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Committee Secretary
Senate Foreign Affairs, Defence and Trade Committee
By email: fadt.sen@aph.gov.au

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Dear Committee Secretary

Re: Inquiry into the economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific

Thank you for the opportunity to make this submission to this inquiry. The Sydney Centre for International Law is a leading research and policy centre with a focus on the Asia-Pacific region and in this submission we address international law issues relevant to this inquiry, in particular: (i) human security, (2) the responsibility to protect, (iii) climate change in the Pacific, and (iv) regional institutions and architecture. **Dr Saul** is Centre Director; **Dr McAdam** is Director of International Law Programs at the University of NSW Law Faculty and a Centre Affiliate; and **Ms Hart** is a Centre Researcher.

1. The Shift from Traditional to Non-Traditional Security Threats

In our view, Australian security policy towards PNG and its Pacific Island neighbours should be driven by a shift in emphasis from traditional security threats (such as classic inter-State conflict) to non-traditional threats (such as internal conflict, mass displacement, poverty and underdevelopment, infectious disease, environmental degradation, climate change, terrorism, transnational organised crime, and weapons proliferation (including small arms and WMDs)).

In particular, two emerging, related doctrines in international relations have developed which, in our view, can be used to positively reconfigure the ways in which Australia interacts with its neighbours, including Papua New Guinea and south-west Pacific islands, in conceptual and practical terms: (1) ‘human security’, and (2) the ‘responsibility to protect’.

1.1 Human Security

The concept of human security seeks to change ‘traditional security approaches by conceiving of security issues not just in terms of state security, but primarily in terms of human needs’.¹ Those needs were initially articulated by the UN Development Programme (UNDP) in its *Human Development Report* of 1994, which defined human security in terms of ‘freedom from fear’ and ‘freedom from want’, including ‘safety from such chronic threats as hunger, disease and repression’ as well as ‘protection from sudden and hurtful disruptions in the

patterns of daily life'. The UNDP's seven core components of human security included economic, food, health, environmental, personal, community, and political security.²

Human security has gained international support, influencing the practice of the UN Security Council in the 1990s.³ In 2000, States in the UN Millennium Declaration committed themselves to advancing 'freedom from fear' and 'freedom from want', and in 2003, the Commission on Human Security defined human security for its purposes as protecting:

the vital core of all human lives in ways that enhance freedoms and human fulfilment.... It means protecting people from critical (severe) and pervasive (widespread) threats and situations... [and] creating... systems that together give people the building blocks of survival, livelihood and dignity.⁴

According to the Commission, human security is achieved not only by the absence of violent conflict, but through 'human rights, good governance, access to education and healthcare and ensuring that each individual has opportunities to fulfil his or her own potential'. It further requires reducing poverty, ensuring economic growth, preventing conflict, and achieving freedom from want, freedom from fear, and the freedom of future generations to inherit a healthy natural environment.⁵

In December 2004 the UN High-Level Panel on Threats, Challenges and Change supported a wide view of the scope of threats to security, stating that: 'Any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system is a threat to international security'.⁶ It then identified six major global threats to security:

- (a) economic and social threats (including poverty, infectious disease, and environmental degradation);
- (b) inter-State conflict;
- (c) internal conflict (including civil war, genocide, and large-scale atrocities);
- (d) weapons of mass destruction;
- (e) terrorism; and
- (f) transnational organised crime.

Most of these were recognised as threats to security in the practice of the Security Council from the 1990s onwards.⁷

The most radical expansion of the security agenda has been in regarding economic and social concerns, such as poverty, infectious disease, environmental degradation, and organised crime, as threats to peace or security. In late March 2005, in his report on progress towards the Millennium Development Goals, *In larger freedom*, then UN Secretary-General Kofi Annan stated not only that poverty and human rights violations are threats to human development, but they can also precipitate traditional security threats such as war.

While poverty and denial of human rights may not be said to 'cause' civil war, terrorism or organized crime, they all greatly increase the risk of instability and violence. Similarly, war and atrocities are far from the only reasons that countries are trapped in poverty, but they undoubtedly set back development.⁸

Examples of human insecurity given by the Secretary-General included the one billion people living below the extreme poverty level of one dollar per day; the 20,000 people who die from poverty each day; the victims of HIV/AIDS, an illness which has killed 20 million people and infected 40 million; and the 25 million internally displaced persons and 12 million refugees. In his view, the world has the resources, knowledge, and technology necessary to end poverty and ensure development.⁹

The human security approach has several advantages:

- It marries compassion with security, refocusing public attention on the relationship between human development, dignity and safety. There is considerable conceptual attraction in re-focusing international attention on grave daily human needs and away from the high politics of 'national security' and narrow military or geo-strategic concerns. Strategically, one aim of treating issues as security threats is to invoke a sense of crisis and urgency about those issues, in the same way that war or military violence heightens international concern, and hopefully triggers international action.
- The new security agenda reflects a cultural and political reaction against perceived western domination of the international security discourse. In focusing on military violence, security discourse has sometimes disproportionately reflected the interests of developed States, which are not beset by the same economic and social problems faced by developing countries and are thus less concerned about them. Moreover, developed countries have historically wielded the greatest military power and have had a greater stake in regulating military violence by, or against, themselves.
- A security agenda which speaks and appeals to the billions of people living in developing countries could arguably enhance the legitimacy of the security agenda and boost the standing of institutions such as the UN Security Council as well as regional bodies. In particular, treating development issues as threats to security may increase the legitimacy of the Security Council in the eyes of those who criticise its narrow emphasis on regulating physical violence, and provide a vital new mechanism through which States can be compelled to respond to humanitarian challenges.

It is recommended that Australia place human security at the centre of its security and defence policy in the Pacific region, and not only deal with human security issues in the traditional manner through development and aid policy. A renewed focus on human security should not, however, detract from enforcement of international human rights law.

1.2 The Responsibility to Protect

The 2001 Report of the International Commission on Intervention and State Sovereignty (ICISS) articulated the doctrine of the 'responsibility to protect' (R2P) which emphasises that while the primary responsibility for the protection of a State's people lies with the State itself, the sovereign principle of non-intervention must yield to an *international* responsibility to protect where a population is suffering serious harm (whether due to internal war, insurgency, repression, or State failure) and the State is unwilling or unable to halt or avert it.¹⁰

R2P 'implies above all else a responsibility to react to situations of compelling need for human protection'.¹¹ Most situations of human rights abuses warrant only non-military intervention.¹² Military intervention should be reserved for situations where internal conflict poses a threat to regional or global security or when civilians are at risk of massacres, genocide, ethnic cleansing or other crimes against humanity.¹³

The R2P doctrine encompasses three specific responsibilities: (i) the responsibility to prevent (that is, to address the root causes); (ii) the responsibility to react (to respond with appropriate measures such as sanctions or military intervention); and (iii) the responsibility to rebuild (to provide assistance with recovery, reconstruction, and reconciliation).¹⁴

R2P has since been codified by the 2005 World Summit, which supports an emerging duty on the international community to 'use appropriate... means to protect populations from

genocide, war crimes, ethnic cleansing and crimes against humanity'. The Summit emphasised that such action should be 'collective' and taken 'through the Security Council'.¹⁵ The Security Council's sanction of a peacekeeping mission is an expression of support by the international community towards an operation.¹⁶ Australia also supports the R2P doctrine.

R2P establishes a high threshold of action and the commission of serious international crimes is fortunately relatively rare in the Pacific region. Nonetheless, Australian security policy in the region must be alert to the risks of civil disorder escalating to involve the commission of international crimes and be prepared to respond in accordance with the R2P framework.

It is recommended that Australia operationalise the 'responsibility to protect' doctrine in the Pacific region by:

- (i) establishing and funding early warning, monitoring and research programs to predict and detect likely risks of escalation and international crimes;***
- (ii) where necessary, taking preventive action through preventive diplomacy, offers of civil/military assistance, and sponsorship of intervention through regional forums and the Security Council;***
- (iii) taking remedial action to prosecute those who incite, order or commit international crimes in the region.***

2. Human Security Threats in the Pacific: Climate Change

While Australia's Pacific neighbours are affected by most of the human security threats identified above, one pressing threat in the Pacific is the effects of climate change. Although small island States emit less than 1% of global greenhouse gases, they are particularly susceptible, and less resilient, to climate change.¹⁷

Shoreline erosion, coastal flooding, increasing salinity and the vulnerability of small islands to rising sea levels and increased severe weather events¹⁸ compromise their continued habitability, impacting upon agricultural viability, vital infrastructure and services, tourism (including coral reefs), the stability of governance, and human settlement.¹⁹ For Kiribati and Tuvalu, whole-nation displacement is imminent largely as a result of rising sea levels.²⁰

The Intergovernmental Panel on Climate Change suggests that the overall vulnerability of small island States stems from four interrelated factors: (a) the degree of exposure to climate change; (b) a limited capacity to adapt to projected impacts; (c) the fact that adaptation is not a high priority, in light of other pressing problems; and (d) uncertainty surrounding global climate change projections and their local validity.²¹

While climate change is not the sole contributing factor to island States' vulnerability,²² a combination of poor socio-economic conditions (including high debt levels, failing economies, a malfunctioning of the rule of law, poor governance, corruption, and transnational organised crime); natural resource and space limitations (including population growth, ecosystem degradation, and competition for limited resources); and the impact of natural hazards such as tsunamis and storms, makes it difficult for such States to adapt.²³

For example, the cost of infrastructure and settlement protection is a significant proportion of their GDP, which most small island States cannot afford.²⁴ Thus, whereas another State without those additional pressures might be able to adapt to changes caused by climatic shifts, small island States are less able to mitigate or adapt to those variations and their impact is therefore disproportionately marked.²⁵

Papua New Guinea – Carteret Islands

One community that has been gravely affected by climate change is the population of Papua New Guinea's Carteret Islands. Most inhabitants of these islands are preparing to leave for mainland Bougainville, with rising sea levels making their traditional homeland uninhabitable.²⁶ Not only are the islands expected to be submerged by 2015, but the islanders' traditional livelihoods are also being destroyed due to salt water contamination, severe storms and the destruction of ecosystems on which they depend.

The islands are only one-and-a-half metres above sea level, and at high tide areas that were once fertile agricultural plots are submerged by the sea. This incursion of salt water 30 to 40 metres inland, which began in the late 1970s, has made their traditional livelihoods and food sources impossible, with traditional crops of bananas and sweet potato no longer able to grow. The constant wet ground has also led to an increase in mosquitoes, which has led to an increase in malaria. The islanders' diet is limited now to fish, coconut, and seaweed, supplemented by rice delivered from the mainland once every six months. These changes to diet have led to increased rates of diabetes and diarrhoea.

The people of the Carteret Islands see their relocation to Bougainville as the only viable option, despite the fact that it means uprooting cultural, family and traditional ties, leaving an ancestral home, and raising considerable funds to privately purchase land to which to move. Some of the islanders have indicated that they would rather drown than move at all.

A human security approach has the advantage of emphasising the humanitarian dimensions of climate change. Focusing on the impacts of climate change for communities in the Pacific is particularly valuable since historically the largest carbon-emitters have been developed States, whereas those who are experiencing the effects of climate change most acutely—and who have least capacity to adapt to it—are developing or smaller countries.

In the context of large scale human displacement from Pacific Islands such as Kiribati and Tuvalu due to the effects of climate change, the 1998 UN Guiding Principles on Internally Displaced Persons are relevant, and seek to apply existing human rights, refugee, and humanitarian law norms to the special needs and circumstances of the internally displaced. Thus a non-binding template exists which can assist in framing a response to those internally displaced by climate change, since the Guidelines cover any human-induced displacement.

Immigration Policy and Labour Mobility

The larger difficulty comes in dealing with those *externally* displaced by climate change, in circumstances where they do not qualify as refugees. In response to this gap in protection, Australia could provide some form of immigration status under the Migration Act 1958 (Cth) to those leaving their countries not only from fear of persecution, but also for reasons of serious harm owing to the effects of climate change on survival, the sustainability of livelihoods, the maintenance of basic human health, and the preservation of human dignity.

The human security doctrine suggests that Australia should devote the same urgent attention to crises in human development as it does to threats of direct violence. In the Pacific, development is stymied by insufficient educational and employment opportunities, as well as restrictive trade relationships with larger States such as Australia.

We echo the recommendation made by the panel on Australia's future security and prosperity in a rapidly changing region and world at the 2020 Summit in April 2008. The Summit

proposed the establishment of a visa system that would allow citizens of Pacific islands to work across the region, including in Australia.

This labour mobility scheme would include a development angle, including educational exchanges and opportunities and a standardisation of labour conditions.²⁷ Such a scheme would bring benefits to workers who pursued employment opportunities in Australia where they could develop skills and be guaranteed a stable income.

High rates of unemployment in Pacific States both impoverish the population and induce young people, especially, to turn to crime in order to earn money.²⁸ Such a scheme would bolster the resilience of families who remained in the countries of origin, as such workers would be extremely likely to make remittances,²⁹ which are a major source of GDP.

Finally, it would benefit the countries of origin in their entirety by enabling skill development among workers who work elsewhere seasonally but travel home frequently and so can share their skills with workers who remain at home. The Lowy Institute has also pointed to the benefits of such a scheme to the Australian horticultural sector (from increased labour supply) and the Australian economy (from increased tax revenue).³⁰

3. A New Pacific Regional Forum?

The 2020 Summit proposed a Pacific Council that would ‘help engage Australians more in Pacific affairs and involve Australians in twinning and partnering with Pacific organisations at the grass-roots level’.³¹ It also envisaged a Pacific Human Rights Commission.³²

Others have identified the costs of having too many regional organisations. Alan Gyngell describes the Asia Pacific as being ‘crowded’ with organisations, including ASEAN, ASEAN+3, the East Asia Summit, the Shanghai Cooperation Organisation, the ASEAN Regional Forum, the Pacific Forum and APEC.³³ Too many organisations compete for the time and attention of States, diluting the efficacy of each of them.³⁴

Certainly many Pacific Island States are already chronically under-resourced, and there are potentially serious bureaucratic, administrative and technical costs in diverting scarce resources to more and more inter-governmental meetings and structures, unless the clearly articulated benefits of such membership outweigh the likely costs.

It is recommended that Australia cautiously explore all options for new regional architecture in the Pacific (economic and security), through extensive regional consultation, before determining whether any particular new institutions are needed.

It also recommended that Australia continue to strengthen human rights institutions and architecture within the Pacific, as a way of addressing human security concerns.

Please be in touch if you require any further information.

Yours sincerely



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- ¹ D. Newman, 'A Human Security Council? Applying a "Human Security" Agenda to Security Council Reform', *Ottawa L Rev*, 31 (2000), 213; see also UNDP, *Human Development Report 1994* (NY: Oxford University Press, 1994), 22–33; Commission on Global Governance, *Our Global Neighbourhood: Report of the Commission* (Oxford: Oxford University Press, 1995), 79–80.
- ² UNDP, *Human Development Report 1994*, 23.
- ³ See Dedring, 'Human Security and the UN Security Council'.
- ⁴ Commission on Human Security, *Human Security Now* (New York, 2003), 4.
- ⁵ Commission on Human Security, *Human Security Now*, 4.
- ⁶ Report of the High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility* (United Nations, December 2004), 2.
- ⁷ See eg UN Security Council resolutions 713 (1991) and 724 (1991) (Balkans); 733 (1992) (Somalia); 788 (1992) (Liberia); 748 (1992) (Lockerbie bombing); 841 and 875 (1993) (Haiti); 688 (1991) (Kurds); 1265 (1999) and 1296 (2000) (civilians); 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), and 1539 (2004) (children); 1325 (2000) (women); 1308 (2000), preamble (HIV/AIDS); 1502 (2003) (humanitarian workers); 1467 (2003) (arms and mercenaries); 255 (1968) and 984 (1995) (nuclear weapons); 1540 (2004) (weapons of mass destruction); see also UN Security Council Presidential Statement, UN Doc. S/24111 (1992); M. Odello, 'Commentary on the United Nations High-Level Panel on Threats, Challenges and Change', *J of Conflict and Security L*, 10 (2005), 231, 232–7.
- ⁸ UN Secretary-General's Report, 'In Larger Freedom', para 16.
- ⁹ UN Secretary-General's Report, 'In Larger Freedom', para 27.
- ¹⁰ Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, December 2001, xi.
- ¹¹ ICISS <http://www.iciss.ca/pdf/Commission-Report.pdf> at 29.
- ¹² ICISS <http://www.iciss.ca/pdf/Commission-Report.pdf> at 29.
- ¹³ ICISS <http://www.iciss.ca/pdf/Commission-Report.pdf> at 31.
- ¹⁴ Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, December 2001, xi.
- ¹⁵ World Summit Outcome document, principles 138–139: www.un.org/summit2005/documents.html
- ¹⁶ Peter White, *Peacekeeping has a Long Tradition* (AFP Report, 1998).
- ¹⁷ Mimura and others, 'Small Islands', 692–3. The report additionally lists the impacts of globalization, pressures on infrastructure, a scarcity of fresh water, and, in the Pacific, internal and external political and economic processes, including the imposition of western adaptation models which are not readily transposable to the island context. These features have resulted in some small island States being recognised by the UN as Least Developed Countries or SIDS.
- ¹⁸ G. C. Hegerl and others, 'Understanding and Attributing Climate Change', in S. Solomon and others (eds), *Climate Change 2007: The Physical Science Basis: Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge: Cambridge University Press, 2007); IPCC, Nov. 2007; N. Stern, *The Economics of Climate Change: The Stern Review* (Cambridge: Cambridge University Press, 2007) vi–ix.
- ¹⁹ N. Mimura and others, 'Small Islands' in M. L. Parry and others (eds), *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge: Cambridge University Press, 2007), 689.
- ²⁰ Mimura and others, 'Small Islands'.
- ²¹ Mimura and others, 'Small Islands', 703, citing L. Nurse and others, 'Small Island States' in J. J. McCarthy and others (eds), *Climate Change 2001: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Third Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge: Cambridge University Press, 2001), eg 17.1.2.
- ²² Mimura and others, 'Small Islands', 690, 691. On whether the environment can ever be a sole cause for migration, see Black, 'Environmental Refugees: Myth or Reality?'; Castles, 'Environmental Change and Forced Migration'; J. Barnett, 'Security and Climate Change', *Global Environmental Change*, (2003), 7, 11.
- ²³ See J. Connell, 'Environmental Change, Economic Development, and Emigration in Tuvalu', *Pacific Studies*, 22 (1999), 1; J. Connell, 'Losing Ground? Tuvalu, the Greenhouse Effect and the Garbage Can', 44 (2003) *Asia Pacific Viewpoint*, 89, cited in Mimura and others, 'Small Islands', 692, 711. There is also evidence that 'islands which have been subject to substantial human modification are inherently more vulnerable than those that have not been modified': 698.
- ²⁴ Mimura and others, 'Small Islands', 694; see also Stern, *The Economics of Climate Change*; C. Voigt-Graf, 'Fijian Teachers on the Move: Causes, Implications and Policies' 44 (2003), *Asia Pacific Viewpoint*, 163; T. N. Rasmussen, 'Macroeconomic Implications of Natural Disasters in the Caribbean', IMF Working Paper, WP/04/224 (December 2004).
- ²⁵ See examples in Brown, 'Migration and Climate Change', 18–19. Whereas the Netherlands can afford to raise the height of dykes or build new ones, Bangladesh lacks a similar capacity.

²⁶ See eg J. Stewart, 'Rising Seas Force Carteret Islanders out of Home', Lateline, ABC television (5 February 2007) Transcript <http://www.abc.net.au/lateline/content/2006/s1840956.htm>. Though described as 'among the world's first environmental refugees', they are more accurately characterised as internally displaced people, since their movement does not require the crossing of an international border. On 'refugee' terminology in this context, see below; K. Romer, "'Environmental' Refugees?", *Forced Migration Review*, 25 (2006), 61. Much of the information on the Carteret Islands comes from a talk given by islander Ursula Rakova (Brown Street Community Hall, Newtown, 14 September 2007).

²⁷ Australia 2020 Summit – Final Report, pp. 368,376-77.

²⁸ 'Labour Mobility: An Australian Seasonal Work Visa Scheme for Pacific Islands Labour – Outcomes Report (2008) p. 9.

²⁹ M. Pelling and J. I. Uitto, 'Small Island Developing States: Natural Disaster Vulnerability', 3 (2001), *Environmental Hazards*, 49.

³⁰ 'Labour Mobility: An Australian Seasonal Work Visa Scheme for Pacific Islands Labour – Outcomes Report (2008) p. 3.

³¹ Australia 2020 Summit – Final Report, p. 368.

³² Australia 2020 Summit – Final Report, p. 377.

³³ Allan Gyngell, 'Design Faults: The Asia Pacific's Regional Architecture' (Sydney: Lowy Institute for International Policy, 2008), p. 3.

³⁴ Gyngell, 'Design Faults', p. 9.