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## 4. Malaysia

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### I. Introduction

Malaysia has become one of the major political players in the South-East Asian region with increasing economic weight. Even after the economic crisis of 1997–98, despite defence budgets having been slashed, the country is still determined to continue to modernize and upgrade its armed forces.

Malaysia grappled with the communist insurgency between 1948 and 1962. It is a democracy with a strong government, marked by ethnic imbalances and affirmative policies, strict controls on public debate and a nascent civil society. Arms procurement is dominated by the military. Public apathy and indifference towards defence matters have been a noticeable feature of the society. Public opinion has disregarded the fact that arms procurement decision making is an element of public policy making as a whole, not only restricted to decisions relating to military security. An examination of the country's defence policy-making processes is overdue.

This chapter inquires into the role, methods and processes of arms procurement decision making as an element of Malaysian security policy and the public policy-making process. It emphasizes the need to focus on questions of public accountability rather than transparency, as transparency is not a neutral value: in many countries it is perceived as making a country more vulnerable.<sup>1</sup> It is up

<sup>1</sup> Ball, D., 'Arms and affluence: military acquisitions in the Asia-Pacific region', eds M. Brown *et al.*, *East Asian Security* (MIT Press: Cambridge, Mass., 1996), p. 106.

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The working papers are not published but are deposited in the SIPRI Library. Abstracts appear in annexe B in this volume.

to the informed public to push for greater accountability in order to make the processes less wasteful and more focused on public priorities.

A study of Malaysian defence policy making and arms procurement decision-making process should also identify the problems associated with the tension between the public's right to know and military's 'need-to-know' policies. Only if a balance could be achieved between public accountability, confidentiality and efficiency can restraints on arms acquisitions be introduced voluntarily (in contrast to the international arms control initiatives which have not apparently been able to control the conditions that fuel the arms race).

The chapter examines the arms acquisition processes in Malaysia from the perspectives of the different agencies and interests involved to understand the rationale behind the decisions. This is done in the context of the kind of democratic oversight of arms procurement decision making that would be desirable, involving the informed public and its elected representatives. Conversely, the means available to and used by the government to restrict the flow of information in the interests of confidentiality and security are investigated. The study describes the current situation and not the one that should be. However, where there are obvious inconsistencies or even redundancies in the system, attempts are made to suggest possible remedies.

Section II of this chapter describes the actors involved in defence decision making in Malaysia and section III the national defence policy generally. Section IV examines the links between defence policy making and arms procurement planning, section V budgeting, financial planning and auditing, and section VI the defence industrial aspects of arms acquisition. Section VII examines accountability in arms procurement decision making and section IX summarizes the deficiencies in the process and sets out conclusions.

## II. The structure of the defence organizations<sup>2</sup>

In order to determine in what ways the official channels are used, modified or perhaps simply overridden it is important to understand the organizational and management structure of national defence decision-making processes within the Malaysian security system.

1. The highest body to discuss questions of internal and external security is the National Security Council (NSC), chaired by the Prime Minister. Other permanent members are the Deputy Prime Minister, the ministers of information, defence and home affairs, the Chief Secretary to the Cabinet, the Chief of the Defence Forces (CODF), the Inspector General of Police and the Director General of the Department of National Security. In attendance are the Attorney General and the secretaries general of defence, home affairs and foreign affairs. Representatives of other agencies may participate depending on the issues being

<sup>2</sup> The following description is based on Siti Azizah Abod, 'Decision making process of arms acquisition in the Ministry of Defence, Malaysia', SIPRI Arms Procurement Decision Making Project, Working Paper no. 85 (revised version, Sep. 1998).

discussed.<sup>3</sup> The NSC normally meets once a year to discuss national security priorities. In the Prime Minister's Department there is a National Security Division which functions as the secretariat to the NSC.<sup>4</sup> Its decisions are confidential. The NSC gives guidelines and instructions, on which the ministries develop position papers and which they have to implement.

2. The deployment of the armed forces is under the control of the government, with execution authorized by the Cabinet through the Ministry of Defence (MOD). (The King is technically the Supreme Commander of the Malaysian Armed Forces—the MAF—but his role is only ceremonial.) In the present Malaysian context, the Prime Minister is most influential in the overall decision-making process and has a major influence on the direction of the military's expenditure and its expansion programmes.<sup>5</sup>

3. At the functional apex of the defence establishment is the MOD, headed by the Defence Minister who provides the political leadership and is responsible to the Cabinet. He is a civilian and is assisted by the Secretary General in charge of general policy, finance, external defence relations, human resources, infrastructure, defence science and industry. The CODF advises the minister on operational matters and the implementation of defence policy.

The MOD determines strategic interests within the parameters of national interest in general and foreign policy as formulated by the Ministry of Foreign Affairs. The political division in the MOD takes the lead in formulating the draft paper on strategic policy, which is the basis of the national defence policy,<sup>6</sup> assisted by other divisions in the ministry and the armed forces. The paper is endorsed by the ministry and presented to the Cabinet and other ministries involved through the NSC.

Figure 4.1 shows the structure of the MOD. It consists officially of two halves—one civilian and the other military—responsible for planning and for implementation and operational matters, respectively. On the basis of the defined defence policy, the military's operational arm examines the capabilities required to implement it and the types and scale of weapons and equipment, human resources, and infrastructure required. The civilian staff in the MOD maintains contacts with the Ministry of Foreign Affairs and other departments at ministerial level.

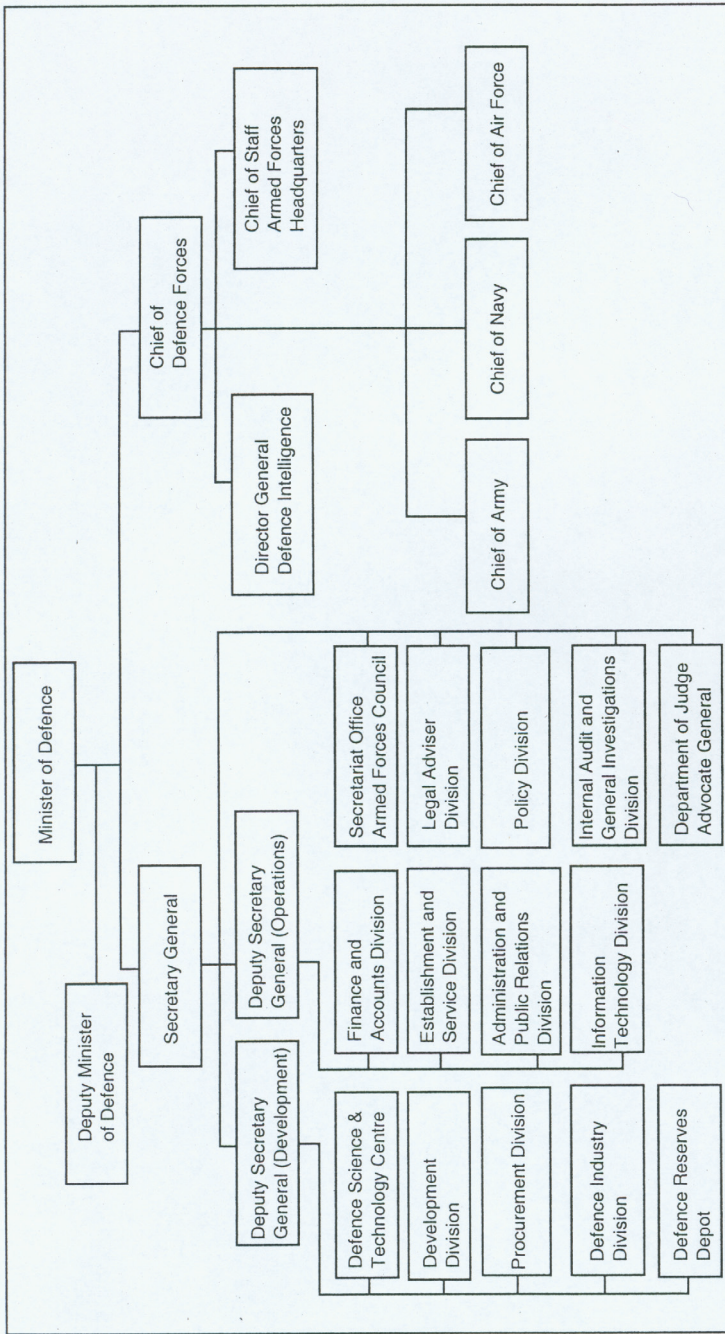
4. Various committees have specific areas of responsibility. Important among them is the Armed Forces Council (AFC), established by Article 137 of the constitution and chaired by the Minister of Defence. It delegates its powers to its members and thus to the Defence Minister. It consists of the Secretary General of the MOD, who acts as the secretary of the AFC, a representative

<sup>3</sup> Personal communication from Siti Azizah Abod, Under-Secretary, Malaysian MOD.

<sup>4</sup> Balakrishnan, K. S., 'Examine the institutionalisation of decision-making processes based on the principles of good governance: problems, apprehensions and barriers in building public awareness, public interest, transparency and accountability', SIPRI Arms Procurement Decision Making Project, Working Paper no. 78 (1998), p. 4.

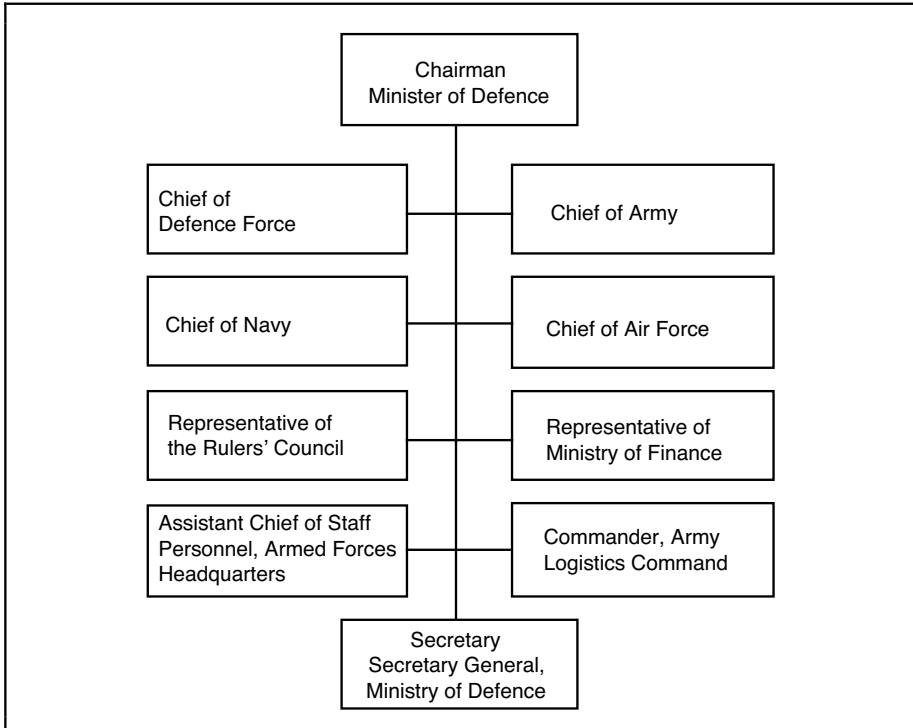
<sup>5</sup> Balakrishnan (note 4), p. 3.

<sup>6</sup> This paper is produced annually but is classified.



**Figure 4.1.** The Malaysian Ministry of Defence

Source: Malaysian Ministry of Defence, URL <[http://www.mod.gov.my/bumk/mindef/english/eng\\_str\\_org\\_carta\\_link.htm](http://www.mod.gov.my/bumk/mindef/english/eng_str_org_carta_link.htm)>.



**Figure 4.2.** The organization of the Malaysian Armed Forces Council

Source: *Asian Defence Yearbook 1998/99* (Syed Hussein Publications: Kuala Lumpur, 1999), p. 102.

from the Rulers' Council,<sup>7</sup> the CODF, all service chiefs, the Armed Forces Logistics Commander and the Chief of Staff Personnel. Other members are the Deputy Defence Minister, the Deputy Secretaries General of Development and Operations, and the Chief of Staff of the Armed Forces.<sup>8</sup> The AFC discusses and advises on matters of service, discipline and administration. It has corporate responsibility for the management of the armed forces, although operational responsibilities, apart from logistics, equipment and so on, are outside its purview.

5. There are two other committees besides the AFC that to some extent decide policy relating to arms procurement. First, the Defence Minister's Board is the highest policy-making body in the MOD, comprising the Minister as chairman, the Deputy Minister, the Secretary General, the CODF, the service chiefs and heads of the divisions. It has two functions: (a) to discuss policy on security issues; and (b) to decide on policy issues affecting the ministry as a

<sup>7</sup> Composed of the rulers of 9 of the 13 states in the federation.

<sup>8</sup> Sharifah Munirah Alatas, 'Government-military relations and the role of civil society in arms procurement decision-making processes in Malaysia', SIPRI Arms Procurement Decision Making Project, Working Paper (draft, 1998), p. 6.

whole, such as defence policy, international defence matters and the armed forces.<sup>9</sup> Second, the Development Committee assesses all infrastructure and capital acquisition projects and monitors their progress, coordinates implementation and makes sure that the directives of the National Development Council (NDC) are realized. On these matters the Development Committee reports to the Implementation and Coordination Unit of the Prime Minister's Department. It is chaired by the Secretary General and comprises the Deputy Secretary General (Development), the service chiefs, the Chief of Staff, the Head of the Procurement Division and the Head of the Development Division as secretary. It also has a representative from the Public Works Department.

6. On military security matters, the Joint Chiefs of the Armed Forces Committee (JCAFC) under the CODF conveys the views of the armed forces to the MOD. The CODF frames the policy of capability development for all three services as a whole. However, the individual services do not necessarily pass on their procurement needs and planning to the JCAFC. Procurement is their prerogative and they tend to guard it rather jealously and only convey strategic ideas and opinions to the JCAFC.

### III. National security concerns and defence planning

Theoretically, defence policy provides the strategic guidance which determines capability requirements and eventually translates into the arms procurement planning of the individual armed services.

Malaysian defence policy is politically driven and is so acknowledged by the armed forces. There is no White Paper as such outlining the context of the country's security concerns. A document detailing the defence policy was laid before the NSC in 1987 and endorsed by the Cabinet in 1990<sup>10</sup> and in late 1997 a publication of the MOD described its organizational structure and strategic perspectives—'protection of its national strategic interests and the preservation of national security'.<sup>11</sup> It emphasized that Malaysia's security cannot be seen in isolation from that of other countries of the Association of South-East Asian Nations (ASEAN).<sup>12</sup> This was an attempt at greater transparency, but is not considered as a White Paper by the MOD or by outside defence experts since it does not follow the guidelines generally expected of White Papers in the Asia-Pacific region,<sup>13</sup> nor was it tabled and debated in Parliament as a White Paper would be.

The approach to defence policy is pragmatic rather than idealistic and the MAF have translated it operationally into concepts of defensive defence, com-

<sup>9</sup> Siti Azizah Abod (note 2), p. 1.

<sup>10</sup> Personal communication from Lt-Col Abdul Rahman Adam (ret.).

<sup>11</sup> Malaysian Ministry of Defence, *Malaysian Defence: Towards Defence Self-Reliance* (Ministry of Defence: Kuala Lumpur, 1997), p. 21.

<sup>12</sup> *Malaysian Defence: Towards Defence Self-Reliance* (note 11), p. 22. The members of ASEAN are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam.

<sup>13</sup> Kang Choi, 'The approach to a common form of defence White Paper', *Korean Journal of Defence Analysis*, vol. 18, no. 1 (1996), pp. 205–21.

prising; (a) deterrence; (b) forward defence; and (c) total defence. Deterrence in this context means deterring potential enemies from the use of force. This necessitates credible armed forces with conventional war-fighting capacity, with regard both to military hardware and to manpower. Forward defence in the Malaysian context is understood as ensuring that a war is not fought on Malaysian soil. The armed forces are stationed and kept in a state of readiness towards this aim. It is claimed, however, that the capability for this does not exist in Malaysia, as the force structure was until recently not balanced and the air assets needed to make forward defence possible were lacking.<sup>14</sup> Total defence means the full support of the nation for the armed forces and integrated efforts by all actors, both within and outside the government, to defend the nation.

The MAF are apolitical—although top military leaders are often picked for their empathy with the ruling elite as much as for their leadership qualities<sup>15</sup>—and would not protest even if they disagreed with political measures or policies regarding their role. They acknowledge that defence policy making has to be guided by the political leadership, both in the field of foreign and security policy and in that of arms acquisition.<sup>16</sup>

The defence policy guidelines are threefold: (a) self-reliance with regard both to the internal security of the country and to external security in its immediate surroundings; (b) regional cooperation, which is very significant for geographical reasons and entails cooperation within ASEAN; and (c) external assistance to complement self-reliance and regional cooperation. The Five-Power Defence Arrangement (FPDA) of 1971 with Australia, New Zealand, Singapore and the UK is Malaysia's only multilateral defence arrangement with other countries.<sup>17</sup>

The apparent absence of immediate threats to Malaysian security has enabled arms acquisition to be spread over a longer period, incorporating the concept of self-sufficiency under Plan 2000 for the armed forces.<sup>18</sup> Attempts to downsize the armed forces led to demands for modern equipment with greater firepower and mobility. The army was restructured by reorganizing infantry battalions into specialized units and mechanized, support and parachute units. In 1995 the Army Air Corps was established and a Rapid Deployment Force was set up in 1996.<sup>19</sup> The priorities for equipment therefore changed: the emphasis on light equipment suitable for jungle warfare was replaced by the capability to protect the country from external threats.

<sup>14</sup> Abdul Rahman Adam (Lt-Col, ret.), 'Dynamics of force planning: the Malaysian experience', SIPRI Arms Procurement Decision Making Project, Working Paper no. 77 (revised version, Oct. 1997), pp. 4–5.

<sup>15</sup> Mak, J. N., 'Security perceptions, transparency and confidence-building: an analysis of the Malaysian arms acquisition process', SIPRI Arms Procurement Decision Making Project, Working Paper no. 82 (revised version, Sep. 1997), p. 5.

<sup>16</sup> E.g., the decision to take part in UN peacekeeping exercises was a political decision, taken although the MAF had absolutely no training for mountain or desert operations and were therefore unsure about the mission. Abdul Rahman Adam (note 14), p. 15.

<sup>17</sup> Siti Azizah Abod (note 2), p. 2.

<sup>18</sup> Abdul Rahman Adam (note 14), p. 9. Plan 2000 is part of the 6th (1991–95) and 7th (1996–2000) national plans.

<sup>19</sup> Abdul Rahman Adam (note 14), pp. 9–10.

Emphasis was placed on privatization of some maintenance functions, reductions in manpower and acquisition of new technologies with special attention to command, control and communications (C<sup>3</sup>I) capabilities. Greater emphasis was placed on joint exercises and an integrated Joint Operational HQ under the command of the CODF was created.<sup>20</sup> The navy's Year 2010 Plan is based on capability building instead of threat perceptions, and thus on the acquisition of air and anti-submarine warfare (ASW) armament.<sup>21</sup> The air force has acquired state-of-the-art aircraft, especially for maritime operations. It has moved away from air support in counter-insurgency warfare and is turning into an air defence-capable force. It has also upgraded its air defence radar system.<sup>22</sup>

### **The relationship between foreign and defence policies**

It is acknowledged that defence policy should be in line with foreign policy, and that its strategic guidance should also determine the capability and eventually arms procurement requirements of the armed services. Foreign policy provides the wider framework within which arms procurement decisions are also made. This perception has been strengthened since 1989.<sup>23</sup> This does not exclude the possibility of foreign and defence policy diverging or the trajectories of the political and the military establishments differing.<sup>24</sup>

Foreign policy is seen as the prerogative of the Prime Minister and the United Malay National Organization (UMNO), the strongest party in the ruling alliance. This means that foreign policy initiatives often originate from the Prime Minister's Department rather than the Foreign Ministry.<sup>25</sup> Chandran Jeshurun outlines measures taken by the government to keep the military informed of foreign policy initiatives by involving senior military officials as part of the Prime Minister's delegations on official visits,<sup>26</sup> although not the formulation of decisions. The MOD follows this lead, since it sees no external threat.<sup>27</sup>

This latter view is not uncontested. Even though since the end of the cold war the focus of defence policy has changed from threat perception to protection of strategic interests,<sup>28</sup> it cannot be said that there are no outside threats, given regional rivalries, notably the uncertainty in the Spratly Islands and over

<sup>20</sup> Sengupta, P., 'The MAF and force modernisation challenges in the post-cold war era', *Asian Defence Journal*, no. 4 (1998), pp. 16–17, 21, 26–28.

<sup>21</sup> Dantes, E., 'RMN's force modernisation plans', *Asian Defence Journal*, no. 12 (1997), pp. 14–21.

<sup>22</sup> Abdul Rahman Adam (note 14), p. 11.

<sup>23</sup> Unless otherwise indicated, the discussion in this section follows Chandran Jeshurun, presentation at the UKM–SIPRI workshop on arms procurement decision making, 18 Aug. 1997.

<sup>24</sup> Mak (note 15), p. 1 and *passim*.

<sup>25</sup> Zakaria Haji Ahmad, 'Change and adaptation in foreign policy: the case of Malaysia's Foreign Ministry', ed. B. Hocking, *Foreign Ministries: Change and Adaptation* (Macmillan: London, 1999), p. 7.

<sup>26</sup> According to the MOD, military personnel participate in delegations only when the Prime Minister visits troops on peacekeeping missions, e.g., in Bosnia or Somalia. Personal communication from Siti Azizah Abod. The contradiction has to stand unresolved.

<sup>27</sup> Zakaria Haji Ahmad (note 25).

<sup>28</sup> Siti Azizah Abod (note 2), p. 3.



China's role in general.<sup>29</sup> A change has, however occurred in the MAF's perception of their role from the time of counter-insurgency warfare, when they saw themselves as mainly aiding the police forces to ensure continued Malay political dominance in general, and UMNO pre-eminence in particular.<sup>30</sup> The MAF move cautiously in military planning and capacity building.

Attempts at improving communication notwithstanding, the perception gaps between the MOD and the Foreign Ministry have not yet been satisfactorily resolved.<sup>31</sup> According to MOD experts, however, there is consultation between them, the goals and directions of the political and military establishment are identical, and defence policy is subordinate to and guided by foreign policy.<sup>32</sup>

Political and economic considerations, including technology transfer,<sup>33</sup> outweigh purely technical or military considerations where defence procurement is concerned. Procurement takes place within the framework of the foreign and development policies of the state as a whole. The Economic Planning Unit (EPU) and the Treasury (the finance ministry) have the final say in procurement matters—something that is resented by some in the military. Political agencies take decisions on the basis of considerations other than military. These can involve trade-offs, as in the famous 'arms for aid' case with the UK in 1994, which generated intense irritation among the military.<sup>34</sup> The arms procurement requirements of the MAF are subordinated to foreign policy considerations where choice of suppliers is concerned. For instance, when the MiG-29S combat aircraft was purchased from Russia in 1995, although it was considered a good aircraft, there were apprehensions as to its maintainability and sustainability and criticism of the quality of Russian training for an air force used to Western equipment, but the recommendations of the armed forces were overruled in the final stages of decision making and a politically motivated deal with Russia was pushed through instead.<sup>35</sup> The British Aerospace (BAe) Hawk combat aircraft was bought in 1990 although it was seen by the air force as inferior to the Tornado (which the UK had refused to supply with the state-of-the-art electronics) because the deal involved an offset agreement with BAe to buy back local manufacture and establish the necessary training and support infrastructure.<sup>36</sup> This instance also makes it clear that counter-trade and offset programmes are not uniformly seen as beneficial by the armed forces.

<sup>29</sup> This point came up in the UKM-SIPRI workshop on arms procurement decision making, 18 Aug. 1997.

<sup>30</sup> This within the context of the riots of 1969.

<sup>31</sup> Chandran Jeshurun, 'Malaysian defence policy revisited: modernization and rationalization in the post-cold war era', *Journal of Southeast Asian Affairs*, vol. 16 (1994), p. 203.

<sup>32</sup> Personal communications with Siti Azizah Abod.

<sup>33</sup> Offsets and technology transfer are considered further in section VI in this chapter.

<sup>34</sup> Sharifah Munirah Alatas, 'Government-military relations and the role of civil society in arms procurement decision-making processes in Malaysia', SIPRI Arms Procurement Decision Making Project, Working Paper no. 84 (1998), p. 43.

<sup>35</sup> Yap Pak Choy, 'Air power development: the Royal Malaysian Air Force experience', Air Power Studies Centre, Australia, and Faculty of Humanities and Social Sciences, UKM, Bangi, 1997, pp. 45-46. The MiG-29 deal also included \$200 million in offsets out of an overall value of \$381 million.

<sup>36</sup> Yap Pak Choy (note 35), pp. 43ff.

The armed forces contend that for reasons that are not transparent there have been occasions when the government ‘strongly suggests’ weapon purchases that are not planned by the forces. Such decisions will distort the expenditure planned for in the Perspective Plan.<sup>37</sup> According to this view, procurement is not the joint process that it is meant to be. On the other hand, political considerations are not necessarily a drawback or harmful, and in situations where other things—that is, quality and standards—are equal they are the only ones applicable. This aspect is sometimes overlooked by the armed forces.

In the end, as the content and direction of Malaysia’s defence policy are not publicly accessible, it is difficult to evaluate arms procurement decisions or to know whether defence policy fits in with the political leadership’s perceptions of strategic planning in a comprehensive and systematic fashion.<sup>38</sup>

#### IV. Arms procurement planning

According to Mak, the Malaysian political elite still perceive challenges to the regime and its legitimacy as the greatest threat, followed by internal security threats, external security threats being a weak third. For this reason Malaysia was able for some time to avoid investing in building up conventional military forces for external defence. The end of insurgency therefore spelt the beginnings of a divergence of interpretations between the political and military elite.<sup>39</sup> The concept of ‘self-reliance’ defined in the 1987 national defence plan concentrates on comprehensive (internal and external) security, whereas MAF arms procurement planning appears to focus on acquiring conventional military power for the deterrence of external threats. Such inconsistencies impinge on force development and arms acquisition planning.

##### **Force planning**

Until the late 1980s, when the end of the insurgency spelt a shift in threat perceptions that significantly influenced force planning, the army was privileged over the other two services in terms of arms procurement. The withdrawal of the British east of Suez in 1971 and the end of the Viet Nam War in 1975 led to the PERISTA (Perancangan Istimewa Angkatan Tentera, Special Armed Forces) plan of 1979–83. It was designed to facilitate the development of the armed forces’ capability through arms acquisition, with a decided naval emphasis. The end of the communist insurgency freed the armed forces from domestic concerns. The air force came to be seen as an indispensable element for self-reliance in military security. In the 1990s, arms procurement priorities focused on naval and air force requirements, leading the army to feel neglected in the acquisition

<sup>37</sup> Sharifah Munirah Alatas (note 34), p. 41.

<sup>38</sup> Zakaria Haji Ahmad, ‘Defence industrialisation in Malaysia’, Paper presented at the Chatham House Conference on European Defence Industry in the Global Market: Competition or Co-operation?, London, 20–21 May 1996, p. 3.

<sup>39</sup> Mak (note 15), pp. 8–9.

of new technology.<sup>40</sup> The navy and air force have moved away from supporting army operations and assumed a more independent role, which for the navy was the protection the exclusive economic zone (EEZ).<sup>41</sup> With the extension of the EEZ the navy had to shed its image of a coastal force, and with the problems developing in the South China Sea, the US withdrawal from the Philippines in 1993, piracy, smuggling and illegal immigration, new security concerns have come to the top of the naval agenda.<sup>42</sup>

The individual services and the Armed Forces Staff Headquarters set up in 1993 should logically be working on joint operational doctrines in the light of the changes in the region.<sup>43</sup> While joint operations and exercises have been successful, they have revealed problems, often deriving from the fact that the cooperation only extended to the operational levels and is not integrated at a higher level, as is indicated by the absence of any joint doctrine on acquisition.<sup>44</sup>

### Arms procurement planning

Arms procurement planning starts with the respective armed services preparing their capability requirements, which are submitted to Armed Forces Headquarters. These are the basis on which the MAF prepare a Perspective Plan. These plans are consolidated at a JCAFC meeting and sent to the Development Division of the MOD, which in turn examines and integrates the plans, and are then sent to the Development Committee.<sup>45</sup> The Development Division follows the guidelines given by the EPU in the Prime Minister's office, in which defence issues are not necessarily the main focus.<sup>46</sup> Economic and development concerns take priority over the needs of the military.

The EPU examines the plans for affordability and feasibility and sets a spending ceiling. The MOD receives the plans back, re-examines them and passes them back again through the same stages.

After consultation with the services requesting procurement, priorities are identified or changed and the process is repeated up to the EPU, from where the plans are sent to the NDC, which is the central planning body in terms of capital outlay and functions under the Chief Secretary to the Cabinet. The plans are then presented to the Cabinet, which examines them and passes them back, and then laid before Parliament. The Cabinet does not directly intervene in procurement decisions made by the ministry; it merely passes the annual budget as a whole together with whatever arms purchases are included.<sup>47</sup>

<sup>40</sup> On the relative weights of the 3 services in the 1990s, see Thananthan, S. and Sengupta, P., 'Articulating Malaysia's total defence capability: Syed Hamid gives his views', *Asian Defence and Diplomacy*, Mar./Apr. 1996, pp. 5–7.

<sup>41</sup> Siti Azizah Abod (note 2), p. 3.

<sup>42</sup> *Malaysian Defence: Towards Defence Self-Reliance* (note 11), p. 19.

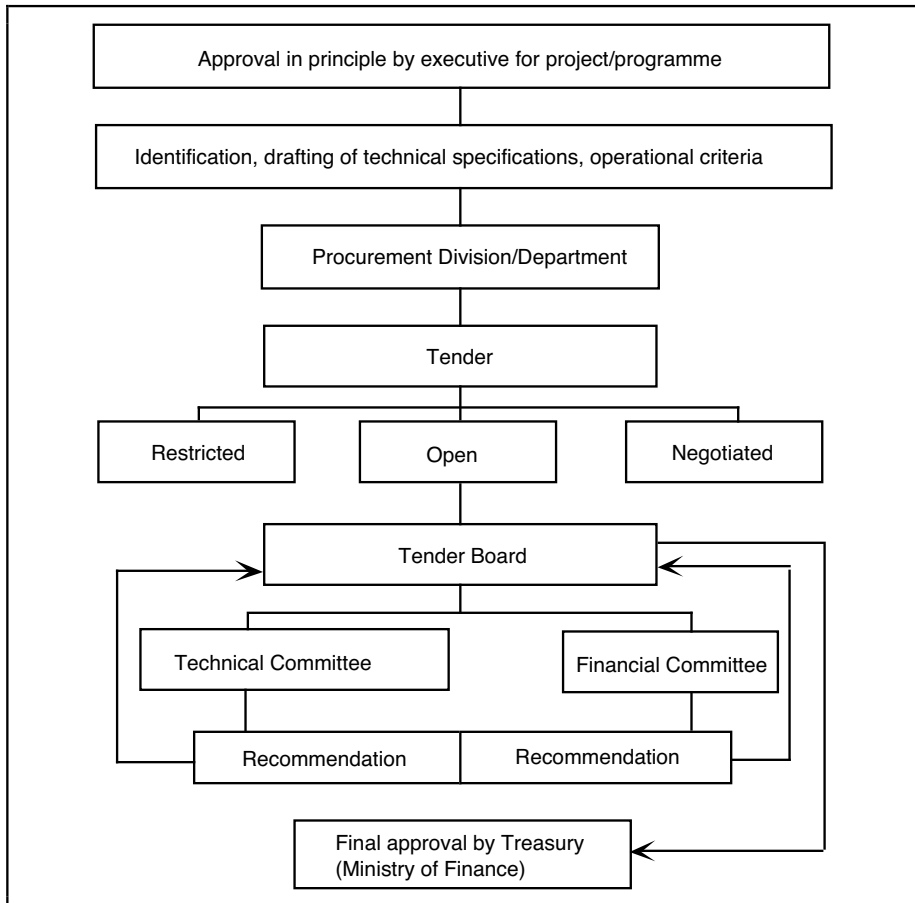
<sup>43</sup> Mak (note 15), p. 11.

<sup>44</sup> Chandran Jeshurun (note 31), pp. 199, 202.

<sup>45</sup> *Malaysian Defence: Towards Defence Self-Reliance* (note 11), p. 25.

<sup>46</sup> The EPU is discussed further in section V of this chapter.

<sup>47</sup> Faridah Jalil and Noor Aziah Hj. Mohd. Awal, 'Control over decision-making process in arms procurement: Malaysia', SIPRI Arms Procurement Decision Making Project, Working Paper no. 81 (1997), p. 5.



**Figure 4.3.** The Malaysian tender and procurement process

*Source:* Mak, J. N., 'Security perceptions, transparency and confidence-building: an analysis of the Malaysian arms acquisitions process', SIPRI Arms Procurement Decision Making Project, Working Paper no. 82 (1997), appendix.

### Stages in the arms procurement process

There are seven steps in the process:

1. The General Staff Requirements (GSR) at armed forces level for single services are generally for the purchase of equipment off the shelf.
2. For capital items made to order, a specification committee tests viability and local content. There is a specification committee for each service as well as one for the three services jointly. The members are drawn from the different equipment departments of the services according to requirements. For example, in the air force the actual users are members of the committee. A tri-service

specification committee whose members are determined by the forces themselves is established, for example, for the specification of major items to be used by all the services, such as C<sup>3</sup>I equipment. The committee suggests the type of equipment preferred and methods of procurement.

3. The deputy heads of the services coordinate the recommendations and pass them to the Procurement Division (formerly known as the Supply Division) of the MOD. The division is headed by a Secretary who reports to the Deputy Secretary General (Development) and through him to the Secretary General. Its members are drawn from the executive offices of the MOD and from the diplomatic and administrative services.<sup>48</sup> It decides on the method of procurement and the type of tender. The MOD handles procurement of equipment below 5 million ringgits (about \$1.3 million); proposals for items costing more than that must be approved by the Treasury. Thereafter proposals are evaluated by the Technical Committee of the Procurement Division.<sup>49</sup>

4. A technical evaluation committee carries out technical evaluation and field tests for the suitability of the equipment in terms of specifications and user requirements. It also examines the life-cycle costs, local content, infrastructure and other logistical requirements. It comprises end-users and technical experts from the relevant MOD departments, such as the Defence Science and Technology Centre (DSTC), the Defence Industry Division of the MOD and the Information Technology Division. Its membership is determined by the MOD and can, but rarely does, involve experts from outside the government. Debate over government purchases is usually confined to the technical committee established for the particular tender, whose composition varies according to the type of equipment to be purchased.

5. The Procurement Division decides on the method of procurement and type of tender: (a) open tender; (b) restricted tender; and (c) direct negotiation (negotiated tender). This stage is shown in figure 4.3. In the open tender procedure, the bidders are required to meet basic criteria. In cases where open tender is not considered suitable, restricted tender is designed to save time when potential suppliers are few because the equipment involved is highly specialized: for instance, builders of conventional submarines may be approached directly to submit tenders. In a negotiated tender a supplier has been identified as the only one offering the equipment that meets the specific requirements of a user agency, for instance, for spare parts for vehicles that are not available from any other source. As the name implies, negotiations are carried out to establish price, delivery dates, support and so on. A negotiated tender can also apply in the case of government-to-government purchase.<sup>50</sup>

Tenders for programmes costing below 5 million ringgits are managed by the General Secretary of the MOD, and for items above 5 million ringgits by the Treasury. It issues its own tender, although the end-user or the specific armed service initiates the tender process by identifying and writing the technical

<sup>48</sup> Interview by the author with Siti Azizah Abod and Mr Rajayah, MOD, Sep. 1998.

<sup>49</sup> Siti Azizah Abod (note 2), p. 5.

<sup>50</sup> Information provided by MOD staff in discussions, Oct. and Nov. 1998.

specifications and operational criteria. These are passed on to the agency's procurement division or department.

6. The next stage is tender evaluation. Depending on financial limits, the Procurement Division of the MOD or the Treasury forms an evaluation committee with technical experts from the services, the DSTC and the Information Technology Division, which submit tender briefs to the Tender Board. A financial evaluation committee also evaluates the financial merits of proposals such as industrial offsets, financial packages including modes and payment schedule, and other cost-related criteria. This committee is practically the same for all ministries.<sup>51</sup>

7. The Tender Board, chaired by the Secretary General of the MOD and comprising the Deputy Secretary General for Development, representatives from the Armed Forces HQ, the services and the Treasury, considers the tender brief and either approves or rejects the recommendations, or calls for a re-tender. The Treasury has the right to accept or reject any or all proposals against the recommendations of the Tender Board and the two tender sub-committees (for technical and financial evaluation). For tenders called by the Treasury, the MOD will forward the technical evaluation report directly to the Treasury.<sup>52</sup> If the Treasury handles the procurement of certain high-value equipment, a special committee will be appointed to look into the commercial proposal before the Request For Proposals (RFP) is made. The committee looks into delivery, costs and terms of payment, warranty and such aspects as offsets or counter-trade, transfer of technology and local content.

At the level of the individual armed services the process is similar, with minor variations. For the army, GSRs are examined in the Army Operational Equipment Committee, which consists of the Deputy Chief of the Army and the heads of the relevant departments such as logistics, equipment, and mechanical and other specializations. The GSRs are examined in line with army doctrine, operational factors and training requirements and then passed to the Procurement Division of the MOD to be processed by a technical evaluation committee. The air force procedure involves the Technical Specification Committee, which passes the Air Staff Requirements to the Air Specification Committee and then to the MOD Procurement Division. Thereafter it follows the same procedure as described for the army. In the navy the GSRs are evaluated by the Chief of the Navy Committee, which passes them on to the Procurement Division in the MOD. The detailed working of the tender process in the navy is given in a judgement in an appeal case in 1979 initiated by Lim Kit Siang, the then leader of the opposition in Parliament.<sup>53</sup>

<sup>51</sup> Mak (note 15), pp. 20–21.

<sup>52</sup> Siti Azizah Abod (note 2), p. 6; and Mak (note 15), p. 22.

<sup>53</sup> Public Prosecutor v. Lim Kit Siang [1979] 2 *Malaysian Law Journal* (MLJ) 37, p. 294.

## V. The defence budget and financial planning<sup>54</sup>

The defence budget planning and arms procurement processes are part of more general budget making by other ministries and agencies. They go through similar mechanisms for financial vetting and control.<sup>55</sup> However, there is no detectable public process of examining the question how much is enough and allocating a fair share of the national budget to the social sector at the cost of security, and the question of opportunity costs remains unexamined.

During the period 1991–95, most capital-intensive and sophisticated weapon acquisitions programmes were approved. Despite frequent changes in defence policy, defence spending in Malaysia has remained at around 4 per cent of gross national product (GNP) for much of the past two decades, which is just above the average of 3.3 per cent for the region.<sup>56</sup>

The MOD imposes a five-year planning structure which establishes manpower levels, equipment requirements and financial ceilings to guide the formulation of annual budgets. The MOD and the Treasury discuss expenditure within these parameters, and the latter determines the annual budget allocations accordingly. They are divided into two headings in the five-year plan: (a) capital procurement, part of which is infrastructure; and (b) operational expenditure. The capital budget is reviewed half-way through the planning period, which provides an opportunity to apply for new or additional requirements or an increased allocation.<sup>57</sup> The operational budget is revised annually. The five-year budget is broken down into annual allocations for the departments of the MOD.

### The budget cycle

The budget cycle is standardized for all government departments. It is shown in figure 4.4. The defence budget is a two-tiered exercise: the overall allocation for defence in the national budget is set in the medium term and then distributed between the individual services.<sup>58</sup>

In February of each year the initial internal screening and consolidating by the end-users (Logistics, Medical, and so on) are carried out, prior to a circular being sent out by the Finance Division of the Treasury in March/April asking for requirements for the financial year. Requirements are submitted by May. The MOD Finance Division examines them and submits them to the Budget Division of the Treasury by June. Here they are examined and consolidated. By July, the allocations are known informally to the MOD and end-users, and

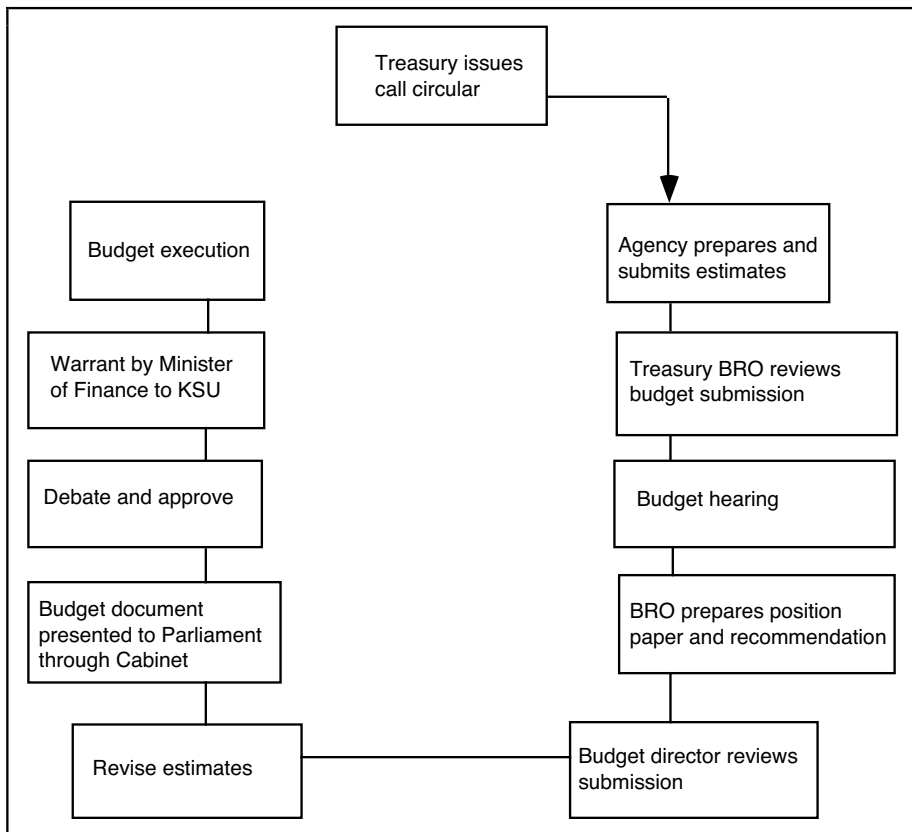
<sup>54</sup> Unless otherwise indicated, this section follows Robless, R. (Brig.-Gen.), 'Harmonizing arms procurement with national socioeconomic imperatives', SIPRI Arms Procurement Decision Making Project, Working Paper no. 83 (1997).

<sup>55</sup> Siti Azizah Abod, personal communication.

<sup>56</sup> Robless (note 54), p. 16.

<sup>57</sup> Siti Azizah Abod (note 2), p. 4.

<sup>58</sup> Robless (note 54), para. 5.



**Figure 4.4.** The Malaysian annual budget cycle

KSU = Secretary-General of a ministry. BRO = Budget Review Office.

Source: Supian Ali, 'Harmonizing national security with economic and technology development in Malaysia', SIPRI Arms Procurement Decision Making Project, Working Paper no. 87 (1997), p. 38.

planning for the financial year's procurement begins at user level.<sup>59</sup> The Treasury goes through its own process to evaluate requirements, but the MOD and services are represented to answer technical questions. While the Treasury has the power of decision, the MOD identifies its operational expenditure and capital procurement. It is here that the services compete for funds, and competition can become quite severe in the absence of any joint doctrine that identifies priorities or missions.<sup>60</sup>

The five-year plan is the primary planning instrument which indirectly determines spending priorities among the services. The annual estimates concentrate

<sup>59</sup> The author thanks Mr Arunasalam, Managing Editor, *Asian Defence Journal*, for clarifying this part of the budget cycle.

<sup>60</sup> Abdul Rahman Adam (note 14), p. 16.



on service expenditures, which are submitted to Parliament.<sup>61</sup> Recording expenditure is a crucial part of defence budgeting. Operating expenditure cannot be carried over into the next financial year. Expenditure on capital projects, however, can be spread over several years, so that a large part of each year's capital budget, or of each forthcoming five-year-plan, is often committed in advance and this eats into funding for new acquisitions and capability development.<sup>62</sup> Figure 4.5 shows the system of financial planning under the Malaysian five-year plan.

In 1992 the government introduced the Modified Budgeting System (MBS) in order to manage the budget and align expenditure with stated policies. The MBS requires spending agencies to commit themselves to objectives and targets against which their performance is then measured. It is meant to look comprehensively at input, throughput and output (in this regard it is similar to the old Programme Analysis Review used in the UK), to make the armed forces more goal-driven and accountable and to avoid incremental budgets.<sup>63</sup> The application and use of funds have become more stringent and streamlined since the MBS was introduced, because underspending can lead to cuts in allocations.<sup>64</sup>

While requirements for the medium and short term (five years and one year, respectively) are fairly clearly identified, longer-term needs are less clear. There is a lack of long-term financial planning in the defence sector, which is particularly important for the capital-intensive procurement programmes. The fact that the decision-making process is long-drawn-out can lead to technological, operational and financial problems in the sense that inordinate time delays may involve eventually paying higher prices. It was for this reason that the Minister of Defence, Datuk Syed Hamid Albar, has called for a 15- to 20-year financial planning procedure to be introduced.<sup>65</sup>

Without a long-term strategic perspective, expenditure planning and budget allocations are dependent on threats perceived over the short or medium term and can thus fluctuate considerably from year to year.<sup>66</sup> This leads to a tendency for margins to be increased in times of perceived threat, as in the 1970s during the Viet Nam War or in the 1960s when threats were perceived from Indonesia, and a disproportionate scaling down when the threat passes.

<sup>61</sup> Robless (note 54), para. 6.

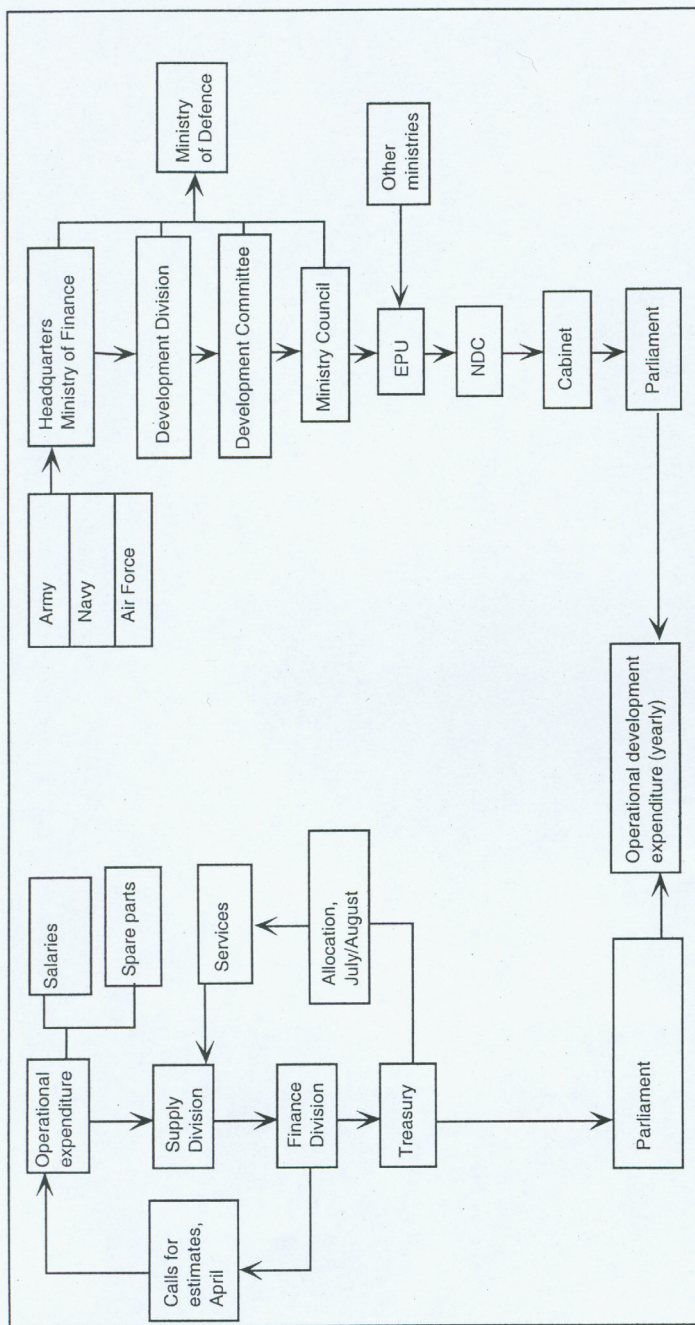
<sup>62</sup> Sharifah Munirah Alatas (note 34), p. 41.

<sup>63</sup> Supian Ali, 'Harmonizing national security with economic and technology development in Malaysia', SIPRI Arms Procurement Decision Making Project, Working Paper no. 87 (1997), p. 30.

<sup>64</sup> Robless (note 54), para. 7. The phenomenon of 'Christmas shopping' at the end of the budget year occurs in order to use up the allocation. Supian puts this down to bad planning and budget control. Personal communications with Supian Ali.

<sup>65</sup> Balakrishnan, K. S., 'Arms procurement budget planning process: influence of cost and supply source of alternative systems, procurement negotiations and methodologies, offset policies, contracting process and the issue of transparency', SIPRI Arms Procurement Decision Making Project, Working Paper no. 79 (1998), p. 3; and *Asian Defence Journal*, no. 4 (1998), p. 3.

<sup>66</sup> Robless (note 54), para. 22.



**Figure 4.5.** Malaysian financial planning under the five-year plan  
 Source: Compiled by the author on the basis of information from the Malaysian Ministry of Defence.

## The financial audit processes<sup>67</sup>

### *Internal audit*

Internal audit aims to avoid or correct any mistakes or deficiencies before the Federal Audit Department does the external audit. The MOD's internal audit department assists financial management of the armed forces. It reports on financial compliance and makes recommendations to the Secretary General of the MOD on the actual state of affairs to ensure that management decisions are implemented in accordance with pre-defined rules and procedures. The internal audit reports also check productivity levels and target attainment, and provide management consultancy services within the department. The Secretary General, as the Controlling Officer under the Financial Procedure Act 1957, upon receiving written complaints can also order the internal audit department to investigate any allegations of misappropriations and abuse of power and take disciplinary and/or corrective measures against the staff responsible.

Equipment audit in terms of life-cycle costing and maintainability is the responsibility of the individual services. The army has its inspection and evaluation division, the air force and navy their inspectorates general. They compare the performance of equipment to the financial efficiencies of a particular system. The reports of their investigations are presented to the service chiefs who report to the minister when deficiencies are found. These inspectorates are separate from the internal audit department, which is responsible to the Secretary General, the civilian arm of the ministry, since usage relates to the operational arm.

### *Statutory audit*

The Federal Audit Department is a statutory organization under the Auditor General, answerable not to the Government but to the Public Accounts Committee of Parliament, made up of MPs of the ruling and opposition parties. It can audit the internal audit departments as well. The department carries out performance auditing after transactions have taken place in terms of verifying financial objectives, outlay, performance, maintenance and reliability. The staff are government servants but it is a 'closed service', drawn from accountants and bookkeepers who receive additional training in the service. The audit teams do not have military or technical backgrounds since accounting and auditing procedures are standard for all government departments.

The annual audit report presented to Parliament and the Public Accounts Committee is accessible to the public,<sup>68</sup> and on that basis the public and Parliament can question individual ministries and departments.<sup>69</sup> The Public Accounts

<sup>67</sup> It was almost impossible to get any but the sketchiest information on auditing in the MOD. The following information is based on general sources and on personal interviews.

<sup>68</sup> E.g., *Laporan Ketua Audit Negara* [Report of the Federal Auditor General for the year 1995] (Jabatan Audit Negara Malaysia, 1996).

<sup>69</sup> Personal communication with Mr Arunasalam, Managing Editor, *Asian Defence Journal* The discussions are laid down in Hansard, but the subsequent action is not made public.

Committee (although not the Federal Audit Department) can demand action on issues not clarified. This may be disciplinary action against the persons responsible; this is not made public, but the Committee has to be kept informed. Inspections continue until a satisfactory explanation is accepted or a problem that has arisen is solved by the department concerned or a decision is made by the Public Accounts Committee. The Federal Audit Department can question the Finance and Accounts Division of the MOD on certain items, and it in turn will ask the relevant departments—in the case of arms procurement the Procurement Division—to reply. If the reply is not satisfactory, the problem can be taken up with the Deputy Secretary of Finance in the MOD and may go to the Public Accounts Committee.

The Federal Audit reports are received by the King, the Sultans of the states, Parliament, the state legislatures and the government authorities and other bodies concerned. The necessary action is taken by the Treasury, heads of departments, the agency concerned and the Public Accounts Committee after the report has been tabled in Parliament. The methods and procedure of the Federal Audit Department are at the discretion of the Auditor General.

A financial review is carried out at mid-term of the current plan or year or if and when the need arises, for instance, during an economic crisis. Spot checks are also done if deemed necessary. On these occasions it can be decided to increase or reduce the expenditure for the armed forces.

## VI. Defence industrial aspects

Decisions to make or buy military equipment have been characterized by a cautious, pragmatic and gradualist approach. The accent remains on buying weapons rather than developing them. The building up of the defence industry seems to be a secondary concern of the government and is not, as it is in some countries, seen as the spearhead of the drive for industrial capacity and capability. Defence industrialization is still regarded as belonging more in the realm of defence policy than in that of industrial or economic development policy.<sup>70</sup>

### **Defence research and development<sup>71</sup>**

Responsibility for defence research and development (R&D) belongs to the DSTC, which was founded in 1968. Its role is to give scientific and technological advice to the MOD and the MAF in meeting their capability requirements and to carry out R&D to promote local defence production. In addition, it should identify key technologies and post-evaluate military manoeuvres.<sup>72</sup> It reports to the Deputy Secretary of Defence for Development in the MOD and

<sup>70</sup> Zakaria Haji Ahmad (note 38), p. 2.

<sup>71</sup> Unless otherwise indicated, this section is based on Sukumaran, K., 'Defence research and development (R&D) and arms procurement decision making', SIPRI Arms Procurement Decision Making Project, Working Paper no. 86 (1998).

<sup>72</sup> *Malaysian Defence: Towards Defence Self-Reliance* (note 11), p. 57.

consists of four units: R&D, Quality Assurance, Technical Support and Administration.

The DSTC has not kept up with other areas of national research. It suffers from inadequate funding and therefore inadequate manpower and equipment. For instance, out of 234 positions approved in the DSTC, only 195 were filled on 1 May 1997 and of these only 54 were professional researchers, the rest being support staff. The R&D Unit, the most important unit, has only 18 researchers. The ratio of research staff to auxiliary and technical support staff is about 1 : 4. The DSTC's activities remain ad hoc because it does not have a long-term plan for staff requirements. Defence R&D is confined to applied research in areas such as maintenance and training requirements. No basic research is carried out and the R&D which is done has little impact: the organization is not geared to conducting meaningful military R&D and the quality of its research is poor.

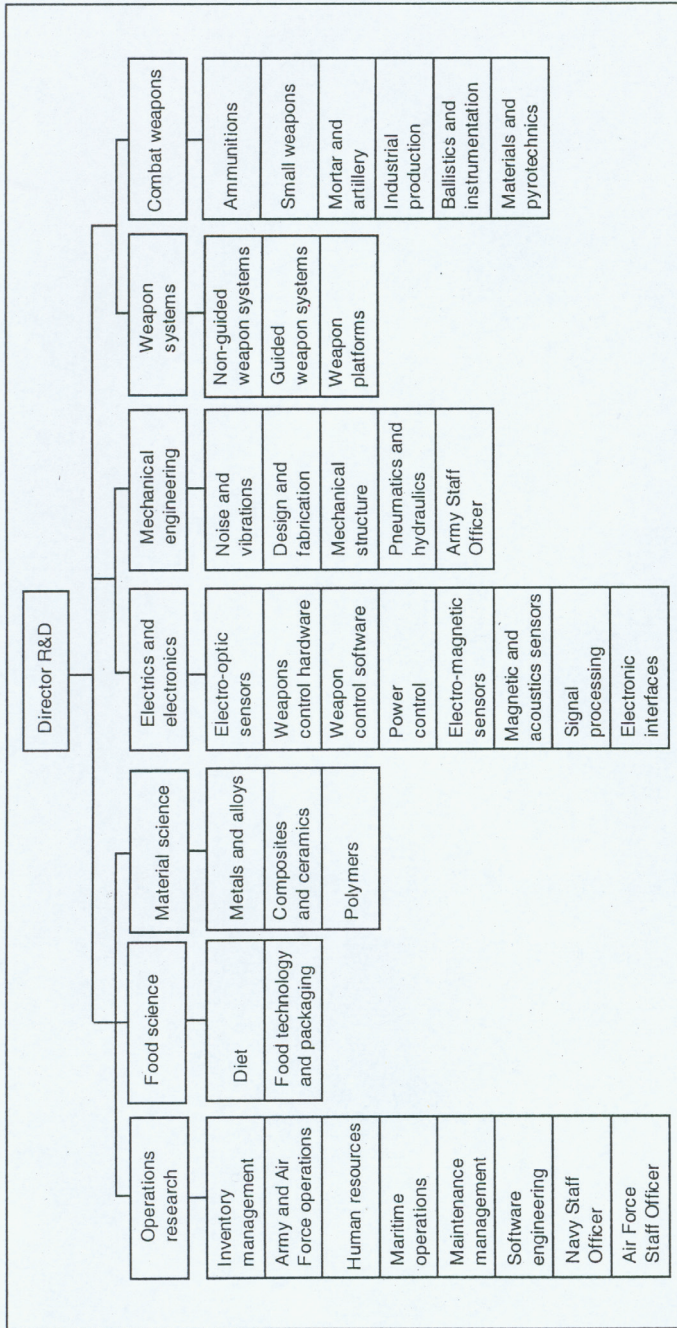
The DSTC's funding is meagre even compared to that of other sectors of the military. Under the Fifth Malaysia Plan 9 million ringgits (\$2.4 million) were allocated, and under the Sixth Plan 10 million ringgits (\$2.6 million)—just 0.1 per cent of the total capital expenditure of the MOD or 1.73 per cent of the national R&D allocation. Under the Seventh Plan (1996–2000) 30 million ringgits (\$7.9 million) was requested for the DSTC; only 6 million ringgits was allocated.<sup>73</sup> Funds for the DSTC are handled by the Development Division of the MOD, which also handles the fund for asset acquisition for the whole ministry; thus the DSTC's funds are not kept separately from the MOD funds. If costly equipment is acquired, this also eats into the DSTC's funds (even if it has not used all its allocated amount thus far). The low funding and priority for the DSTC might be due to a perception that defence R&D has no useful spin-offs for industry and is not conducive to overall development.

Generally it can be said that any meaningful R&D is carried out either by the private sector (training facilities for aerospace engineering with the Mara Institute of Technology, ITM) or together with government agencies other than DSTC (e.g., rapid prototyping together with SIRIM, the Standards and Industrial Research Institute Malaysia, which helps in product development). The Second Industrial Master Plan (1996–2005) produced by the Ministry of International Trade and Industry spelt out the role of the private sector in R&D in general.<sup>74</sup> However, among the eight key areas or industry groups identified as priorities only one is linked with the defence sector—aerospace. Here the plan mentions explicitly desired cooperation between the Royal Malaysian Air Force (RMAF) and Malaysian Airlines System (MAS) to develop local expertise and technological know-how.<sup>75</sup> Other elements of this approach include: (a) modifi-

<sup>73</sup> This can probably be explained by the fact that out of 10 million ringgits (\$2.6 million) allocated under the 6th Malaysia Plan, only 6 million ringgits were spent.

<sup>74</sup> Sukumaran, K., 'The role and function of the DSTC, Ministry of Defence Malaysia', thesis for the MA degree, National University of Malaysia, Bangi, 1997, p. 14 (unpublished).

<sup>75</sup> Sukumaran (note 74), pp. 15ff.



**Figure 4.6.** The Research and Development Unit of the Malaysian Defence Science and Technology Centre

Source: Sukumaran, K., 'Defence research and development (R&D) and arms procurement decision making', SIPRI Arms Procurement Decision Making Project, Working Paper no. 86 (1998), p. [21].



cation and conversion activities together with the RMAF, which at a later stage could benefit other sectors of the economy; and (b) enhancing Malaysian capability for building light aircraft for both the domestic and export markets.

Areas that may have applications in the defence sector, such as the electrical, electronics or materials industries, are left to the private sector and it has not developed cooperation with public-sector defence R&D. At a seminar on defence R&D at the DSTC in 1995 it was revealed that out of 57 R&D projects undertaken by the DSTC in 1995 none was in cooperation with the private sector or other institutions of higher learning. Even relatively successful privatized industrial establishments like SIRIM, Airod and the Lumut Naval Dockyard concentrate to a great extent on applied research.

As certain sectors of defence R&D are handed over to the private sector without the DSTC having any say or participation and the DSTC has not come up with research project proposals,<sup>76</sup> interest from private industry in cooperation with the DSTC is low. Evidence of technology spin-offs between defence and civil R&D is not enough to support any definite conclusions.<sup>77</sup> Defence research is seen as 'lost research'. 'R&D efforts have not borne commercial success.'<sup>78</sup>

However, since 1998 the DSTC has been developing bilateral relations with defence science and technology institutions abroad as well as links with industry, academia and research institutions.<sup>79</sup> Foremost among these is the UK's Defence Evaluation and Research Agency (DERA), which held a joint seminar with the DSTC during the DSA Exhibition in April 1998.<sup>80</sup>

## Defence industrial production

After 1986 Malaysia encouraged private-sector involvement in defence production to the extent of privatizing some government concerns. Privatization in the defence industry mainly took the form of what were called Non-Financial Public Enterprises, which kept a measure of government control while encouraging technology absorption by the private sector. In 1982 the Defence Industry Division formulated a National Defence Production Policy (NDPP) in which defence items were classified into three categories—'strategic', 'essential' and 'non-strategic'. The NDPP 'recognized the need to be self-reliant in the production of strategic items and leaving the non-strategic items to be produced by semi-government agencies and in the private sector'.<sup>81</sup>

In 1990 a Malaysian Defence Industry Council (MDIC), a private-sector initiative, was established as an umbrella organization to promote defence industrialization. Its establishment signalled an awareness of the information gap on defence needs in the country—the lack of doctrine or a well-identified defence

<sup>76</sup> Sukumaran (note 71), pp. 15, 16.

<sup>77</sup> On spin-offs, see Supian Ali (note 63), pp. 17–18.

<sup>78</sup> *Malaysian Defence: Towards Defence Self-Reliance* (note 11), p. 61.

<sup>79</sup> Sukumaran (note 74), p. 59.

<sup>80</sup> 'DSA 98 today', supplement to *Asian Defence Journal*, 22 Apr. 1998, p. 5.

<sup>81</sup> Zakaria Haji Ahmad (note 38), p. 4. As a result the cooperation between SME and Steyr-Mannlicher to produce assault rifles was undertaken in 1989. Supian Ali (note 63), pp. 18–19.

policy, leading to improvisation on the part of the MOD, and excessive political control of defence planning and procurement which led to several undesirable consequences.<sup>82</sup> The MDIC identified four priority areas for defence industrialization—ordnance, aerospace, shipbuilding and communications—to gear long-range defence industrial planning more closely to actual needs.<sup>83</sup> It envisaged an integrated pattern of defence industrial production. According to Zakaria, the MDIC is considered defunct.<sup>84</sup>

Because economies scale are unlikely to be developed in private-sector defence industries, demand from the MAF being low, and because a large percentage of the defence budget had always gone into importing military equipment, the Defence Minister in 1997 recommended developing the industry through more collaborative arrangements with industries in the ASEAN countries and the West.<sup>85</sup> The government tried to broaden the supplier base and increase the technology transfer element of trade agreements. These efforts led to a number of moderately successful technology transfer agreements in defence production. Other enterprises were encouraged to engage in dual-purpose technology to provide a cushion against a potential drop in demand.<sup>86</sup>

The strategies identified to develop Malaysia's defence industry were: (a) a focus on key industries such as the automotive industry, aerospace, shipbuilding, electronics, arms and ammunition, and advanced materials; (b) privatization; (c) offsets; and (d) incentives. The incentives deemed crucial by the government are: (a) terms and conditions similar to those offered in other industries; (b) direct negotiation with potential suppliers; (c) the assurance of sustained purchases from a certain supplier over a certain period; (d) economic volumes of production; and (e) long-term contracts to enable companies to recover their investment.<sup>87</sup>

### *Joint ventures*

Defence production through private-sector companies in joint ventures between the government and a foreign partner has progressed considerably. However, most of these joint ventures remain under some form of government control through share holdings. A variety of defence products are offered by MMC Engineering; DRB-HICOM together with FMC-Nurol and related companies; Airod with Aérospatiale and OFEMA; MOFAZ and MOS with South African Advanced Technologies and Engineering Co.; Syarikat Malaysia Explosives

<sup>82</sup> 'The Malaysian Armed Forces: an exclusive interview with Chief of Defence Forces Gen. Ismail Omar', *Asian Defence and Diplomacy*, Dec. 1996, p. 20.

<sup>83</sup> Supian Ali (note 63), p. 20.

<sup>84</sup> Zakaria Haji Ahmad (note 38), p. 4.

<sup>85</sup> *Military Technology*, Dec. 1997, p. 19.

<sup>86</sup> Zakaria Haji Ahmad (note 38), p. 19. The process began with a joint venture between Dynamit Nobel, the Swiss company Oerlikon and the Malaysian Government which is today known as Syarikat Malaysia Explosives (SME), producing small arms and munitions and, since 1989, the Steyr assault rifle. Three spin-offs were SME Tools, SME-Trading and Tenaga Kimia, with Nitro Nobel, which manufactured explosives.

<sup>87</sup> Zakaria Haji Ahmad (note 38), p. 6.



(SME); the Lumut Naval Dockyard; ATSC, a joint venture between the Malaysian Government and Russia for maintenance support of Malaysia's MiG-29 aircraft; Sapura; Malaysia Shipyard; and Hong Leong Lurssen.

The Defence Industry Division of the MOD oversees collaboration with foreign partners and technology transfer to local companies. Lately some joint ventures in the telecommunications sector have come on-stream, such as those between Marconi and LTAT and between Sapura, Siemens Plessey and CRL Ltd. The purchase of Russian MiG aircraft in 1995 brought about cooperation between the Russian state corporation Rosvooruzheniye and Universiti Sains Malaysia for an aerospace school and a technological research centre.<sup>88</sup>

## Offsets

In the 1980s counter-purchase was the predominant form of offset in Malaysia (in some areas it still is) because the local industry was not considered ready for offset programmes. As the increased prosperity of the early 1990s led to more arms being bought, Malaysia began to exert more leverage over the conditions of arms contracts, spread its sources and insist on transfer of technology along with the finished weapons imported. Arrangements included barter,<sup>89</sup> counter-purchase, technology transfer and local content.<sup>90</sup> The prevailing view in the government is that any weapon purchase should allow for 'offsets', preferably technology transfer and training.<sup>91</sup>

Offset packages have now become the most crucial element in the procurement decision-making process. The most common kinds of offsets are: (a) technology transfer to maintain and modify equipment or manufacture components; (b) training; and (c) technical assistance. Government policy suggests that all arms purchases should allow technology transfer and training arrangements as offsets.<sup>92</sup> Appendix 4A illustrates the cooperation over offsets between the MOD, the government and the private sector. In this instance the purchase of naval patrol vessels was almost incidental in the sense that technology and price were less important than the economic and development benefits to be derived.

## VII. Checks and balances

Checks and balances exist in the arms procurement processes as for all public procurement decisions, and financial checks and balances are quite stringent. It remains to be seen whether they are efficient or meet the standards required as

<sup>88</sup> Robless (note 54), para. 20.

<sup>89</sup> In 1993 Russia undertook to buy 237.5 million ringgits-worth (\$61 million) of palm oil over 5 years as part payment for 18 Russian MiG-29s. Abdul Rahman Adam (note 14), p. 14.

<sup>90</sup> In the British Aerospace (BAe) Hawk agreement, some parts for the aircraft were made locally. This had commercial advantages later when the UK imported the parts and sold them to all Hawk users worldwide. Yap Pak Choy (note 35), p. 45. The offset content of the contract for technical support for the McDonnell Douglas F/A-18D in 1993 was worth 677.5 million ringgits (\$178 million) out of a contract value of 1.4 billion ringgits (\$368 million). Balakrishnan (note 65), p. 8.

<sup>91</sup> Zakaria Haji Ahmad (note 38), pp. 7-8.

<sup>92</sup> Zakaria Haji Ahmad (note 38), pp. 6-8.

regards legal accountability. It should also be borne in mind that civilian control of arms procurement does not necessarily mean parliamentary control or political accountability.

### **Legal and political accountability**

Malaysia is a constitutional monarchy with a bicameral Parliament on the lines of the Westminster model and a Cabinet of which the Prime Minister is the head. However, its style of functioning is very different and one would look in vain for the same kind of adversarial debate. Consensus is sought in debate: controversial discussion is not considered acceptable in Malaysian civil society when social or political superiors are involved. Such norms have resulted in 'strong government', with the Prime Minister at the apex of the system in a position which is more presidential than prime ministerial.<sup>93</sup> He gives the direction for others to follow. In a dispute, his word decides. Attitudes of deference to authority and above all loyalty are also crucial virtues in Malay culture.

In the case of arms procurement decisions, the Cabinet assesses the annual budget as a package and normally does not interfere with the MOD's recommendations. In the normal course of events, Parliament is not informed of arms procurement decisions, nor does it exert pressure on other decisions regarding the armed forces. Decisions are recorded as minutes by the Cabinet staff. The Cabinet meetings are secret; its papers are classified and even the minutes do not reveal the views of individual ministers.<sup>94</sup>

The executive is collectively responsible to Parliament. Ministerial responsibility, collective and individual, can be invoked during Question Time in the Parliament, in debates and in parliamentary committees.<sup>95</sup> The individual responsibility of a minister is acknowledged: when questions are addressed to a minister at Question Time he is obliged to respond. After the first question, a second, related question is allowed, and this is sometimes the only way to get controversial topics discussed in Parliament. For instance, after a question on the budget the second question might be on a controversial arms procurement decision.<sup>96</sup> Responsibility lies with the minister, not with the office, and a minister cannot plead ignorance of matters within his competence.<sup>97</sup> However, no Malaysian minister has yet resigned over misdemeanours of his ministry.

<sup>93</sup> *Far Eastern Economic Review*, 4 Sep. 1997, pp. 18f. See also an interview with Prime Minister Mahathir in *Far Eastern Economic Review*, 2 July 1998, pp. 15–17.

<sup>94</sup> Hickling, R., *An Introduction to the Federal Constitution* (Malaysian Law Publishers: Kuala Lumpur, 1982), p. 22.

<sup>95</sup> Faridah Jalil and Noor Aziah Hj. Mohd. Awal (note 47), p. 1 This section follows these authors unless otherwise indicated.

<sup>96</sup> Faridah Jalil and Noor Aziah explained the procedure at Question Time to the author. See also Hickling (note 94).

<sup>97</sup> E.g., in Dec. 1993 Dr Tan Seng Giaw, MP, from the Democratic Action Party asked whether the decision to buy the MiG-29 had been influenced by the promise to build a factory in Malaysia to manufacture spare parts and the assurance that Malaysia would not need to pay if there was any defect within 20 to 30 years of purchase. Faridah Jalil and Noor Aziah Hj. Mohd. Awal (note 47), p. 13fn.

The potential of parliamentary questions was made clear in a judgment in 1978:

Members of Parliament do raise questions in the Parliament pertaining to the information received and . . . introduce accusations that may not have any basis whatever. They are entitled to ask questions, raise the issues in the debates or even introduce motion on any such matter in parliament . . . The information contained in the disclosure may be discussed or deliberated in the proceedings in Parliament even though the disclosure may otherwise be held to be a breach of the Official Secrets Act if it is done outside Parliament. The protection is derived from the privilege that Members of Parliament enjoy in regard to freedom of speech and debate or proceedings in the Houses of Parliament.<sup>98</sup>

However, the right to ask questions does not imply the right to get answers in all cases. Under the Official Secrets Act of 1972 (amended in 1986), decisions concerning national security, defence and international relations are classified and confidential by definition.<sup>99</sup> A questioner must not seek information about something that is by its nature secret.<sup>100</sup> The minister can therefore refuse to answer any questions on defence matters (although he is in principle entitled to declassify military information).<sup>101</sup>

Parliament has the power to review ministers' decisions and if required to initiate legal action against their decisions, but this is rarely done. Court action is the last resort against decisions to procure arms or allocate money, but *mala fides* would have to be proved for a conviction to be possible. The Malaysian democratic system has persistent remnants of the deification of political leadership, so that it is difficult to question decision makers in the government for fear of losing face or being accused of not knowing one's place.<sup>102</sup>

The Public Accounts Committee can question the MAF on their expenditure and in some cases a special parliamentary committee is set up to enquire into the matter, although no such a committee has ever been established for an arms procurement case.<sup>103</sup> A parliamentary committee is set up but not controlled by Parliament, nor are its proceedings public. While a minister has to answer its questions, the committee has no power to change decisions or policies.

In principle there are quite broad entitlements to review and seek information, but these opportunities are limited to the environment of Parliament. If the public or the media seek information, several laws can restrain them. The constitution, although embodying the right to freedom of expression, does not explicitly guarantee the right to information on what the government is doing.

<sup>98</sup> Public Prosecutor v. Lim Kit Siang, 1978, MLJ 1979, pp. 44–45.

<sup>99</sup> *International Law Book Series*, Act 88, Official Secrets Act, Section 2, 1972, p. 227.

<sup>100</sup> *Parliamentary Debate, Dewan Rakyat*, 1 Dec. 1993, p. 58.

<sup>101</sup> *International Law Book Series*, Act 88 (note 99), p. 207.

<sup>102</sup> Sharifah Munirah Alatas (note 34), pp. 43–44.

<sup>103</sup> One such committee was demanded and a White Paper asked for by members of Parliament after 3 crashes of Nuri helicopters occurred in quick succession in 1996 and 1997. Eighteen airmen were killed. Since being commissioned in 1968, the Nuri has been involved in 14 accidents. Statement by the Parliamentary opposition leader, DAP Secretary-General and MP for Tanjong, Lim Kit Siang, on 19 Oct. 1996 and 20 Mar. 1997. Lim Kit Siang, URL <<http://www.lks.tm.my>>.

Chief Justice Azlan Shah (later HRH Sultan Azlan Shah of Perak) defended the right of the state to withhold information: ‘In deciding how much information the state may withhold from the public and how much may be disclosed, a balance has to be drawn between two main principles; on the one hand the disclosure of certain kind of information may hinder the sufficient functioning of the executive and administrative machinery, whilst on the other, the rights of the public may be restricted if access to certain information is withheld from them’.<sup>104</sup>

The Internal Security Act of 1960, reframed in 1988, and the Official Secrets Act could theoretically be used against persons seeking classified information. While appeals against decisions under the latter are possible in the courts, no appeal can be entered against decisions under the Internal Security Act. There are safeguards against misuse of the Internal Security Act, but these have been diluted since 1988.<sup>105</sup> The laws that effectively discourage the media from inquiring into matters that are deemed sensitive are the Societies Act and the Printing Presses and Publications Act, both of 1984. Newspapers and journals are required to obtain a permit to publish. The Sedition Act of 1948 (revised in 1969)<sup>106</sup> and the Police Act of 1967 can also be used against the media and individual journalists, thus further undermining their inclination to ‘wash dirty linen in public’. The use of these acts limiting the right to information runs counter to the professed goal of an informed, democratic society in Malaysia.

There have been instances of corruption in arms procurement. Until 1976, the MAF were free to make their own arms procurement decisions once funds were allocated. Then the ‘Cuckoo’s Nest Scandal’ of the early 1970s, involving the purchase of jet aircraft from the USA, identified kickbacks and commissions paid to individual officers.<sup>107</sup> A restructuring took place which required foreign contractors to deal with the government through their local agents and not through the MOD any longer.

Corruption and maladministration are dealt with by the Public Complaints Bureau (PCB), established by the Cabinet in 1995. It can receive complaints from the public and has a permanent committee to take action where necessary. However, because it was not established by Act of Parliament, it has no powers of sanction or subpoena; it can only pass on its findings to the departments concerned and recommend action to be taken. Its function resembles that of an ombudsman. The members of the PCB committee include the Anti-Corruption Agency, the Prime Minister’s Department, the heads of public service departments and the Malaysian Administrative Modernization and Management Planning Unit (MAMPU).<sup>108</sup> Informally, the PCB is quite powerful, since its head is the Cabinet Secretary.<sup>109</sup> It seems to have produced some positive

<sup>104</sup> HRH Sultan Azlan Shah, quoted by Faridah Jalil and Noor Aziah Hj. Mohd. Awal (note 47), p. 8.

<sup>105</sup> Personal communications with Faridah Jalil and Noor Aziah Hj. Mohd. Awal.

<sup>106</sup> Act no. 15 (1948), introduced at the beginning of the Emergency and revised 20 Nov. 1969.

<sup>107</sup> Supian Ali (note 63), p. 29.

<sup>108</sup> Balakrishnan (note 4), p. 7.

<sup>109</sup> Information provided by Faridah Jalil, 26 Feb. 1999.

results in dealing with corruption-related problems and improvements in governance.<sup>110</sup> Its success is also due to the fact that over the past few years the investigative profile of the media has improved across the board. Reports of corruption in high places have multiplied.<sup>111</sup>

Controls over the decision-making process are in theory stringent, but, once again, the sensitivity of the topic makes it difficult to assess how and how well they actually work.

### **Technical inspection**

Although the DSTC is responsible for testing equipment before acquisition, the recommendations of its investigation reports can be enforced by directives and inspections after the event. However, problems often arise as maintenance is the responsibility of the armed services.<sup>112</sup> Even in the armed forces a ‘maintenance culture’ has not developed; wastage, accidents and overspending are the result.<sup>113</sup>

The inspectorates of the three armed forces have been mentioned above. Their tasks are clearly defined, but implementation is sometimes another matter as they report to the service chiefs. They are separate from the internal audit (which is responsible to the Secretary General, the civilian arm of the ministry). The Inspector General is a lower-ranking officer, but is called on to inspect the services and thus the service chiefs themselves, so that objectivity may sometimes be difficult to achieve. It is difficult, moreover, for the Inspector General to get dedicated staff from the services, since they would be required to question the decisions of their own chiefs; yet qualified staff are needed from the fields of logistics, engineering and so on.

The drawbacks of this process become clear when accidents occur. The Inspector General forms an independent investigation team, drawn not only from his department but from all parts of the armed services. This team reports to the Inspector General, who in turn reports to the service chief.

## **VIII. Conclusions and recommendations**

### **Problems in the acquisition process**

The problems identified in the existing arms procurement process are both structural and political, and are in a way summed up as ‘rationalized decision rather than rational decisionmaking’.<sup>114</sup> The following can be identified: (a) the

<sup>110</sup> *New Straits Times*, 1 May 1997. According to the PCB annual report for 1995, the majority of complaints were against the Home Ministry, the Finance Ministry and the Prime Minister’s Department: the Ministry of Defence came off rather well in comparison, with only 14 complaints from the public in 1995, as against 28 complaints in 1994. The full report was not published.

<sup>111</sup> Balakrishnan (note 4), p. 5.

<sup>112</sup> Personal communication from the MOD, Nov. 1998.

<sup>113</sup> The Prime Minister has criticized a lack of maintenance culture in the country. *New Straits Times*, 6 Jan. 1999, p. 2.

<sup>114</sup> Abdul Rahman Adam (note 14), p. 17.

lack of an explicit national defence policy and a joint operations doctrine, which in turn inhibits proper definition of arms procurement needs; (b) a less than stringent budget review which is liable to political intervention; (c) external intervention in arms procurement decisions; (d) a lack of transparency and predictability in the acquisition processes and decisions; (e) insufficient political and public accountability (in contrast to financial accountability); and (e) the indifference of Parliament to proper oversight over procurement matters, which is the result of general public indifference to military and defence matters.

### *Absence of a national defence policy*

Apart from the principles stated in *Malaysian Defence*,<sup>115</sup> no long-term defence planning document exists which would make the procurement process rational and more efficient. Decisions on weapon systems are changed without professional rationale and often unbeknown to the armed forces.<sup>116</sup> The military's requests over the past several decades for a White Paper on defence policy have not been heeded sufficiently and *Malaysian Defence* did not adequately address the need for joint planning.<sup>117</sup> As late as the 1980s there was an 'absence of a well-conceived and co-ordinated joint operational military doctrine. This has resulted in confusion over the acquisition of appropriate weapons systems due to financial considerations, and also the inevitable inter-service squabbles'.<sup>118</sup>

Inter-service rivalry is also indicated by the army's attempts to retain its preponderance of the past four decades, despite the changed circumstances, and keep its share of budget at the cost of the other services. This has led to the three services developing their own versions of operational doctrine, which have not yet been made public. Without a joint operational doctrine, arms procurement decisions cannot address Malaysia's security needs in a comprehensive manner.<sup>119</sup> With an integrated planning process, inter-service rivalry would be likely to decrease.<sup>120</sup>

### *The budget process*

A comprehensive budget review process is lacking in Malaysia, which relies on the MBS.<sup>121</sup> This can lead to external interference in the budget review, push up costs and lead to questionable practices which could provide opportunities for

<sup>115</sup> Malaysian Ministry of Defence (note 11).

<sup>116</sup> A piquant example appeared in the *New Straits Times* and *New Sunday Times* on 11 and 12 Oct. 1997, p. 1 and p. 2, respectively. It was reported that Australia claimed that the order for some vessels for the Royal Malaysian Navy (RMN) had gone to a German consortium rather than to Australia in spite of competitive bidding because former Prime Minister Paul Keating had called Malaysian Prime Minister Mahathir 'recalcitrant' over APEC (the Asia-Pacific Economic Cooperation forum). No independent confirmation of that claim was forthcoming.

<sup>117</sup> Chandran Jeshurun (note 31), p. 200.

<sup>118</sup> Chandran Jeshurun (note 31), p. 202.

<sup>119</sup> Abdul Rahman Adam (note 14), p. 11.

<sup>120</sup> Two army training bases that were to have been closed were therefore restored when the Tornado deal fell through. Yap Pak Choy (note 35), pp. 44, 50.

<sup>121</sup> See section V of this chapter.

corruption. The MBS was an improvement over the earlier Programme Performance Budget System (PPBS) because it looks at all stages of spending and at results against stated objectives, but it does not provide for programme evaluation or alternative costings. Thus incremental budgeting, which the MBS should have prevented, creeps into the process in the drive to reach targets.

Discussions in budget committees in the MOD, at regular budget reviews and in the Public Accounts Committee often fail to scrutinize projects where very large sums of public money are involved.<sup>122</sup> ‘Soft’ issues and increases at the margin are thus discussed in great detail whereas major items are passed easily or requests simply carried forward from year to year. Past expenditures concealing ever-higher life-cycle costs are treated as continuing commitments.

### *External influences*

The military in general resents two kinds of outside influence in the arms procurement process: (a) by political and civilian agencies whose priorities might differ from its own; and (b) by external agencies pursuing commercial or personal interests.

Where political agencies are concerned, the services complain of ‘ad-hocism’ and muddled competences. The Treasury holds the ‘purse-strings’. The services are asked what they require technically and professionally and advise accordingly, but because neither the Treasury staff nor the auditors have, by their own admission, the necessary military or technical expertise they go by cost and what is on offer. The resultant equipment is therefore often below optimum; this was the case with the four Assad Class corvettes ordered from Italy in 1995 because they happened to be available cheaply. The Cabinet has at times awarded tenders without informing senior civilian and military officials of the MOD, which the latter acknowledges is the Cabinet’s prerogative but is not considered courteous.<sup>123</sup> When the Cabinet decided to award a contract to the German Naval Group (GNG)<sup>124</sup> the MOD received this information from the GNG.<sup>125</sup> The decision to buy the MiG-29S was made for valid economic and political considerations, which, however, totally disregarded the operational merits of the aircraft.<sup>126</sup> Such instances can create tension between the military and the civilian agencies which control the process of arms acquisition.

It must be said, however, that it is doubtful whether the military by itself could make informed choices with regard either to defence policy or to technology assessment. In the absence of basic and applied R&D in the country, it is not certain that even it has the necessary resources to test equipment.

<sup>122</sup> The well-known ‘bicycle-shed’ syndrome occurs: not much is known about sophisticated equipment involving large sums of money and hardly anybody feels directly affected by these purchases or equipped to evaluate them, but the discussion on building a cheap bicycle shed is hotly contested.

<sup>123</sup> Abdul Rahman Adam (note 14), p. 13; and Personal communication from MOD staff, Nov. 1998.

<sup>124</sup> See appendix 4A in this volume.

<sup>125</sup> Personal communication with Mr Arunasalam, Managing Editor, *Asian Defence Journal*.

<sup>126</sup> Yap Pak Choy (note 35), pp. 45–46.

Robless argues that the problem lies also in the character of the military itself: it is not geared to handle the sophisticated requirements of specification writing, comparative financial evaluations, project handling, lobbying and so on. Cost estimates especially are done badly, leading to cost overruns, reviews and delays.<sup>127</sup> An observation by the retiring RMAF Chief Lieutenant-General, Datuk Seri Abdul Ghani Aziz, in 1996 made it clear that problems of unsuitable equipment being selected might not necessarily be avoided even if the military had a greater say in the matter. He alleged that former RMAF officers working for defence equipment suppliers had frequently compromised the safety of their former colleagues and the operational readiness of the RMAF by selling ‘unsuitable and obsolete equipment’.<sup>128</sup> He demanded that ‘profit-driven’ arms dealers should not take advantage of their connections with officials in the armed forces in order to sell them inferior equipment.<sup>129</sup> These charges were refuted by the Defence Minister, who stated that he had not received any reports about air force equipment not being up to the required standards. A day later a Nuri helicopter crashed.<sup>130</sup> Instances like these reinforce the bureaucratic attitude that sees little sense in defence spending, given a low threat perception and economic difficulties, and will delay or stifle it through complex procedures and over-zealous screening.

The problem of influence being used for commercial or personal interests has less to do with the process of arms procurement than with transparency and accountability. Alatas sees the decision-making process as sometimes dominated more by the interests of individuals in securing interpersonal relationships within the hierarchy than by the efficacy of the items purchased. Even though confidentiality is needed in many areas, a better-informed public would reduce errors of judgement and the influence of the interest groups.<sup>131</sup>

#### *Lack of administrative transparency*

‘Transparency takes place only after all decisions are made and when the top officials are ready to announce their decisions.’<sup>132</sup> The balance between confidentiality relating to the effects of arms procurement and the deployment of weapons, on the one hand, and the public’s right to information to evaluate defence expenditure and procurement decisions in order to avoid waste and abuse in the system, on the other, has remained unaddressed.

The Official Secrets Act is available to be used at the discretion of the executive, which determines what is secret information.<sup>133</sup> Even the courts have little leeway to question the executive, although they can entertain appeals against

<sup>127</sup> Robless (note 54), para. 18.

<sup>128</sup> *New Straits Times*, 9 Aug. 1996, p. 4.

<sup>129</sup> Lim Kit Siang, URL <<http://www.lks.tm.my>>, 11 Aug. 1996.

<sup>130</sup> See note 103.

<sup>131</sup> Sharifah Munirah Alatas (note 8), pp. 24–26.

<sup>132</sup> Balakrishnan (note 65), p. 10.

<sup>133</sup> Faridah Jalil and Noor Aziah Hj. Mohd. Awal (note 47), p. 8 One participant in the UKM–SIPRI workshop cited an case in which the racial breakdown of prostitutes in Malakka in 1948 was deemed to be information falling under the Official Secrets Act and therefore not accessible to a researcher.



decisions relating to penalties.<sup>134</sup> Even this is rarely done, because the courts are reluctant to interfere with ministerial decisions.<sup>135</sup> Very few political leaders and senior officials are aware of all the decisions made at every step of the procurement process. This is not at all unusual, given the need for confidentiality during any tender process to prevent undue influence-peddling.

There seems to be a resistance to greater transparency on the part of both government and military. It has been said that information is not even fully shared between government agencies: the MAF have their own long-term security and acquisition plans, but these may not necessarily be known to the officials engaged in defence budget making.<sup>136</sup> The government is secretive not only in arms procurement processes but in the majority of its transactions with the private sector as well. It is thus a problem of organizational behaviour that is not easily amenable to solution in the security sphere alone.

The arms procurement process has been described by Mak as transparent at the macro level and opaque at the micro level, partly because there is no tradition of open debate about military procurement.<sup>137</sup>

Here more than in any other public procurement process there is a natural tension between the desire for accountability and the need for confidentiality. The question must be asked whether it is transparency in the decision-making process that could be harmful to security or transparency of the eventual decisions. Transparency is not, of course, the same thing as accountability. Nor does it necessarily lead to greater restraint in arms acquisition or to more rational choices.<sup>138</sup>

### *Lack of public accountability*

Public accountability works primarily in the financial and administrative realm. In principle it is quite highly developed, with every level of the executive or the military being accountable to that above, but at the highest political level of decision making there is no insightful parliamentary control over arms procurement—although Lim Kit Siang has been vocal in demanding greater transparency in defence matters over the past 20 years. He has repeatedly drawn attention to the fact that billions of ringgits have been spent for defence equipment that might actually endanger security personnel: ‘Something is very wrong with the arms procurement process’.<sup>139</sup>

It might be argued that public accountability is evaded because of executive control on information. The principle of collective responsibility reduces the chances of wrong decisions being corrected. A strong government reinforces secrecy in the decision-making process. It prevents disagreements between depart-

<sup>134</sup> Faridah Jalil and Noor Aziah Hj. Mohd. Awal (note 47), pp. 9–10.

<sup>135</sup> Information from Faridah Jalil, 26 Feb. 1999.

<sup>136</sup> Personal communications with Dato’ Richard Robless, Zakaria Haji Ahmad, J. N. Mak and others.

<sup>137</sup> Mak (note 15), p. 3.

<sup>138</sup> Mak (note 15), p. 4.

<sup>139</sup> Lim Kit Siang, URL <<http://www.lks.tn.my>>, 11 Aug. 1996.

ments coming out into the open and uncomfortable questions being asked. It is difficult for the public in general and even for the elected representatives to locate responsibility and accountability for any decision. Here accountability ties in with transparency.

Ultimately, the political elite has the final word. The Minister of Defence is accountable for arms procurement expenditure to the Public Accounts Committee and, given the principle of collective responsibility, cannot off-load this onto the Treasury publicly. There is little possibility for decisions to be scrutinized before they are made and the executive does not sufficiently realize that it is answerable to Parliament. The accountability of the executive to Parliament is in effect a myth, both because of the subservience of party members to their leaders and because of the weakness of civil society. This weakness leads to public apathy.<sup>140</sup>

### *The weakness of civil society*

Could the absence of political accountability be attributed to indifference in civil society, which even if it has the means to acquire information is not interested to do so?<sup>141</sup>

The government proclaims itself 'open, liberal and responsible', but more often hands out information it thinks the public should have instead of information the public really ought to have. The overwhelming dominance of the ruling coalition in Parliament makes it difficult to question the government. The public seems to refrain from asking questions or seeking information. Fear of losing their licences prevents newspaper publishers and journalists from voicing strong criticism or investigating defence matters too closely.

It is true that immense difficulties exist not only in accessing information but also in verifying it. Researchers are often not allowed to quote documents and papers consulted or are denied access even to documents tabled as Cabinet papers. Public documents can often be accessed by researchers only by recommendation or private contacts and permission often depends on the political connections of the applicant. Moreover, the public cannot enforce access to information by legal means or through the courts.<sup>142</sup>

However, information on arms procurement decisions and expenditure is accessible in government publications and reports, legal journals and *Hansard*. The fact is that even where access to information is possible inside or outside Parliament the opportunities are little used. Question Time is poorly attended. Research on military organizations and national defence policies has received scant attention in studies sponsored by the government; fear of the Official Secrets Act may have discouraged research in this field.<sup>143</sup>

<sup>140</sup> Sharifah Munirah Alatas (draft, note 8), p. 25.

<sup>141</sup> Faridah Jalil and Noor Aziah Hj. Mohd. Awal (note 47), p. 8.

<sup>142</sup> Faridah Jalil drew the author's attention to this problem.

<sup>143</sup> Chandran Jeshurun (note 31), pp. 194–95; and Chandran Jeshurun, presentation at the UKM–SIPRI workshop, 18 Aug 1997.

Another possible reason for the indifference of the public in security issues is that the government is seen as the protector of the economic and physical well-being of the country in a paternalistic sense.<sup>144</sup> Security issues are left to the government while the citizens engage in the economic sector. Historically, the task of safeguarding the interests of the Malay polity was left to the ruler, and the people did not question this as long as it worked. This attitude, combined with the legacy of the colonial past, the race riots of May 1969 and the communist insurgency, worked against developing public awareness and oversight of defence policy. The Internal Security Act and Official Secrets Act played their part in building a culture of secrecy, which has still not been overcome. The major concerns of the public in arms acquisition processes are that the MAF are not fobbed off with inferior or outdated equipment and that delivery is on time.<sup>145</sup>

The Malaysian deference towards authority seems to impede the emergence of a questioning attitude in society. The benefits of strong leadership have corresponding drawbacks: strong government can become authoritarian government. That the present Prime Minister, Mahathir Mohammad, has realized these problems is indicated by his call for a mature democratic society, liberal, tolerant, self-confident and subservient to none—in short, a functioning civil society.<sup>146</sup>

## Recommendations

Among the major recommendations made by the experts for improving transparency and accountability are: (a) an information policy which is as open as possible on the financial powers, decision-making methods and responsibilities of arms procurement; and (b) powers, methods and capacities for parliamentary committees and the Public Accounts Committee to examine arms procurement expenditure and decisions, to sanction expenditure, to censure and to institute action, especially where confidentiality is necessary.

1. A short-term measure to improve accountability would be to identify where responsibility for decisions lies at various levels in the arms procurement decision-making process, outlining the military, technical and administrative imperatives governing decisions.

2. The public could be generally informed about what types of armament are under consideration—for instance, whether the government will be buying combat aircraft or transport aircraft. Access to such information through official reports or elected representatives will improve the quality of debate in the press and among the public and allow corrections to be suggested. If the public are

<sup>144</sup> Sharifah Munirah Alatas (note 34), pp. 33–36.

<sup>145</sup> This happened with the F-2000 frigates ordered from the GEC-Yarrow shipyard in 1994. The delivery date of 1996 was not kept and has now been put back for the 4th time. *New Straits Times*, 28 Apr. 1998, p. 6.

<sup>146</sup> YAB Seri Mahathir Mohamad, 'Malaysia: the way forward', Centre for Economic Research and Services, Malaysian Business Council, Kuala Lumpur, 1991.

aware of the reasons for decisions, even if the decisions cannot be theirs, this would help to achieve a balance between socio-economic priorities and the military's requirements.<sup>147</sup> Transparency in this sense would produce better, more rational equipment choices. However, constitutional provisions that are deemed essential for regime control, like the Internal Security Act and the Official Secrets Act, are unlikely to be repealed in the near future.<sup>148</sup>

3. Accountability in decision-making processes would develop predictability, which in turn would facilitate forward planning for capability building. It would also help the armed forces to project their needs in the long and medium term.

4. Accountability in the arms procurement process could start with improved methods for budgeting and auditing, such as a modified PPBS which, although time-consuming and intricate, provides a stringent method of checking spending and programme evaluation. Arms procurement programmes should be judged according to comprehensive criteria based on rationality. These factors could be considered along with the overall foreign and socio-economic policies in deciding the national budget.

5. A White Paper as an implementation blueprint, as requested by the military, could also improve political accountability.

6. The influence of civil society in encouraging restraint in arms procurement is not definitely established.<sup>149</sup> Society might clamour for weapons rather than concern itself with the interests of peace. On the other hand, giving the military the final say in the acquisition process may not give due weight to other national priorities, which are best expressed through the society's elected representatives.

The research on which this chapter is based set out three objectives: to describe the decision-making process within the context of military, budgetary and economic constraints; to ascertain its efficiency in terms of stated goals and guidelines and/or identify obstacles to efficiency; and to discuss checks and balances in the system and whether they are working as intended.

The process of arms procurement as designed seems to be efficient, if time-consuming, in part because of strong centralization. Both civil and military executives have sometimes wished for more autonomy and blamed intervention by outside agencies for introducing inefficiencies, whether these are government departments not normally concerned with arms procurement, politicians taking decisions on arms procurement for reasons of economic or foreign policy, or private interests. The military has sometimes had to contend with decrees from outside or a higher level of authority which foisted unsuitable equipment on it. Here the role of an informed public was seen by the participants in this study as most crucial.

<sup>147</sup> Robless (note 54), para. 9.

<sup>148</sup> Mak (note 15), p. 19.

<sup>149</sup> One participant remarked during the UKM-SIPRI workshop that without a civil society the USA would probably produce and export even more arms, and that the Japanese pacifist stance was not a matter of choice but externally induced. However, this does not invalidate the basic argument.

While the formal arms procurement process is monitored by the relevant agencies in the executive branch, the principles underlying it are hardly discussed and criticized or put to public scrutiny even after decisions have been made, let alone before.

Could this system of arms procurement become more responsive to the objectives of public priorities and harmonize accountability with military confidentiality? In the Malaysian context, this is difficult. The agencies that play a role in this regard—the non-governmental organizations (NGOs), the press and the media who would have an interest—are seen as irritants and liable to censorship, or to censor themselves so that their potential to bring about change is limited.<sup>150</sup> The military establishment or the general public could influence the government in the direction of more, or less, or different arms procurement, but they are unlikely to do this in the near or medium-term future. Civil society will probably continue to take little interest in arms procurement or defence policy in general. Threat perceptions are muted and the country is considered stable and secure. The economic situation is currently having a restraining influence on arms procurement. The arms industry is in its infancy and not in a position to generate a powerful arms lobby. The voice of the military will only become decisive if the country becomes completely stable or if a definite security threat emerges. Until that happens the military will acquiesce in making do with what they are given, without questioning the process too much.

<sup>150</sup> Mak (note 15), p. 4.

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## Appendix 4A. Offset arrangements between Malaysia and the German Naval Group\*

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In September 1998 Malaysia concluded a contract with the German Naval Group (GNG) consortium for the purchase of new-generation patrol vessels (NGPVs). The arrangements are as follows:

1. The contractor should partly compensate his profits in Malaysia through investment, industry development projects, licensed production or counter-trade (for instance, through the promotion of Malaysian products overseas).

2. Malaysian industry participation should be at least 30 per cent (in the GNG contract it was 50 per cent).

3. Foreign currency compensation should be 70 per cent, that is, money that leaves the country as profit should be reinvested or otherwise compensated.

Before bidding for the NGPVs started, the potential bidders set up partnerships with local companies in order to be better positioned for the contract. As the Lumut Naval Dockyard (Naval Dockyard Sdn Bhd, NDSB) was the prime local contractor, the German bidders were in a comparatively strong position, since they had helped to set up the dockyard and had experience in working together with the company.<sup>1</sup> Other bidders made their bid through the heads of their operations in Malaysia—Ericsson, for instance, through a former Chief of the Royal Malaysian Navy.<sup>2</sup>

The NDSB deals in:

1. Design and licensing for the production of the vessels in the country by the GNG.

2. Major equipment and systems (MES). For these, tenders are issued directly from the Ministry of Defence (MOD), which subsequently makes a recommendation to the Treasury, from where a shortlist goes to the GNG and the NDSB. The latter two check for Malaysian industry participation and offset arrangements and then make their own recommendation, the GNG on the basis of risk calculation, the NDSB on the basis of profit. The Treasury then puts out the modified final list.

3. Non-MES items, for which no tender goes out. These are either products which have a small ratio of Malaysian participation or mass products which are already manufactured in-country, in which case a Vendor Development Programme (VDP) is applied to promote certain dual-use products made by industries participating in the project. The NDSB chooses the vendors under the VDP directly.<sup>3</sup>

<sup>1</sup> Gamal Fikry, 'Malaysia's NGPV programme enters decisive stage', *Asian Defence and Diplomacy*, Special Issue 1995, p. 75.

<sup>2</sup> *Asian Defence and Diplomacy*, Special Issue 1995, p. 77.

<sup>3</sup> *Asian Defence Journal*, no. 8 (1995), p. 18.

\* The information in this appendix, except where otherwise indicated, was kindly provided by D. E. Dasberg, Senior Project Leader, GNG, 20 Oct. 1998. His patience in clarifying the GNG project for the author is gratefully acknowledged.

For the NGPV project the Treasury appointed the NDSB as the local main contractor for the whole platform. One intended side-effect of the project will be the upgrading of the shipyard and possible construction of vessels for a wider market.

The navy participated in the tender stage, giving the specifications, while the Treasury determined the permissible cost. The navy took part in the negotiations again at the stage when building and construction specifications were to be formulated.