

Extracts from “The Espionage Threat to New Zealand” (NAC 16/2011-12 Five Eyes Version) – 22 March 2012

**This paper examines the threat presented by state-sponsored espionage against New Zealand, as part of a series of national assessments commissioned by ODESC(G) and the NAC to address the major national security threats – or 'vectors of harm' – to New Zealand.**

### **What is Espionage?**

Espionage is a process involving agents or technical means to obtain information ('intelligence') that is not normally publically available. In the Crimes Act 1961, espionage is defined as a person, who owes allegiance to the Queen, communicates (or intends to communicate) information to a foreign power with the intent to prejudice the security of New Zealand.

The New Zealand Security Intelligence Service (NZSIS) also considers espionage to encompass certain activity that falls under the definition of security in the NZSIS Act 1969, namely clandestine or deceptive activity that is influenced by a foreign entity and impacts adversely on New Zealand's international or economic well-being. This can include seeking to covertly influence decision makers and opinion-formers to benefit the interest of a foreign power (political interference), or adversely interfering in the lives of another country's residents (foreign interference).

### **Why New Zealand? : Foreign Intelligence Services' Intelligence Requirements**

#### *'Privileged' Information*

(note 1: See Appendix A for a list of definitions.)

#### *Science and Technology*

#### *Foreign and Political Interference*

#### *Other Intelligence Activity in New Zealand*

### **Espionage Tradecraft / Modus Operandi**

#### *Human-based Intelligence Operations*

Intelligence officers often operate in 'grey' areas where there is a covert dimension to their overt functions.

#### *Cyber-Espionage*

## **Implications for New Zealand: The Impact of Espionage**

While terrorism to a certain degree can be measured in lives lost or physical damage caused, the harm caused by espionage is more varied and harder to quantify. Added to this, espionage by its very nature is a covert activity and may go undetected for years, possibly indefinitely.

### **Text Box 7: Chinese Attempts to Steal Science & Technology - Pacific Rose Case**

In 1997, four Chinese scientists on a Chinese Government-sponsored trip were caught attempting to smuggle stolen prototype Pacific Rose apple cuttings out of New Zealand. The Pacific Rose strain had been under development for 17 years, and new varieties of fruit were New Zealand's main competitive advantage. If the attempted smuggling was successful, China would potentially have had up to ten years lead time in the apple's development to full commercialisation. This commercialisation would very likely have been on a scale and price that could not be matched within New Zealand. Apple exports are expected to contribute approximately NZ\$430 million to New Zealand's economy in 2012, with Pacific series apples constituting 6.6% (an estimated NZ\$28 million) of the total apple exports.

### **Outlook**

## **Appendix A: Definitions**

### *Five Eyes*

The 'Five Eyes' refers to the United States, United Kingdom, Canada, Australia and New Zealand.

### *Cyber Intrusions*

Cyber intrusions use computers, networked through the Internet, and other connected mobile technologies to commit or facilitate malicious activity. Cyber intrusions are conducted for the purposes of either *cyber exploitation* – the covert collection of information from information and communications technologies (ICT) systems, or *cyber attack* – activity to deny, degrade, disrupt or destroy information or ICT systems.

### *Administrator-level Access*

Administrator-level access allows a user to move freely within a computer network. This includes the ability to change data, deny access, create ongoing access with privileges, as well as exfiltrate data of interest.

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Extracts from “The Threat to New Zealand from Sabotage and Subversion”  
(NAC 21/2011-12) – 19 April 2012

**This paper addresses the threat to New Zealand from both sabotage and subversion. It is part of a series of national assessments agreed by ODESC(G) and the National Assessments Committee to address the major national security threats – or “vectors of harm” – to New Zealand.**

- **Although sabotage and subversion share little in substantive terms, both are poorly understood, with diverging societal and legislative definitions.**

### Introduction

Sabotage and subversion are terms, concepts and activities that remain relevant to the national security of New Zealand, despite being consigned by many to the Cold War era.

### Sabotage

The Crimes Act 1961 defines sabotage as an act that “impairs the efficiency or impedes the working of any ship, vehicle, aircraft, arms, munitions, equipment, machinery, apparatus, or atomic or nuclear plant”, or “damages or destroys any property which it is necessary to keep intact for the safety or health of the public”, and – crucially – also requires the offender to intend to prejudice the “safety, security, or defence” of New Zealand. (See Annex 1 for a range of legal definitions relevant to both sabotage and subversion.) A more popularly-understood definition of sabotage may or may not require such a specific intent, and acts fitting such a broader definition can also be considered to fit definitions of other national security threats, notably terrorism. Nonetheless, a legislatively-defined act of terrorism itself requires a specific intent: as per the Terrorism Suppression Act 2002 it must be “for the purpose of advancing an ideological, political, or religious cause”, and also be intended to “induce terror in a civilian population or unduly compel or force a government or international organisation to do or abstain from doing an act”. While many acts of sabotage are for the purpose of advancing an ideological or political cause, they do not generally seek to induce terror, and rarely are intended to force a government or an international organisation to do, or stop doing, a certain act.

2. Throughout most of the late 20<sup>th</sup> century, deliberate acts of sabotage – at least within the broader popular definition – occurred fairly often in New Zealand.<sup>1</sup> Most of these acts caused little damage and were committed by acutely-disaffected persons (ADPs), “insiders”, or issue-motivated groups (IMGs) in protest against (or sometimes in support of) the Government, international companies or global developments. Many of the issues were unique to the time, including international communism, apartheid, and nuclear testing in the

Pacific. New Zealand's most notable example of sabotage related to this last issue: the bombing of *The Rainbow Warrior* (see Text Box 1).

#### **Text Box 1: *The Rainbow Warrior* bombing 1985**

The Greenpeace vessel *The Rainbow Warrior* was bombed by French government operatives, working for Direction Générale de la Sécurité Extérieure. Although popularly referred to as terrorism, and despite the death of Portuguese photographer Fernando Pereira, it is very unlikely the bombing was intended to cause physical harm to the vessel's crew, nor to induce terror in the New Zealand population. Whether it was designed to advance an ideological or political cause, or force an international organisation to abstain from an act (prerequisites for classification as terrorism under the terms of the Terrorism Suppression Act 2002), is still the subject of contentious discussion.

#### **Text Box 3: 2008 attack on Waihopai**

In 2008, a group known as ANZAC Ploughshares attacked the GCSB facility at Waihopai, causing NZD 1.1 million in damages to a radar dome. The group was not charged with sabotage and was found not guilty on counts of intentional damage and entering a property to commit a crime.

#### **Text Box 4: Power pylon sabotage, 1998-1999**

In June 2000, Methven farmer Malcolm Ross Campbell was found not guilty of 13 charges of wilful damage to the electricity distribution network. Over 16 months, he had damaged nine power pylons and 10 wooden power poles, loosening bolts and hacksawing them so they were susceptible to falling from high winds. He was motivated by the increasing price of power, and the sale of New Zealand assets, including power companies, to foreign owners.

#### **Text Box 5: "Insider" damage to HMNZS Otago, 1982**

In 1982 three crew members of HMNZS Otago allegedly used a screwdriver to severely damage the vessel's Seacat missile guidance systems, causing over NZD 100,000 in damage.

### **Subversion**

12. Unlike sabotage, subversion is not listed as a criminal offence under New Zealand legislation, although a part of the New Zealand Security Intelligence Service (NZSIS) Act 1969's definition of subversion, "*the overthrow of the Government by force*", is found in the Crimes Act 1961 under treason: "*Every one owing allegiance to Her Majesty the Queen in right of New Zealand commits treason who, within or outside New Zealand (e) Uses force for the purpose of overthrowing the Government of New Zealand*". Seditious, a term often interchangeably used with subversion, was removed from the Crimes Act 1961 in 2007.<sup>1</sup>

### **Legal and legislative constraints on investigation and prosecution**

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<sup>1</sup> Seditious, out of use since the early 20<sup>th</sup> century, was repealed in 2007 due to concerns it could be applied to minor offences. This followed political activist Tim Selwyn being charged with seditious in 2004 after he threw an axe through then-Prime Minister Helen Clark's electorate office window.

## **ANNEX 1: DEFINITIONS**

### **Sabotage – Crimes Act 1961, section 79:**

- (1) Every one is liable to imprisonment for a term not exceeding 10 years who, with intent to prejudice the safety, security, or defence of New Zealand or the safety or security of the armed forces of any other country, lawfully present in New Zealand,—
  - (a) Impairs the efficiency or impedes the working of any ship, vehicle, aircraft, arms, munitions, equipment, machinery, apparatus, or atomic or nuclear plant; or
  - (b) Damages or destroys any property which it is necessary to keep intact for the safety or health of the public.

### **Subversion – New Zealand Security Intelligence Service Act 1969, section 2**

**Subversion** means attempting, inciting, counselling, advocating, or encouraging—

- (a) The overthrow by force of the Government of New Zealand; or
- (b) The undermining by unlawful means of the authority of the State in New Zealand.

### **Terrorism – as per the Terrorism Suppression Act 2002, section 5**

An act which is intended to cause:

- (a) The death of, or other serious bodily injury to, 1 or more persons (other than a person carrying out the act);
- (b) A serious risk to the health or safety of a population;
- (c) Destruction of, or serious damage to, property of great value or importance, or major economic loss, or major environmental damage, if likely to result in 1 or more outcomes specified in paragraphs (a), (b), and (d);
- (d) Serious interference with, or serious disruption to, an infrastructure facility, if likely to endanger human life;
- (e) Introduction or release of a disease-bearing organism, if likely to devastate the national economy of a country.

And is carried out for the purpose of advancing an ideological, political, or religious cause, and with the following intention:

- (a) To induce terror in a civilian population; or
- (b) To unduly compel or to force a government or an international organisation to do or abstain from doing any act.

Released under the Official Information Act 1982

## Extracts from “The Threat to New Zealand from the Proliferation of Weapons of Mass Destruction” (NAC 24/2011-12) – 7 June 2012

**This paper examines the threat presented to New Zealand by the proliferation of Weapons of Mass Destruction (WMD). It is part of a series of national assessments commissioned by ODESC(G) and the NAC to address the major national security threats – or “vectors of harm” – to New Zealand.**

### New Zealand’s WMD proliferation threatscape

#### **Text box 1 – Weapons of Mass Destruction**

Nuclear, chemical, biological and (sometimes) radiological weapons, which can cause large-scale and indiscriminate death and damage, are often collectively referred to as “Weapons of Mass Destruction” (WMD). Often included alongside the weapons themselves are their “means of delivery” – usually meaning ballistic and cruise missiles suitable for delivering a WMD payload to its target.

#### **Text box 2 – WMD Proliferation**

“Proliferation” in the WMD context refers to the transfer to and between states – and potentially non-state actors – of goods and technologies that could allow or assist in the development of WMD or their means of delivery. It includes both tangible (physical goods) and intangible (knowledge and expertise) transfers. Horizontal proliferation typically refers to the emergence of new WMD-armed states; vertical proliferation to states improving their existing WMD capabilities.

#### **The global proliferation picture**

#### **Text box 3 – Chemical and Biological Weapons**

Biological weapons have the potential to cause mass casualties on the scale of nuclear weapons, but that potential has not been demonstrated. Chemical weapons have enduring tactical utility, but less potential to cause mass casualties. Both therefore provide less coercive and political power than nuclear weapons.

### Tangible and intangible proliferation from New Zealand

### New Zealand-specific proliferation risks and opportunities

### Outlook