showing his seven-year-old son holding the decapitated head of a Syrian soldier.

In March 2015, Peter Gerard Scully, an Australian citizen, was charged by the Philippine National Police as a result of a lengthy global investigation. The police allege that Scully was involved in the abuse of several young Filipino children. Allegedly, he was the mastermind behind the production and global distribution of what's been called the most extreme child exploitation material ever seized by law enforcement agencies.

BORDER SECURITY ORGANISATIONAL FRAMEWORK

In 2008, the Australian Government ordered a comprehensive review of homeland and border security arrangements in Australia.³⁴ The review, by Mr Ric Smith AO PSM, considered the roles, responsibilities and functions of the departments and agencies involved.

At the time, Smith's review found that there was an argument for continuing the decentralised system in which responsibility for border security was shared among a number of national and non-national security agencies. Smith's perspective in developing his final recommendation provides some interesting factors for consideration when conceptualising organisational frameworks for border security:

- The creation of new larger departments could disrupt the successful and effective work of the agencies concerned.
- Large organisations tend to be inward-looking, siloed and slow to adapt, and thus ill-suited to the dynamic security environment.
- National security considerations are embedded within a broad range of other service delivery, policy, program and regulatory functions which could be jeopardised by restructuring them around their security roles.

A lot has changed since 2008, and much has been learned, especially about the border operating context and changing threat levels. The establishment of the National Security Adviser role was a pivotal change at the heart of Smith's focus on creating an integrated and cohesive national security committee. There can be little doubt that the Secretaries' Committee on National Security, the National Security Committee and the National Intelligence Committee have served the Commonwealth well in realising Smith's vision of a national security community.

At the time of Smith's review, Australia's conception of national security threats was experiencing a transformation. Strategically, an increasing array of non-traditional security threats were deepening and widening the scope of national security. While that expansion of understanding is now slowing somewhat, the definition is still broad enough to ensure that high-level criminal and regulatory threats are considered in scope.³⁵

This was evident for all enforcement challenges, but is best illustrated using transnational organised crime. Although transnational organised crime is a national security threat, it's also managed through criminal justice instruments such as the Organised Crime in Australia Assessment (produced by the ACC) and the National Organised Response Plan (produced by the Attorney-General's Department).

This overcomplicated mix of strategies had made the border operating environment more complex than Smith could have imagined during his 2008 review. While a national security community has been created, the complex nature of border security—and the diffuse border responsibilities—made it difficult for the border to be strategically managed. And, just as importantly, it was becoming increasingly difficult for the government and bureaucracy to translate whole-of-government strategies into operational reality. The border security space was crowded with some 52 national, state and territory agencies with a stake in border controls.³⁶

The operating context and the onward march of globalisation heightened the need for a rethink. Exponential growth in people and cargo movements and emerging requirements to prevent some travel while promoting free trade and other travel compounded the need for a major change at the border.

On 1 July 2015, DIBP and the Australian Customs and Border Protection Service (ACBPS) officially amalgamated into one department. Additionally, a new frontline operational enforcement arm—the Australian Border Force (ABF)—was stood up. DIBP has responsibility for policy, regulatory and corporate functions, while the ABF draws together the operational border, investigations, compliance, detention and enforcement functions.

The UK implemented a similar unified border security strategy with its UK Border Agency in 2008 and then its Border Force in 2012.³⁷ The British experience revealed that the size of the force, cultural resistance, poor planning and outdated IT systems can contribute to poor performance at the border.³⁸ Through its portfolio approach, DIBP has tried to mitigate the risks associated with rapid organisational growth and cultural change.

The British and American experience has highlighted the importance of information system integration to both operational and strategic border security success.

Since May 2014, DIBP has moved fast to bridge the information systems and cultural gap between the immigration and customs functions. While some initial progress has been made, the success of the centralisation of border functions will rely on the ability of the portfolio to rapidly integrate its various systems and processes.

Since early 2014, operational and tactical border security activity has had an increasing security focus, even in border related administrative decision-making.³⁹ The then Prime Minister Tony Abbott endorsed that focus in February 2015, when he stated that ‘if Immigration and Border Protection faces a choice to let in or keep out people with security questions over them—we should choose to keep them out.’⁴⁰ While this observation doesn’t argue that the department’s security focus is resulting in the neglect of trade and travel facilitation, it clearly implies that cautious security options should prevail if there’s ever a discretionary choice between the two.

In 2015, Australia is on the verge of issuing more than 5 million visas annually to visitors and temporary and permanent migrants.⁴¹ At any given time, about 1.9 million non-citizens will be in Australia on a temporary basis. The impacts of the current security focus on this trend are already evident in a 50% increase in the number of travellers denied entry to Australia at the border over the past two years.

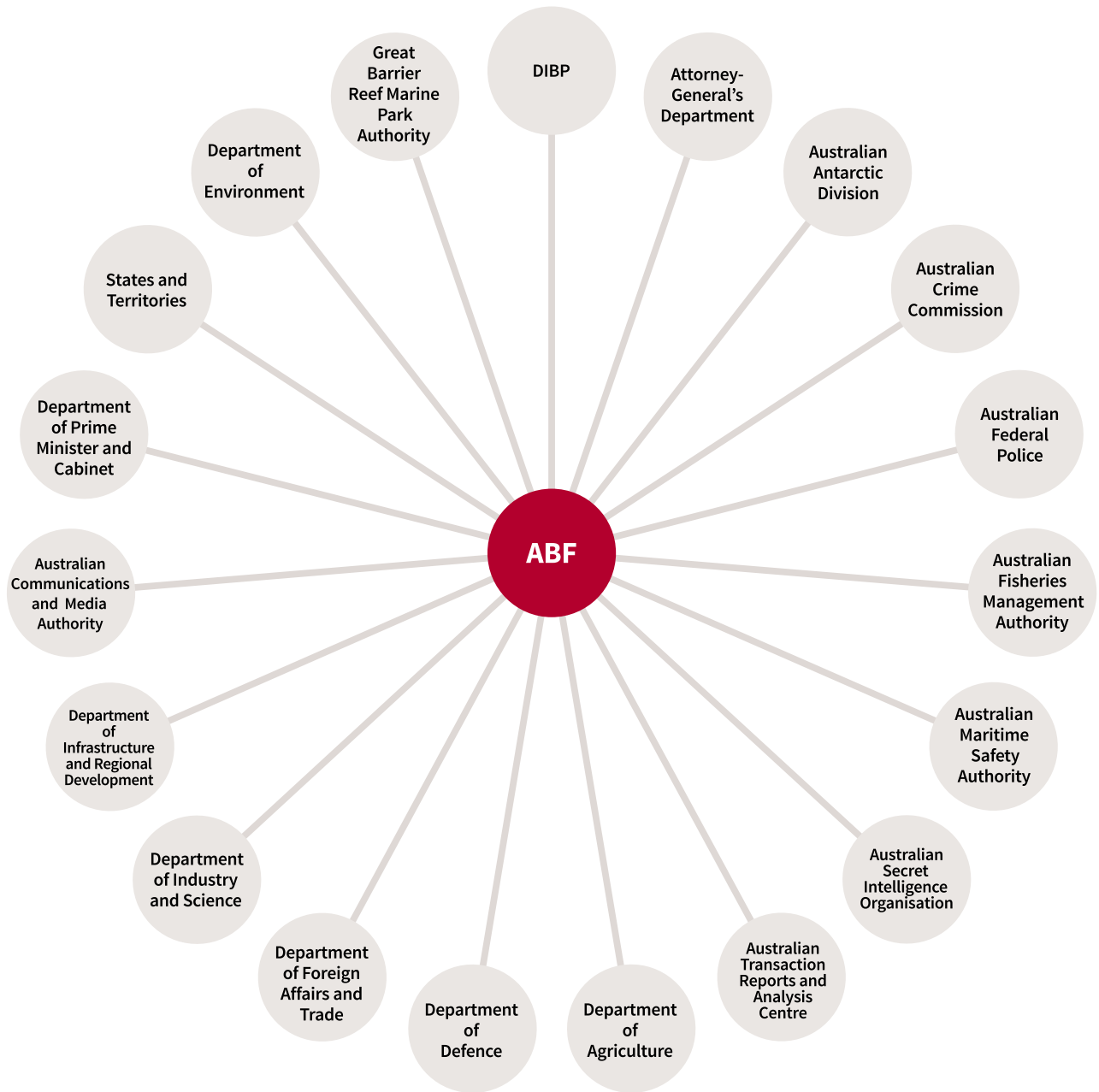
Although the balancing metaphor in border security policy is reductive, understanding how finite resources are allocated between facilitation and security functions at the border is important. The relationship between the two is complex, but it’s reasonable to expect that there will be performance impacts if ABF resources are drawn away from facilitation functions to perform enforcement roles. It’s also reasonable to deduce that reduced resource allocation to facilitation roles will have time and resource costs for the private sector and the public. But this trend also creates an opportunity for private sector entities to play a more active role in Australia’s border security, because it will be in the interest of shareholders to facilitate quick transitions across the border.

Policy consideration 2

What role or roles should the private sector play in Australia’s border security arrangements, processes and practices?

Even with the ABF merging customs and immigration functions, the Australian border will remain a complex operating environment (Figure 4). A key component of the DIBP strategy for resolving the often unclear and overlapping jurisdictional challenges is the National Border Targeting Centre (see box). The centre will act as the conduit for securing tactical, operational and strategic engagement from the various departments and agencies involved in border security.

Figure 4: ABF's operational public sector partners at the Australian border



Case study: The National Border Targeting Centre

The National Border Targeting Centre is based on the model developed by the National Targeting Center in the US and the UK's National Border Targeting Centre.

The Australian centre co-locates operational border security staff and information systems of agencies such as the AFP, the Australian Security Intelligence Organisation, the ACC, the Department of Foreign Affairs and Trade (the Australian Passport Office), the Department of Agriculture and the Department of Infrastructure and Transport.

The centre creates an opportunity for the joint management of border risks through coordinated intelligence-led and risk-based targeting.

Since May 2014, the ACBPS and DIBP have been running a fast-paced change program. Until now, this work has been focused on laying strong foundations for the long-term maturation of Australia's new border security arrangements, so the centralisation of border control remains nascent. If the ABF model proves successful, consideration should be given to centralising other border security functions, such as quarantine and biosecurity, to allow for the development of a unified national border security strategy.

Policy consideration 3

If the ABF model proves successful, should other border-related functions be centralised within DIBP?

THE AUSTRALIAN BORDER OF THE FUTURE

As an operating environment, the border will become an increasing national security policy challenge for the Australian Government, especially given the likelihood of continued fiscal constraints in both the private and public sectors. The next three to five years are likely to bring the following trends:

- Rapidly growing border transactions over the next three years will certainly contribute to the challenges faced by DIBP and the ABF.
- There will be continued economic and lobbyist pressures to further streamline regulatory and security controls for border transactions.
- There will be continued increases in risk-based border movement automation, such as smart gates and trusted traders programs. Such programs will require substantial organisational commitment and government funding to ensure their successful implementation and management.
- Real increases in base funding for border security are likely to be modest at best.
- There will be a continued greying of the line between licit and illicit economic activity by TSOC operators and others. The disruption of TSOC networks will require increasingly complex and protracted investigations. In addition, the level of specialist support from such fields as forensic accounting, data mining and data matching will increase substantially.
- The entrenched TSOC groups will become increasingly focused on recruiting trusted insiders to facilitate their illicit activities. With further automation of the border, their exploitation of border vulnerabilities will increasingly require collaborators from among either border security officers or private sector operators.
- The major syndicates' dominance of illicit end-to-end supply or value chains is likely to be increasingly challenged by small and medium-sized criminal entrepreneurs, who are likely to be involved in low-value, high-volume importations to avoid traditional law enforcement disruptions and investigations.

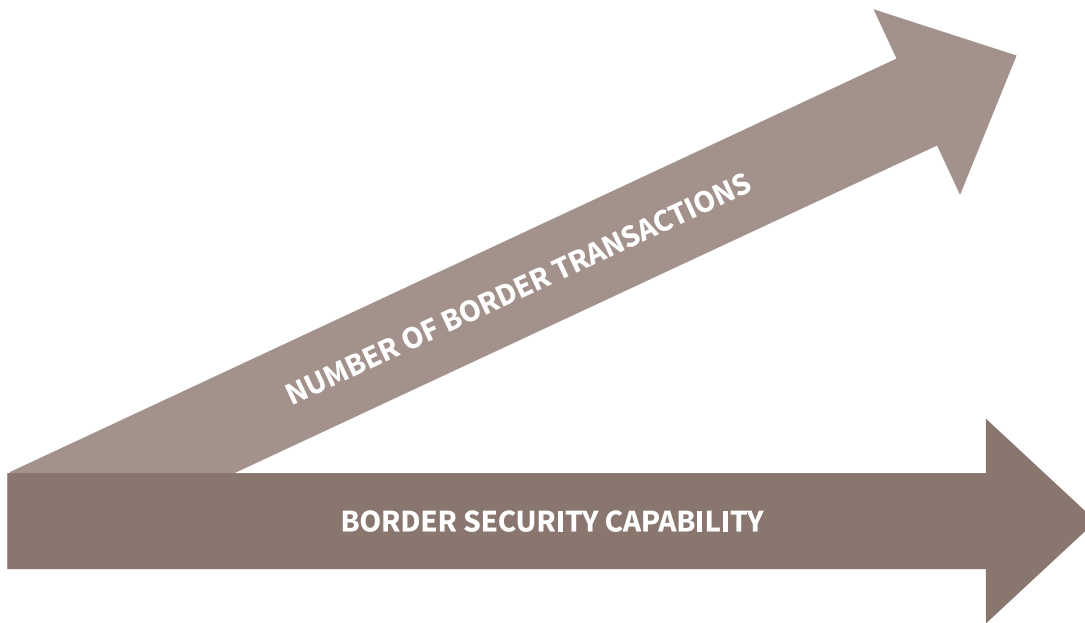
The introduction of DIBP and the ABF has involved a focus on strengthening Australia's border security through the intelligence-led and risk-based securitisation of border controls. The scale of the change involved in creating the portfolio ensures that the capability improvements won't be fully mature for several years. In the meantime, there's a real possibility of a widening gap between increased border transactions and border security capabilities (Figure 5).

Policy consideration 4

What level of residual border security risk is acceptable?

The ABF strategy will realise savings through efficiencies such as shared corporate services and reduced duplication, but its effectiveness in operational areas will continue to be thin without further government investment. Without continued real growth in funding for technological capabilities, the initial gains in border security could be quickly lost.

Figure 5: The potential growing capability gap at the border



Risk and consequence

Securing a nation's borders, in an absolute sense, is at best an aspirational goal. Even if it were possible to check every package and every person entering and leaving Australia, the economic impacts of doing so would be likely to be catastrophic. If that assumption is correct, then the question of how governments can provide border security becomes two questions: How can the integrity of borders be managed effectively and efficiently? What residual risk is acceptable?

When considering acceptable levels of residual risk, it's important to remember that the public's expectations for border security are likely to be irreconcilable with the realities of budgets and the scope of the issues involved.

Policy consideration 5

If the maturation of the ABF and DIBP will take several years, how can the widening gap between increased border transactions and border security capabilities be addressed in the interim?

In 2010, authors from the Center for Strategic and International Studies wrote that 'in theory states would design and implement border security initiatives in a comprehensive, strategic and sequential fashion.'⁴² In this construct, border security as a national-level strategic activity would involve a five-stage process:

1. Environmental and intelligence analysis
2. Strategic decision-making in the form of priority setting and risk acceptance
3. Strategic design of integrated compliance and enforcement systems
4. Development and deployment of integrated intelligence, detection, disruption and investigative capabilities
5. Evaluation and review.

In the Australian context, risk management from a corporate perspective is well integrated into departmental planning frameworks. In the case of Australia's border agencies, they and their associated legislation were

traditionally focused on regulating cross-border movements of people and goods from an administrative perspective. Over time, their roles have morphed into an enforcement approach with a stronger threat assessment focus.

As should be expected, the analysis and estimation of threats at the border is an important decision-support tool in border security. Unfortunately, threat-focused decision-making often results in ‘militarised strategies’⁴³ in which social and security policy moves from a goal of harm reduction to one of defeating threat sources. Such a combative policy was evident in the US ‘War on Drugs’ (see box).

Case study: The war on drugs

The ‘war on drugs’ is a longstanding global policy proposed by Richard Nixon in the 1970s. His symbolic declaration of war was designed as rhetoric to draw together US and eventually global efforts. Similarly, the policy allowed US law enforcement agencies access to extraordinary powers, including the deployment of military capabilities. However, without integrated demand reduction strategies, the US war on drugs has done little to stem the social harm caused by illicit drugs.

Put simply, on its own a department focused on defeating entities is unlikely to adequately mitigate all of the diffuse and complex threats that manifest at or through the border. Although some in DIBP argue that the department considers a wide array of complex threats in context, ‘not just one at a time’, this still doesn’t ensure a proactive response focused on harm reduction.

This also highlights the importance of the integration of DIBP’s and the ABF’s work with wider government. This isn’t an argument for the mere use of an idealistic adjective such as ‘whole-of-government’, but for the genuine integration of the various systems of government through understanding how each interacts with and affects the others.

The strategic management of border strategies and policies is primarily an activity in risk management and opportunity exploitation. In traditional risk management methodologies, decision-making is underpinned by an assessment of the likelihood and consequences of an unwanted outcome. Through additional factor analysis, it’s possible for DIBP to augment its risk management approach with more consideration of threat (capability and intent) and vulnerabilities.⁴⁴ In this conceptual framework, similar to RAND’s model for estimating terrorism risk,⁴⁵ a border risk can occur only when a threat entity has the capability and intent to exploit a border vulnerability to produce an unwanted consequence. With such a model, it would be possible to apply resources to strategically disrupt threats by addressing system or threat vulnerabilities.

Policy consideration 6

What’s the most effective mechanism to estimate the ‘dark figure’ of border security incidents and trends?

Policy consideration 7

If government is providing funding for DIBP and border security, what level of residual risk should it be willing to accept?

Policy consideration 8

Who owns the residual border security risk?

Policy consideration 9

What level of residual border security risk is the electorate willing to accept?

Arguably, DIBP does effectively use risk management to process arriving passengers and sea and air cargo. However, from a strategic perspective, there's still work to be done in aligning risk management with resource allocation and harm reduction goals. DIBP's current risk management processes are challenged by the unreported component of border vulnerabilities and seizure-focused performance measures. The department is able to report on total seizures by bulk and occurrences but, as for all border security agencies, it's much more difficult to estimate what percentage of the total incoming illicit commodities or irregular migration activity that represents.

Because risk management is concerned with the acceptance of at least some risk, this raises important policy questions for Australia's border security.

Coordination at the border

Traditional security principles, such as 'security in depth', remain very relevant to border security strategies. Before those principles can even be considered, jurisdictional overlaps between national security, law enforcement and regulatory functions need to be resolved. Border security is as much about collaboration, cooperation and integration as it's about building a security system. With multiple private and public sector stakeholders, it's little wonder that border security arrangements are so complex.

In Australia's federal system of government, there's no definitive hierarchy of priorities for border security. If a federated approach to border security priorities is adopted, there's a risk that accumulative analysis will retard the development of a national-level strategy. In this scenario, a significant national border threat may be viewed as a lower priority than a threat that involves the interests of multiple departments or state and territory jurisdictions.

The consequences of the risks associated with this approach are illustrated by the impacts of accumulative analysis on the ACC's National Criminal Target List. Despite both the ACC and the AFP being Australian Government agencies, their lists of top criminal targets rarely match. Although the ACC and AFP are different organisations with different roles, the National Criminal Target List should be a prioritisation tool in Australian law enforcement.

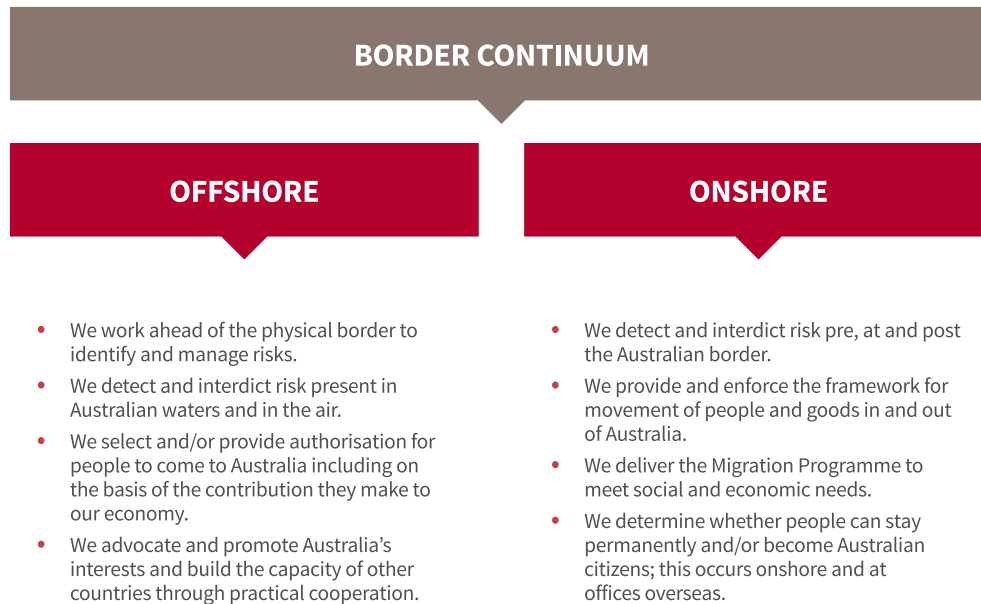
A threat may be nationally significant (that is, significant to the AFP and or the Australian Government) while being of little or no interest in other jurisdictions. Alternatively, a threat or risk may be present in a small number of state or territory jurisdictions, in which case the ACC board may escalate it in the national target priority list because of its accumulated strength. At the same time, the aggregated threat might not be a threat of any relevance to the Australian Government or the AFP (in other words, to the national jurisdiction).

Outlaw motorcycle groups illustrate this point. An outlaw motorcycle group member might operate a criminal enterprise that extends across western and southern Australia without being a criminal target of national significance. However, the fact that he's operating in two jurisdictions could be used to argue to have him considered a higher threat.

From the Australian public sector perspective, 'the border' is a complex operating environment with a range of interlocking jurisdictional challenges. Stakeholders such as the AFP, the ACC, the Australian Security Intelligence Organisation and the Defence organisation have intersecting and often competing interests with DIBP. DIBP will need to carefully consider how it prioritises its efforts and what constitutes a national-level border security priority. That being said, it can be reasonably expected and accepted that the protection of life remains the highest priority of our agencies working at the border.

The development of the ABF's concept of a border continuum by DIBP (Figure 6) creates further potential overlaps in jurisdiction beyond, at and behind the border. Through Border Protection Command and Operation Sovereign Borders, the ACBPS had managed to create collaborative strategic and operational coordination between Defence, Customs, Immigration and the AFP, as well as many other national security agencies. But the uneasy truce appears to have never extended beyond maritime and people smuggling operations.

Figure 6: DIBP's border continuum



Source: DIBP, www.border.gov.au/AustralianBorderForce/PublishingImages/australian-border-force-abf/protecting/where-do-we-work/Border%20continuum.png

Policy consideration 10

Does Australia need a whole-of-government international engagement strategy for law enforcement?

The development of DIBP and ABF strategies forward of the Australian border raises a number of fundamental questions about sovereignty or, more specifically, the legal application of hard and soft powers. Under DIBP's international engagement strategy, we'll see the potential for ABF personnel to operate collaboratively with foreign partners outside of Australia's sovereign territory.

Although the processing of visa applications forward of the border has always been practised, all other work outside Australia has had a sharp regulatory focus. To do more, active enforcement work forward of the border will need to be done on a collaborative basis, using bilateral or multilateral regional cooperation arrangements.

The AFP's international enforcement engagement and police diplomacy on TSOC has been the jewel in the organisation's crown for many years. The extension of the border continuum will create a number of potential conflicts and overlaps of responsibility between the AFP's international network and DIBP or ABF strategic engagement programs. With growing interest in international engagement forward of the Australian border, there appears to be sufficient impetus to reconsider the coordination of police diplomacy and enforcement engagement strategies, as well as capacity development, within a whole-of-government framework.

Policy consideration 11

When border security agencies work forward of Australia's borders, what framework will be used to guide the application of soft and hard powers?

At and behind the border, the ABF and DIBP face a number of interlocking and overlapping jurisdictional issues, especially in criminal investigation and disruption operations. Historically, the AFP was given the lead role in complex border investigations and disruption operations. The creation of the ABF and the National Border Targeting Centre was intended to increase cooperation and intelligence sharing. However, it appears that there's as yet no clear national strategy on operational coordination.

The private and public sectors at the border

With continued increases in people, capital, information, commodities and value streaming across physical and virtual borders, the ability of government to regulate or control those flows in an absolute sense is declining. In a period of fiscal restraint, the Australian Government's capacity to continue funding growth for the ABF and DIBP is severely restricted. Technology developments, intelligence and risk management will allow for the judicious and precise allocation of border resources but won't be able to fully mitigate the security implications of the continued growth in border traffic. Government will need to look to innovate in its border security policies and strategies if it's to continue to mitigate border security risks. At the heart of this transition will be a cultural move in both DIBP and the ABF, away from a transactions focus.

Technology developments, intelligence and risk management will allow for the judicious and precise allocation of border resources but won't be able to fully mitigate the security implications of the continued growth in border traffic.

For the private sector, the Australian border has almost boundless economic opportunities. Since federation, our border agencies have sought to both regulate and facilitate private sector transactions across the border. With the exponential growth in border transactions, Australia will need to re-examine how the government might be able to either recover costs for its services from those who profit at the border or increase collaboration between sectors to achieve border security.

It could be argued that governments are obliged to provide border security services free of charge, given the direct and indirect economic benefits of a low-interference and free border environment. The counter argument is that many of the private sector entities that operate at or forward of the border are making profits from government's investments in border security.

Private sector entities are already playing important partnership roles in border management. The DIBP's Australian Trusted Trader program (see box) is a standout example of how cooperation between sectors can streamline and facilitate trade and enhance supply-chain security.⁴⁶ But with increasing threats, the globalisation of value chains and the exponential growth in border transactions it's an appropriate time to explore private sector responsibilities for security before, at and after the border. In the Australian context, this means trying to develop multiple layered strategies for enhanced private sector cooperation, as opposed to stand-alone programs such as Australian Trusted Trader.

Case study: Australian Trusted Trader

Australian Trusted Trader is a free and voluntary partnership between an accredited business and the Australian Government. The aim is to streamline and facilitate trade and enhance supply-chain security.

Entities that can demonstrate requirements relating to supply-chain security and a history of trade compliance will be formally recognised as low-risk and accredited as 'trusted traders'. Australian Trusted Trader will offer trusted traders priority and streamlined services, among other benefits, to help them forge new global trade links and operate with greater certainty.

International cooperation—working forward of the border

In the Australian policy context, ‘the border’ is increasingly being referred to as a continuum. The continuum approach pragmatically recognises the reduced capacity of Australia’s border agencies to exercise the state’s *de jure* authority in directly controlling and regulating borders, especially with the privatisation of border functions in air and maritime facilities.

The border continuum construct provides increased scope for the creation of a spectrum of control measures forward of the border, as opposed to a widening of authority. In this context, the scope of control measures available to border agencies is extended to include the coordination of ‘softer’ methods, such as international cooperation, whole-of-government coordination and capacity development. But to do so will require much more strategically focused decision-making, as opposed to the more traditional operationally or transactionally focused border management risk strategy.

Working forward of the border on immigration isn’t a new concept for DIBP or its predecessors. For many years, immigration staff have worked in Australian embassies, consulates, high commissions and regional offices. They’ve been at the front line of Australian visa and migration policy. Similarly, the ACBPS had a limited number of liaison officers deployed forward of the border. The development of the Australian border security continuum will involve an expansion of this model, from a passive transactional approach to an enforcement and intelligence-based disruption strategy.

The work of DIBP and the ABF forward of the border will need to involve a substantial expansion of international roles if it’s to have a marked impact on Australian border security. They’ll need to achieve an appropriate balance between capacity development, intelligence cooperation and joint operations. However, before that can occur, a legislative basis for such an expansion of authority and power, especially in operational intelligence exchanges, will need to be developed.

Policy consideration 12

What legislative basis will underpin DIBP’s and the ABF’s work forward of the border?

To be successful, such an engagement program should consider how DIBP’s and the ABF’s international strategies will be integrated with existing diplomatic, aid and law enforcement strategies. The international border and border enforcement environment is a complex construct, but one in which strategic interventions can bring disproportionately high returns on investment. The challenge for DIBP in this environment will be to identify how its work will be differentiated from and at the same time integrated with and complementary to existing international enforcement work.

Policy consideration 13

How will DIBP and the ABF ensure that their work is differentiated but also integrated with and complementary to other international and domestic enforcement work?

The quickest and easiest way to develop such a program could be a partnership with the AFP’s international engagement strategy to identify regional collaborative enforcement opportunities. A collaborative partnership between the AFP and DIBP might result in further burden-sharing opportunities.

ASPI'S BORDER SECURITY RESEARCH AGENDA

ASPI's border security research agenda (Figure 7) aims to research and gather evidence on issues relevant to managing the border continuum that will assist in supporting and facilitating legitimate trade and travel and protecting the Australian community from a range of border risks.

ASPI has four key program objectives for its Border Security Program:

- Lift the level of Australian and regional understanding and dialogue on border security.
- Create a space and forum for the development of high-quality public policy on border security related issues.
- Provide a means for developing Track 1.5 and Track 2 dialogue on border security issues.
- Create a sustained dialogue between the private and public sectors on border security.

The broad nature of border security and the extensive range of stakeholders ensure that there's no shortage of issues to research. Based on the available resources and ASPI's national security focus, the following broad strategic questions will guide Border Security Program work:

- How can border agencies adapt and innovate to meet the challenges of their evolving operating context?
- How do border security threats affect national security?
- How should we position Australian border agencies for the future?

The primary research questions guiding ASPI's Border Security Program until June 2017 are:

- What opportunities exist to create collaborative relationships with private sector organisations which will contribute to border security capabilities?
- How could operational activity at and beyond the Australian border be better coordinated from a strategic capability perspective to achieve improved border security outcomes?
- What strategic capabilities does DIBP require forward of the Australian border? And how will this contribute to border security?

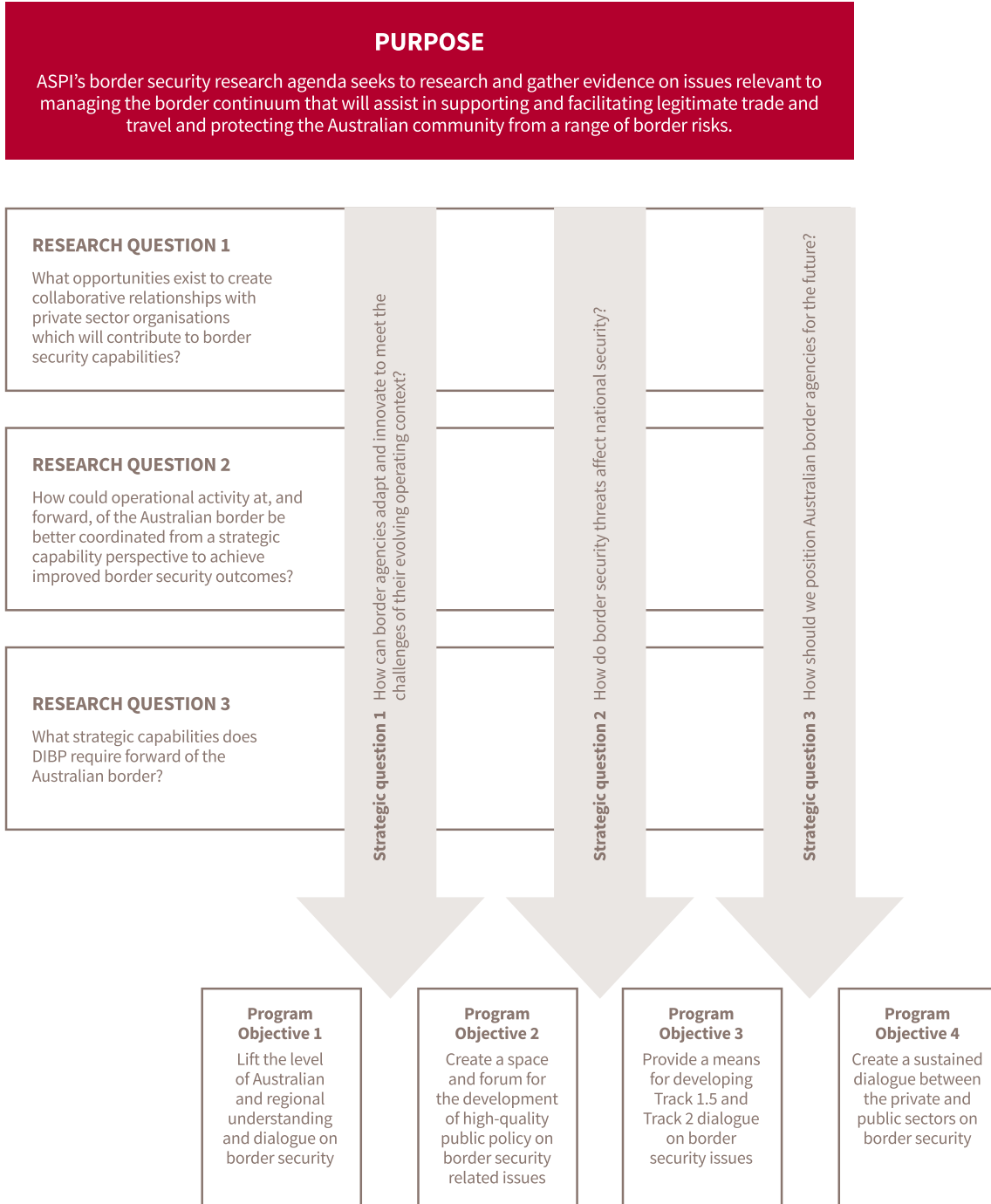
ASPI informs the public debate on strategic issues pertinent to Australia's national security from an independent, non-partisan position. It works closely with the public, private and not-for-profit sectors. For this program, ASPI will work particularly closely with DIBP and the ABF as well as their many strategic partners. At the core of the program's work will be an ethos of collaboration and sharing. The Border Security Program will be focused on bringing together academics, strategists, practitioners and providers in workshops, conferences and dialogues to contribute to the public debate on border security.

ASPI aims to broaden public knowledge about the critical strategic choices Australia will face over the coming years. It helps to foster strategic expertise in Australia through dialogue, research and its contribution to public debate. To achieve these goals, it must remain policy relevant.

To be policy relevant, the Border Security Program must:

- provide clear statements of the policy application of research
- identify the end users of research
- develop a framework for knowledge transfer.

Figure 7: ASPI's border security research agenda



To remain policy relevant, this research program will:

- be directed towards generating innovative ideas about what works and how policy impacts are achieved
- collate concepts and theories on the way strategies work for different organisations in different circumstances
- explore how and why policies work and how they perform in comparison to other policies
- identify the indirect forces that are at work in the policy system
- employ a realistic view of 'causality' that supports timely action.

CONCLUSION

Effective border security allows for the seamless legitimate movement of people and goods across Australia's borders, which is critical to enhancing trade, travel and migration. The provision of border security involves far more than creating a capability focused solely on keeping our borders secure from potential terrorists, irregular migrants and illicit contraband. Border security policy deals with a unique operating space, in which extraordinary measures (extraordinary in character, amount, extent or degree) are often needed to provide a sense of security at the same time as creating the sense of normalcy that will allow economic interactions to flourish.

With continued increases in people, information, commodities and value streaming across physical and virtual borders, the ability to regulate or control border flows in an absolute sense is declining. And hunting for potential threats, risks and harms at the border has become akin to searching for a needle in a perpetually expanding haystack.

The diffuse and adaptive nature of border threats and risks ensures that border security, in an absolute sense, is more of an aspirational goal than an end state. This reality demands further public policy dialogue on what border security means in a practical sense. That dialogue needs to go beyond an academic discourse on defining border security and border management. At the top of the list of discussion topics is the search for a pragmatic description of what success looks like for our border security agencies.

While Australia's border security efforts have achieved a range of impressive results, the changing operating context, rapidly increasing border movements and tighter fiscal constraints mean that DIBP's search for border innovations must continue at full steam. Traditional academic research will continue to play an important role in developing sufficient evidence for longer term changes to border security strategy and policy. Complementing this research, ASPI's Border Security Program will seek to stimulate much-needed public policy dialogue. Additionally, and just as importantly, ASPI will strive to provide evidence-based research and analysis that can inform policy and operational deliberations on border security.

Notes

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- 6 http://www.border.gov.au/ReportsandPublications/Documents/annual-reports/ACBPS_AR_2013-14.pdf.
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- 8 The term *intelligence-led* describes a business model and managerial philosophy in which data collection, collation and analysis (from a threat perspective) contribute to objective decision-making on problem reduction, disruption and prevention through strategic interventions. In *risk-based systems*, information about the likelihood and consequences of one or more unwanted outcomes is collated and analysed to assist decision-makers.
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- 10 S Morrison, 'A new force protecting Australia's borders: address to the Lowy Institute for International Policy, Sydney', media release, 9 May 2014, [online](#).
- 11 In this report, *statehood* means being recognised by other states as a state; *sovereignty* means the state's capacity to fully govern itself without foreign interference.
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- 14 Operation Sovereign Borders is a military-led Australian border security operation supported and assisted by a wide range of Australian Government agencies. The Operation Sovereign Borders Joint Agency Task Force has been established to ensure a whole-of-government effort to combat people smuggling and protect Australia's borders.
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- 40 Tony Abbott, *National Security Statement*.
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- 43 *Militarised strategies* are those that focus on defeating a threat or risk. Such strategies may also be used to obtain extraordinary policy responses.
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Acronyms and abbreviations

ABF	Australian Border Force
ACBPS	Australian Customs and Border Protection Service
ACC	Australian Crime Commission
AFP	Australian Federal Police
ASEAN	Association of Southeast Asian Nations
DIBP	Department of Immigration and Border Protection
TSOC	transnational and serious organised crime
UK	United Kingdom

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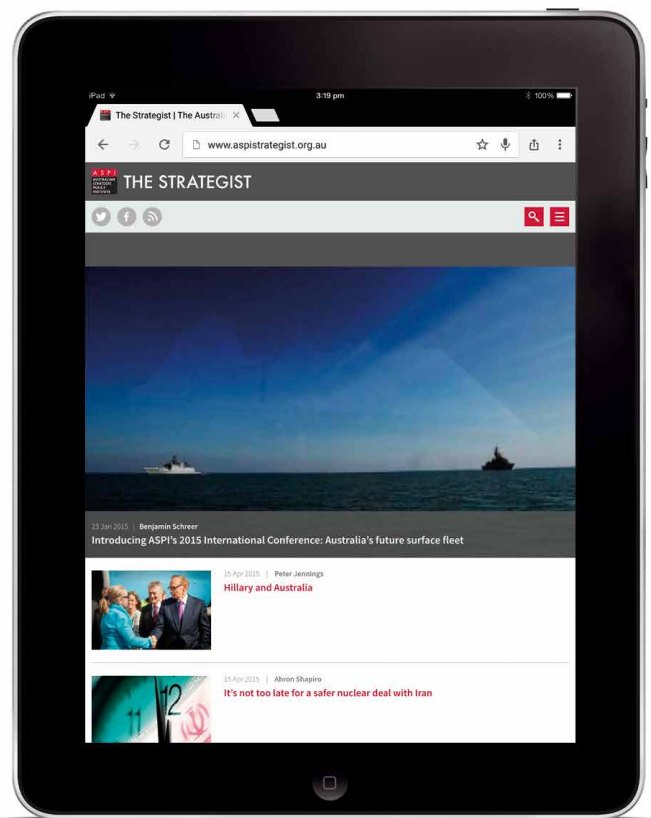
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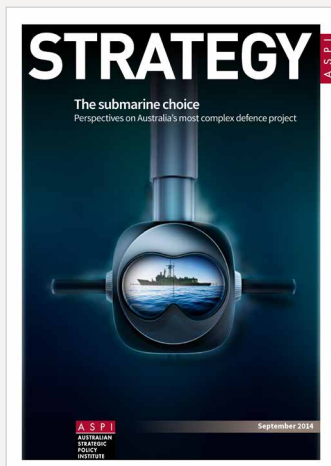
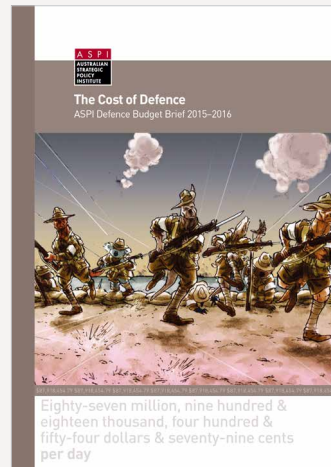
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