

PEACE PROCESS AND SECURITY ISSUES

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ABSTRACT

In a discourse on peacemaking in Sri Lanka security issues cannot be discounted, especially due to the devastation caused during the conflict. The Ceasefire Agreement (CFA) signed between the Government of Sri Lanka (GoSL) in February 2002 has resulted in preventing such massive devastation. Three areas, namely- prevention of hostilities, normalization and monitoring of any violation of CFA stipulations received the main thrust of the CFA. These concerns are essential for peacemaking; yet, have been vehemently criticized by the opponents of the CFA.

This article explains the relaxation of certain security restraints imposed on the Region prior to 2002 and how the provisions in the CFA were implemented to uphold security concerns. It is observed that the GoSL and LTTE sometimes achieved success, faced difficulties another time and reached consensus on certain implementing arrangements through Monitor mediations. There were some unresolved grey areas, which were left to the negotiators. It is apparent that there was risk taking in the process, but brave decision making and innovation were considered essential ingredients for successful peace making.

It is true that some provisions in the CFA were not adhered to by both Parties. Nevertheless, on the whole CFA implementation was carried out in an environment conducive for confidence building. This too was interpreted by critics as giving in to LTTE too much. The fact that the CFA solidly withstood every calamity for four years and the Region resumed social and economic development logically concludes the success of the implementation of the security related CFA provisions

This presentation deals on each security related Article of the CFA and reveals the strengths and weaknesses of the CFA. It discusses the decisions related to security taken at negotiations. Further, the unexplainable situations faced by the GoSL and LTTE due to violent incidents during times of negotiations are highlighted, as they could be relevant to security viz peacemaking. In addition, the article briefly deals with the effect of manipulative politics, occasional negative responses of the military, media and international actors to highlight the threats of peace making.

Finally, the article captures the experiences in monitoring and sum up the lessons learnt, which would enable future negotiators to learn from past experiences, which is required in the Sri Lankan context, as successive Governments have been reluctant to generally absorb institutional memories of the previous peace practitioners, though rhetoric invitations are extended for support, meant for mass consumption.

Introduction

The conflict in Sri Lanka has had its oscillations, with fighting and attempted peace moves by the Government of Sri Lanka (GoSL), during different regimes. The leadership of the Liberation Tigers of Tamil Eelam (LTTE), who had military experience, continuously echoed its viewpoint on peace, while remaining in conflict. The GoSL negotiators did not possess such military experience, and therefore they were in comparison invariably less alert to defence connotations in peacemaking. However, the importance of security cannot be discounted in the Sri Lankan peace process.

This article will review the security issues of peacemaking during the United National Front (UNF) Government, from December 2001 until November 2003. The attempt is to explain the implementation of the Sri Lankan Cease-fire Agreement (CFA) [See Annex 1], difficulties experienced, how such problems were tackled, the practical working arrangement initiatives, responses received from the GoSL and the LTTE, and the lessons learnt.

UNF's Peace Strategy

Dr. Saman Kelegama has expressed the UNF's Strategy¹ for peace making in an unpublished article. This includes pre-CFA and post-CFA actions with third party interventions to lock the LTTE through economic incentives, internationalisation of the process, persuasion of the LTTE to negotiate for a final solution etc., and this fits into the experiences related to security versus peace. The security aspects too were incorporated in this strategy. This presentation avoids repeating this strategy, as reference could be made by anyone interested.

Pre-CFA Period

The Government elected in December 2001 inherited a longstanding conflict and its ill effects. The catastrophic physical and economic destruction made things worse, with increased poverty levels in the north and east resulting in a negative Gross Domestic Product contribution from the Region.

Accepting that the conflict cannot be concluded only by military action, the UNF's Election Manifesto declared that it would negotiate with the LTTE for a political settlement. This brought criticisms with ethnic bias, and the UNF was branded as having an unholy agreement with the LTTE.

The LTTE unilaterally declared a "cessation of hostilities" (CoHs) immediately after the new Government was installed. The LTTE boasted that the GoSL Armed Forces (AFs) could have been wiped out, and it was their magnanimity which provoked a declaration of CoHs. However, it has been previously proved that the LTTE has wilted under military pressure having run over AF held areas. At discussions the Commanders of the AFs were equally confident of a military victory, had fighting continued. This latter assertion also does not look authentic in the background and context of the Indians offering to evacuate the GoSL AFs by sea, during their last battles against the LTTE.

Responding to the CoHs of the LTTE, the GoSL declared a ceasefire - an improvement on the CoHs. A CoH could be for a short period (e.g. for Christmas or Wesak or New Year), while a cease-fire could be for a longer period. It was a stepping stone for a more sustainable and well intentioned peacemaking. This brought in deep admiration towards both parties, by civil, political, religious and international communities. However, the military leadership, while perceiving the move as positive, doubted the credibility of the LTTE and its elusive leader honouring the CoHs.

* *In the interest of confidentiality, most actions by defence authorities (with regard to the peace process and security) are not recorded; and even the recorded material could not be accessed by the author, as he had to leave his assignment as Secretary of Defence, suddenly in November 2003 after the take over of the Ministry of Defence by the then President of Sri Lanka.. Therefore, the narrative style in this article has to be understood and borne within that context, which explains the many personal experiences loaded into it.*

The conflict had other economic, political and humanitarian connotations too. The GoSL's economic and humanitarian embargoes restricted the GoSL from accessing the public in the North / East. The political embargo was applied through proscription. This time around, the United National Party (UNP) Government that originated these restrictions approached them with a humanitarian touch.

In relation to security, different approaches were taken. The appointment of a former Attorney General as the Minister of Defence was a first step to acknowledge legal / civilian insights for peace making. It was also a strategic move, as the Prime Minister, who was a signatory to the CFA, could remain at a distance in relation to security operations, thus becoming an appellate authority. The latter status was proved by the numerous meetings held by the Prime Minister with northern and eastern Tamil and Muslim politicians, to settle even minor disputes such as cattle grazing near AF camps, road blocks etc. that arose from the actions of the AFs or Police.

De-proscribing the LTTE, giving them political space and dignity, relaxation of many security related operations (e.g. road blocks, house searches, body searches, arrests etc), and the lifting of most economic / humanitarian embargoes, built confidence on both sides.²

In hindsight, it is observed that there have been some shortcomings too. The Military Chiefs were not consulted in the drafting of the CFA. Of course, a casual opportunity was given to them to discuss the draft with the Ministers of Defence and Constitutional Affairs. This was not considered adequate by the Commanders, as they did not get an opportunity to discuss the CFA with their senior officers in the AFs. It did not give the Commanders time for "prior sanitising," and would have obviously created the impression that they were being "suspected" by the authorities. This would have later provoked indirect negative responses while implementing the CFA.

The counter argument to this might have been that if the CFA contents were publicised beforehand, the process would not have taken the first leap, due to the power politics between the Executive and Legislature. This suspicion was proved correct later, when military allegiance problems reached their heights. Further, it would have been difficult to sell a "sanitised but too militarised" CFA to the LTTE or the international community.

The experiences of the conflict between the Executive and Legislature, regarding security versus peace, extended to the National Security Council (NSC) too. The NSC was summoned only once in a few months, and this too irregularly, with very short notice, disallowing serious preparation or discussion. It did not appear to be a forum for defence strategizing, action planning for operations, counter planning against the LTTE, AF co-ordination and reviewing of defence activities. For instance, the Prime Minister was either absent or when in attendance, more a silent listener.

At the beginning, the minutes of the NSC were prepared by the author as Secretary to the Ministry of Defence, but this responsibility was later taken over by the President. The minutes prepared by the President's officers were never shared even with the Prime Minister or the Minister of Defence! No one inclusive of the Prime Minister questioned this; perhaps, because everybody understood intentions of the Executive.

At the NSC there were only a few references made to the CFA and its implementation. It was no wonder, as the CFA was signed without any reference to the President. Usual references from the Executive were when something untoward had happened; not necessarily to find ways to improve the security situation, but mostly to criticise the Government and prove comparable efficiency when she managed the Ministry of Defence (MoD). However, these criticisms were made by the President forgetting the thousands of lives lost, vast destruction caused and the fall of many crucial military establishments and war material in to hands of the LTTE, during her tenure as the Minister of Defence and Commander in Chief.

The long NSC meetings were a forum to attack the Government in the presence of public officials like the Secretary of Defence, Service Commanders and the Inspector General of Police. In the presence of the Prime Minister, such attacking statements were extremely rare. Even when made they were much diluted. Once a meeting was held with the Sri Lanka Monitoring Mission (SLMM) officials, and this too

was a forum to find fault, rather than to facilitate the CFA operations. All these comments had a negative impact on the peace process, as no good in the CFA was expressed by the President.

Signing of the CFA and the Executive

The CFA was a stepping stone for a political and negotiated settlement. However, the CFA contents were not divulged to the President beforehand, though she was the Commander in Chief, Head of State and Head of the Cabinet. With the political culture all parties have inherited, these cohabitation problems were inevitable. The justification to “hide” may have been the fear that she might derail the process for political expediency. Her later actions (i.e. takeover of three ministries inclusive of Defence on November 3rd 2003) proved how correct this assumption was.

The importance of having her on board for peacemaking was overlooked, which could have been considered by her as unethical and even unconstitutional. And, this led to unsatisfactory consequences when dealing with the AFs. The MoD balanced the pendulum, due to the suspicion of presidential interference. Nevertheless, it was always suspected that she would have fuelled adverse and negative responses from the AFs through frequent direct dialogue with the Commanders. The Commanders could not be blamed as they had to rightly oblige her directions, as she was their appointing authority, based on the constitutional powers bestowed on her.

The feeling that the UNF was hijacking the peace process that was started by the President was corrected to an extent by the dialogue Minister Milinda Moragoda had occasionally with the President. Direct contact the then Prime Minister had with Late Lakshman Kadiragamar who carried over very productive third party interventions was extremely valuable, under a deadlocked relationship between the President and Prime Minister.

However, political interventions by the Peoples Alliance (PA) based on Late Kadiragamar's initiatives over the security concerns in Trincomalee harbour area and Manirasakulam brought heavy criticisms against the UNF regime in mid-2003. This culminated in the take over of three ministries in November 2003, dissolution of the Parliament and finally the down fall of the UNF Government. The temporarily stalled peace process was sealed with such defeat. These ill consequences suffocated his previous positive contributions for peace, which he tried to resuscitate after President Kumaratunga formed the new Government in April 2004³ and he failed.

Awareness Creation of the AFs on the CFA

Immediately after signing the CFA, Prime Minister Wickremesinghe visited the military bases to personally convey the Government's peace concerns. Firstly, he conveyed the CFA contents and basic operational systems to the MoD and Commanders of the AFs, in a bid to request the commitment of the AFs. Secondly, he requested the Commanders to carry the message of peace to their men. In the earlier mentioned background of suspicion, the interest shown by the Commanders was naturally low. As they and their senior officers were the closest to their men, finding direct approaches to the rank and file was a difficult task to be borne by the centre.

In addition, there were certain issues bothering the AFs. Firstly, they suspected the enemy with whom they had fought for long. Secondly, the men did not believe the peace motives and inclinations of the LTTE or its Leader. Thirdly, the benefits the men enjoyed were reduced due to peacemaking. Fourthly, the lost recognition due to peace was not pleasing to them. However, these should not be misconstrued as if the AFs were welcoming war.

Another important aspect in the implementation of the CFA was the initial behaviour of the LTTE and AFs. After twenty odd years of conflict it was too sudden for both parties to change. According to statistics available with the Sri Lanka Monitoring Mission (SLMM), there were 130 and 279 violations and complaints against the GoSL and the LTTE respectively, as at 30-6-2002.⁴ These violations were mostly created by non-adjustment to the changed military environment, and in a few months, the complaints to the SLMM were also reduced. With the given history of this conflict, such violations of the cease-fire were only to be expected. The SLMM had to drive on ‘first gear,’ even with the LTTE top notches, who behaved in a confrontational manner, like most of the ground level AFs personnel or LTTE

cadres. The SLMM's task was daunting.

The signing of the CFA created a new military dimension in the form of CFA implementation. It brought with it a commitment to end hostilities, ensure security of civilians and their property, while maintaining the potential of societal and political integration. The one step at a time approach of the UNF peacemaking concept, and the experiences undergone by the MoD and AFs were therefore unusual and diverse.

Military Financing and the Peace Process

It has been repeatedly mentioned as a criticism that the UNF was disinterested in financing the upgrading processes of the AFs due to the interest it had in peacemaking, and this thereby jeopardised the status of preparedness. Due to financial constraints, it is true that there was strict control on expending budgeted public funds, whether it was defence or education.

The 2002 Budget provided Rs. 8.4 billion for capital expenditure, and Rs. 40.84 billion for recurrent expenditure.⁵ In 2002, the actual expenditure was Rs. 6.6 billion and Rs. 40.02 billion respectively.⁶ The shortfall of capital expenditure was due to the financial crisis created by a negative Gross Domestic Product, and not due to deliberate neglect of the AFs by the GoSL, as stated by political critics. The figures for 2003 were Rs. 8.47 billion for capital expenditure, and Rs. 41.9 billion for recurrent expenditure. Actual expenditure was Rs. 3.54 billion and Rs. 40.65 billion respectively, for 2003.⁷

It must be noted that recurrent expenditure was spent close upon the provision, but this was not the case with capital expenditure. As recurrent expenditures were for salaries, transport etc. there was no case of reduction. The reduction of capital expenditure meant a reduction in the hardware procurements. Even some planned capital expenditure was unspent, due to procurement procedural delays and cash flow constraints. The Defence authorities were not responsible for such situations. However, it was easy for the political Opposition to be critical of the Government's actions construing these events as a part of a planned effort to weaken the AFs, which was an absolutely wrong contention. This situation changed to an extent in 2003 and some procurement was possible, proving the Government's intentions to enhance the capability of the AFs.

Implementation of the Modalities of the CFA

At the outset, both parties administered the CFA in an *ad hoc* manner. It was partly due to the abrupt nature of the 'birth' of the Agreement. The AFs and LTTE military cadres were responsible for implementing Article 1 of the CFA. The AFs had only a rudimentary knowledge of the CFA working arrangements. This was so with the LTTE cadres too. Secondly, there were no serious previous Sri Lankan CFA experiences known to the AFs and the LTTE. Thirdly, previous cease-fires did not last, to demand or create the necessity to undertake specific follow-up action like normalisation and monitoring. Previously there were no institutional arrangements for such either.

Therefore, it is appropriate to individually discuss the CFA provisions, in order to understand implementation difficulties, their resolution, and the formulation of new working arrangements and identify the lessons learnt. All three main CFA Articles have some connotations to security, and it is essential to discuss all CFA Sub Articles to obtain a clear picture.

Article 1 of the CFA- Modalities of a Ceasefire

Let us look at the Sub Articles of Article 1. Sub Article 1.1 notes the reaching of an agreement between the GoSL and the LTTE. The other Sub Articles are facilitatory.

Cessation of Military Operations

Non-engagement in any offensive military operations was included in Article 1.2. This required total cessation of all military action, which included firing of direct and indirect weapons, armed raids, ambushes, assassinations, abductions, destruction of civilian / military property, sabotage, suicide

missions and activities by deep penetration units [Article 1.2 (a)], aerial bombardment [Article 1.2 (b)] and offensive naval operations [1.2 (c)]. In this regard, the SLMM's database shows a higher number of incidents recorded initially, and a reduction within a satisfactory time frame. The same database also shows the diversification of reported violations.⁸

Though there were no cases of aerial bombardments, the LTTE was concerned over Unmanned Aerial Vehicles (UAVs) used for reconnaissance flights, for more reasons than one, and the reconnaissance potential of the newly acquired plane for aerial reconnaissance. The complaint was that the civilians were terrified and disturbed due to UAV reconnaissance flights. This was unacceptable, although the SLMM too sometimes backed this LTTE argument. UAV missions were also carried out for national security reasons all over the island, to combat other illegal activities too (e.g. human smuggling, drug trafficking etc.).

Offensive operations were specified in the CFA under Article 1.3. Naval incidents were the most vulnerable and likely to threaten the CFA. The SL Navy (SLN) rightly orchestrated its mandate to "perform its legitimate task of safeguarding the sovereignty and the territorial integrity of SL," as the SLN had to undertake isolated warring at sea. In 1995, the People's Alliance (PA) Government thought alike. Performing this task without engaging in offensive naval operations was unimaginable. Of the many violations, the ones that caused excitement and sensation were the assassinations, abductions, and the destruction of civilian, military and LTTE owned assets. Long Range Reconnaissance Patrols (LRRPs) of the GoSL were not activated, though the LTTE suspected their operations in the Vanni areas.⁹

The AFs and the LTTE denied responsibility for violations, but the available information led one to believe that the LTTE was liable for many violations. The abductions, conscription, assassinations of intelligence personnel and the LTTE's political rivals, were serious violations of rights too. The Facilitator and SLMM were and are at the receiving end, due to these unabated violations.

Table 1
Incidents at Sea from 22-2-2002 to 3-11-2003

Date of incident	Nature of Incident	SLMM Determination
24-4-02	Non-adherence to flight regulations issued by Sri Lankan authorities	Clear violation of the CFA
1-5-02	Exploding of a LTTE boat	No specific determination
16-11-02	Sea movement by Karuna without approval	Violation and a grave provocation by the LTTE
7-2-03	LTTE carrying war like material in a trawler and holding SLMM Monitors against their wish	Violation of the CFA by the LTTE
23-2-03	Illegal entry to SLN-held area in Kuchchaveli	Withdrawal of personnel and release of the soldier and constable held by the LTTE
10-3-03	Carrying warlike material according to GoSL, but challenged by the LTTE which states that the ship was a commercial ship	No ruling given by SLMM
20-3-03	Sinking a Chinese trawler	Neither the LTTE nor the GoSL could be held responsible, but considered this as a serious crime and a terrorist act.
8-5-03	Transfer of explosives by three LTTE cadres	No specific determination but acceptance that the transfer of explosives is a violation
8-5-03	SLN refusal to fly the SLMM flag	Requested Peace Secretariat intervention to allow flying of SLMM flag
14-6-03	Sinking of a tanker belonging to the LTTE	The LTTE has violated the UN Convention on the Law of the Sea.

Source: SLMM

The incidents at sea during the UNF regime are shown in **Table 1**. These are very crucial, as previous peace initiatives collapsed mostly after sea incidents, carried out by the LTTE under the cover of commercial seafaring and fishing, which were inter-linked. The acute demands by the LTTE for relaxing fishing restrictions were therefore always looked with grave suspicion by the SLN. Nevertheless, it must be noted that the PA Government was willing to relax fishing restrictions, according to the Presidential Secretariat Press Release dated 4-1-1995. In fact, to keep to the spirit of the CFA, the UNF Government also relaxed the fishing areas,¹⁰ fishing times and even anchoring points within the High Security Zones (HSZs).

CFA Violations

Article 1.3 deals with the field activities of the AFs. Statistical data confirms that there were violations by the AFs and the LTTE, but the number of violations by the AFs was lower.¹¹ The exceptional level of tolerance (e.g. when Point Pedro Army Camp was raided by the LTTE supported members of the public), the ‘attacking mood’ of [e.g. Kanjirankudah mob raid against the Special Task Force (STF)], and immediately followed by Police shooting incident in Trincomalee, show that the AFs and STF responses too differed from one to another. It must be admitted that this Article gave stronger teeth and a cutting edge to the GoSL's AFs.

Separation of Forces

The separation of forces under Article 1.4 came under heavy fire from political opponents of the UNF, as an attempt to separately allocate land areas to the LTTE, assisting the LTTE to demand a separate state under the provisions of the Montevideo Convention.¹² This was interpreted as a total sell out of the country. Lately, President Kumaratunga, some senior ministers (e.g. Dr. Sarath Amunugama, the Minister of Finance under President Kumaratunga), and, even the Supreme Court have made statements in passing during the P-TOMS case, which could be taken as an acceptance of the separation of forces. This "sanitises" the CFA, and clears the UNF of selling out Sri Lanka, which was given excessive publicity by the Marxist Janatha Vimukthi Peramuna (JVP), the most vociferous critic of the UNF on the CFA and peace process.

Article 1.4 was necessitated for several reasons.

- (a) Firstly, the cease-fire required a clear understanding of the areas that are under the domination of each party. The best way, was to temporarily “freeze boundaries” based on domination, and to declare the Forward Defence Localities (FDLs), limiting movement. At least this helped the parties to adhere to Article 1.9, which directs the parties to “initially stay in the areas under their respective control.” This was the “mind conditioning stage” of the CFA. It is noted that the CoHs between the PA and the LTTE too had similar provision.¹³
- (b) Secondly, being in close proximity was an incentive to instantaneously respond to each other for the simplest provocation. Keeping the two parties at a distance was therefore considered prudent, and was achieved by the separation of forces.
- (c) Thirdly, the intentions in the CFA from Article 1.10 to Article 1.13, to permit movement of the AFs and LTTE cadres, could be achieved with mutually accepted boundary lines, which were automatically identifiable on FDLs.
- (d) The January 15th 2002 Gazette made provision for transferring some items that were prohibited earlier, under the control of the Government Agents. This could be satisfactorily operationalized with supervision by both parties, and boundaries became the administering points.
- (e) Fourthly, in implementing the normalisation process under Article 2 of the CFA, security could be provided practically, if there was an understanding on the positioning of the two parties. It could not be done on a district or divisional boundary basis, as the formations of forces were not on exact administrative geographical boundaries. It could not be done on an *ad hoc* basis either. Therefore, this was a realistic approach.

(f) The CFA upheld the status of the AFs (See Article 1.3), but this could not be implemented similarly at sea and on land, due to practical / operational constraints. Therefore, operationalization of military action had to be based on a practical foundation of separated forces.

(g) Although not publicly accepted by the GoSL it was suspected that there were other Tamil groups living in cleared areas, which held on to their arms. As movement of LTTE cadres was provided for in the CFA (Articles 1.11 to 1.13), to reduce potential conflicts between the LTTE and these groups, a logical demarcation of boundaries was required, where some check could be kept on any transfer of weapons at the boundaries.

Of course, the separation of forces was not devoid of flaws. There were instances of instigation that undermined “the good intentions” or violated “the spirit of the Agreement and confidence building measures.”

For example, Karuna Amman moving from Batticaloa to Mullaitivu without informing the SLN and SLMM on 16th November 2002 night by sea, could have created a grave conflict situation irrespective of the confidence building measures that were taken by the GoSL.¹⁴ A similar major incident took place in Kuchchaveli on 23rd February 2003, when LTTE cadres crossed into SLN held area and threatened to commit suicide, and later to launch a massive attack,¹⁵ which received similar threatening reactions from the AFs.

These were determined as violations by the SLMM, but such incidents were repeated by the LTTE throughout, showing no respect to precedence, agreement and legality. Unfortunately there were no remedies in the CFA, against such behaviour of the LTTE or even the GoSL's AFs. This could be considered a grave weakness affecting the peace process; as such incidents brought many adverse criticisms against the Government, in particular against the MoD, as well as on the SLMM.

In the East, there were practical difficulties in separating forces, because of the alternating Tamil-Muslim settlements, which prevented the clear demarcation of FDL boundaries. Therefore, LTTE cadres sometimes moved to predominantly Muslim settlements, and created conflicts. This created a feeling of despondency and suspicion, as to whether the Muslims could live amicably with the LTTE. Some conflicts ended in death (e.g. Valachchenai and Muttur), which made Muslims to harbour antagonistic responses. This extended to the rightful demand of third party Muslim participation at negotiations,¹⁶ which ended with the establishment of a Muslim Peace Secretariat in December 2004, which could be considered a favourable outcome of unfavourable circumstances.

Articles 1.5 and 1.6 of the CFA are interlinked. The GoSL provided the information on FDLs to the SLMM before D-Day +30, to assist the parties to “demarcate lines” as in Article 1.6, but not the LTTE. Article 1.6 was a critical factor for security, because some FDLs did not have the minimum distance of 400 meters between the two.¹⁷ However, it must be remembered that there were no FDLs in certain areas near the Mulativu / Vavuniya border for long distances, and still, there were no serious threats created in this area to blast the peace process.

In contrast, even the long established FDLs were challenged by the Tamil public, purportedly instigated by the LTTE, causing political embarrassment to the GoSL, as happened in the Army Camp raid in Point Pedro, and numerous attempts to break into the HSZs in Jaffna Peninsula. At an inspection of the Point Pedro camp immediately after the incident, it was apparent that the LTTE had instigated children and parents, demanding “public presence” (inclusive of LTTE cadres) within the HSZs. The contradiction is that Tamil public in HSZs of the LTTE (e.g. Kilinochchi, Mulativu, Puthukudirippu, Vakara, Pittugala, Taravai, and Karadianaru camp areas) did not enjoy such freedom.

While totally rejecting such LTTE behaviour, one has to consider the embarrassment and pressure brought on the LTTE, who anticipated more positive things to happen and thereby, to quickly earn credit through the CFA. Also the frustration caused due to inertia in receiving any dividends or credit must be taken into consideration.

Due to consistent pressure brought by the SLMM, the LTTE submitted a map to the SLMM in

2003, showing the FDLs, as they perceived them.¹⁸ Some FDLs marked on it have even crossed the borders to the South, perhaps by mistake or misapprehension or deliberation. However, it could have been interpreted by the anti-government groups, as an indication of the LTTE's intentions to grab lands outside the North East. As the map did not become a public document, this was averted. It must not be forgotten that this is an existing suspicion, and an allegation frequently levelled against the LTTE, especially due to the maps published by the LTTE showing the proposed Eelam boundaries. The SLMM failed to draw the correct boundaries, as the stipulated period under Article 1.6 had lapsed. Therefore, the boundary problems still remain, as it were.

Article 1.7 was intended to avoid friction and maintain a balance of forces as in the declaration of CoHs. As both parties controlled the entry-exit points, Article 1.7 could be administered somewhat satisfactorily on land. Article 1.10, which mentions "unarmed GoSL troops permitted unlimited passage," and Articles 1.11 and 1.12 allowing the movement of individual combatants "unarmed and in plain clothes," made it superficially convincing that there could not be any threat to security.

Under Article 1.13 the LTTE cadres could move to the Government held areas "unarmed" and the clothes to be worn were not specified. Did this mean that they could move in LTTE uniforms but unarmed? When this was raised the stand of the MoD was that this should be observed in the spirit of the CFA and the movement will be permitted "unarmed and in plain clothes". The only Police officer who crossed over the LTTE FDL to Kilinochchi in tunic was kept for a long time before release as Article 1.10 does not permit the official dress of GoSL's Police to be worn in the "uncleared areas"! However, one question that was raised was the need to have controls on such movements of the AFs if the territorial integrity was intact. Though it sounds as a reasonable query, practical issues discussed under Art 1.4 have to be taken to cognizance in coming to conclusions on this matter.

Implementation of Article 1.7 does not seem to have been fulfilled as anticipated. The AFs suspected that there had been transfers of arms, ammunition and other military equipment to the cleared areas in the North East, under the guise of political cadre movements. Further, the Military Spokesperson openly stated that the killings and abductions taking place in the cleared areas were acts committed by the LTTE. Another important point is that the LTTE had caches of arms and ammunition hidden in the cleared areas, even before the CFA was signed. They were not removed, and could have been used for such killings. However, the LTTE took (and still takes) the easy path, and convincingly counter that the security in the cleared areas is the business of the GoSL, and their cadres are not involved in these activities.

The major problems of Article 1.7 emerged in sea operations. The MOD/SLN received foreign and local intelligence information of arms smuggling by the LTTE, and took counter action. Article 1.3 had taken away the most important powers of "engaging in offensive operations" by the AFs (thus from the SLN), forcing the MOD/SLN to engage the LTTE through the SLMM. The rightful stance of the SLN was that it was impossible to implement Article 1.3, unless its Rules of Engagement at Sea were executed. The MoD informed the LTTE of the SLN's Rules of Engagement through the SLMM, but the LTTE was not prepared to accept them, and always tried to circumvent them. This was not limited to sea operations, and extended to police and judicial matters too, which was an issue for security.

As publicly stated (e.g. Tamilselvam the Political Head of the LTTE) many a time, the LTTE does not accept the sovereignty of the Sri Lankan State, and hence, expecting them to respect sovereignty now, under Article 1.3, was a non-event. The issue raised by the MoD and SLN was that the LTTE would not have signed the CFA if they did not accept the sovereignty of Sri Lanka, as the then Prime Minister signed the CFA as the Prime Minister of sovereign Sri Lanka. To their minds, once the LTTE has signed the CFA, adherence was essential. Non-adherence was unpalatable to the SLN, and this made the SLN tried to circumvent the agreed SLN/SLMM practices.

For example, they tried to distance the SLMM by delaying information, and taking advantage of the SLMM's absence to deal with the LTTE vessels, without being observed or monitored. This was the *modus operandi* of the LTTE too. They too avoided prior intimation of incidents, and always made way for complaints. This resulted in the destruction of LTTE boats, which ruptured the relationship between the parties, and distressed the peace process several times. These manipulations by both sides were known to the SLMM who had to request that the "SLN and LTTE should inform the SLMM

immediately when there are indications of a possible confrontation”¹⁹ to minimize repetition of untoward incidents. There was a time gap for receiving information or requests at the MoD from the SLN, LTTE or SLMM and this of course created an unavoidable void in supervision, and thus MoD or the Government need not be blamed for delays in action. Contrarily, it performed to the best of capacity under the given circumstances.

Here, it is worthwhile to have a retrospective view of what happened after the take-over of the MOD by the President, purely for the sake of comparison. There was not a single naval confrontation between the SLN and Sea Tigers since November 2003 up to date. It cannot be that the intelligence information flowing to the GoSL had frozen or that the LTTE had ceased arms smuggling or trading. The only naval incident that took place after the take over up to end 2005 was in mid 2005, when a SLN vessel faced LTTE small arms fire near Upparu. This was the first time (i.e. post-CFA) the SLN withdrew without retaliating. In any way, if information sharing had ceased, one may wonder whether the informants had ulterior motives to crack the dynamic peace process at a crucial juncture, by sharing vital information to provoke naval action.

If it is the case, (which the author does not believe to be so), any government has to be cautious of such manoeuvres. Or, could there deliberately be a “looking the other side” attitude on information received practised by authorities to avoid confrontation? The author believes this to be the correct position. Anyhow, the difference is very obvious. The UNF Government had to deal with such complex situations too; and this may be an ever-recurring situation until real peace dawns, if political consensus, compatibility and stability are not present.

There were working arrangements made to deal with movement of unarmed LTTE cadres on land and by sea. Some of them were related to Art 1.7 and Articles 1.11 to 1.13. The boundary crossing arrangements on land were similar at both checkpoints, except for taxation by the LTTE. The checking of identity cards, baggage, vehicle licenses etc., was helpful to implement other Articles of the CFA. At the outset, there were complaints on operations, but later the operation moved smoothly, of course leaving criticisms on LTTE taxation,²⁰ which cannot be justified in formal administration.

The more sensitive issues were settled by consensual decision making, though not specifically mentioned in the CFA. The SLMM, MoD and SLN discussed the transfer of LTTE cadres by sea, and prepared working arrangements, agreeing on the usage of LTTE vessels. After long sessions of deliberations with the SLN, SLMM, Peace Secretariat, Ministry of Foreign Affairs and the MoD, it was further agreed by all on the 12th of August 2002, that the LTTE should be allowed to carry a limited amount of arms and ammunition when transferring cadres by sea, under strict SLMM supervision and SLN overview. The maximum number to be transferred to and from and between the two provinces was limited to 500 at a given time, to ensure the balance of forces.

This could have been interpreted as a violation of Article 1.7 by official consensus without a formal modification of the CFA according to Art 4.3, but such risk taking and ingenuity were required for successful peacemaking and confidence building. As much as the SLN would have feared an uncalled for attack, the LTTE would have equally feared an uncalled for attack by the SLN. With such fear, to place confidence in each other, and move across, could be easily rated as a great confidence and trust building success between the two groups, which had never seen eye to eye before with any trust.

Though one could have conveniently interpreted this arrangement as a security risk, it was not the MoD thinking. If not for such an arrangement, GoSL would have been forced to transfer the LTTE cadres on land through predominantly Sinhala areas, with greater risks, as proved by later incidents (e.g., Kaushalyan killing in 2005). In the predominantly Sinhala areas, the enemy of the LTTE cadres could have been an extremist, an affected Sinhalese, or even another militant Tamil, not necessarily from the paramilitaries. Weighing comparable risks in this manner was necessary in an uncertain security environment. Unconventional decisions had to be made, especially to build trust, though they may be wrong in the extreme sense of legality.

The recent comment reported to have been made by Peace Secretariat authorities, that giving such protection is not in the CFA, shows how confidence and trust between the parties have eroded. It also shows how easily the confidence that was built up can shatter under duress and forgetfulness of

actions in the immediate past. The UNF's thinking was that the CFA was only a basic agreement, from which trust, confidence, boldness, ingenuity etc. should be contrived. Facing challenges under duress was in itself another greater challenge for UNF peacemakers.

However, when repeated sea incidents were threatening the Sea Tigers, they unofficially and informally made it known to the SLMM that they required a "Sea Lane" from the 200 mile limit of the Eastern sea,²¹ which was not taken up for discussion, as it was turned down instantly.

Similar arrangements for air travel were prepared to transfer LTTE top leaders from other districts to Kilinochchi and back when such travel was related to the peace process or in the case of travel abroad. Although there was no official intimation (usually given verbally to the SLMM by the LTTE) of the acceptance of the total proposal, use of air travel facilitation by the LTTE indirectly meant LTTE's acceptance of at least part of the proposals. These actions were strongly criticised by the Opposition as "selling the country to the LTTE." Similar magnanimity shown to the LTTE by the Kumaratunga Government proved how appropriate and necessary such working arrangements were.

After the incident at sea on the 10th of March 2003, the Peace Negotiators decided again in Hakone to prepare a scheme to ensure that there would not be untoward incidents at sea in the future. This was to be undertaken by the SLMM. The first draft proposal was submitted by the Head of the SLMM to the MoD on 1st April 2003, which never became public knowledge, as it was rejected by the author without reference even to the Minister of Defence. This weak draft document was followed by the second and third drafts, which were shared with the Peace Secretariat, Ministry of Foreign Affairs, SLN, and MoD, and minutely scrutinised before more or less finalising the working arrangements.

Even though the SLN agreed at discussions over the final amended draft (which was not violating the international laws and Conventions of the Sea according to the representative from the Ministry of Foreign Affairs), this could not be pursued further, due to the leak of the limitedly shared document (shared only among the above mentioned authorities!) to the press, with a distorted interpretation²² The suspension of talks between the parties made it possible for the working arrangement to die a natural death. However, its remains will serve as guidance to future negotiators. Again, this proves the complexity of managing a peace process without total commitment, due to various unfathomable reasons.

Disarming other Tamil paramilitary groups within a month of the signing of the CFA, as per Article 1.8 created grave security risks for such paramilitary groups, especially to the Eelam Peoples' Democratic Party (EPDP). It was the main critic of the LTTE with a foothold mostly in the islands of Jaffna and some areas in the East. The LTTE used all its influence on the GoSL to throw the EPDP cadres out of the Islands of Jaffna through protests; it also demanded that the SLN, which was giving some security cover to the EPDP, vacate the Pradeshiya Sabha (PS) building where a temporary camp was established. This issue was even taken up at the peace talks by the LTTE.

Several of the EPDP operatives (e.g. Chairman of Alayadivembu Pradeshiya Sabha (PS) killed in the East, former Chairman of Karaveddi PS killed in Jaffna, Media Secretary of EPDP and candidate for Jaffna killed in Colombo) were gunned down in the region, making pluralistic politics prohibitive for these other Tamil political groups. The EPDP has placed the onus for these killings on the LTTE while attributing their losses to being unarmed. The MoD and Police gave armed protection to the leaders and cadres of the EPDP to the extent possible which was not liked by the LTTE. Of course, such security coverage to them could not have been infallible with the LTTE firepower, especially in the north.

When the Article 1.8 requirement, to return arms, was made known to the EPDP a few arms and ammunition were returned on the 23rd of March 2002 in Batticaloa, Jaffna and Vavuniya in the presence of the SLMM and the MoD was told that dissidents of the party have run away with the balance. There had been complaints made to the SLMM by the LTTE, that some Para-military cadres were carrying arms in the North and East, probably these dissident groups!

The main cause for Article 1.8 may be the need to avoid any retaliatory moves by the LTTE in response to attacks by these groups or to distance the anti-LTTE groups who knew the terrain, language, culture, contacts etc. The reference in the CFA that Tamil paramilitary groups integrated to the AFs

should be posted away from the Northern and Eastern Provinces orchestrates this reasoning.

Freedom of Movement

The arrangement made for the AFs in Article 1.10 was to use the A9 road for movements. The road was opened on the 8th of April 2002, and there were about 30,000 people to witness the event, which showed the enthusiasm of the people to observe the CFA being implemented as correctly as possible to a timetable. It must be remembered that even the PA Government agreed to this and more when they had negotiations,²³ but failed to succeed in opening the road. If this had been done the GoSL could have saved a large amount of money spent on the transfer of men and consumption goods by ship and or air. However, the AFs were not positive to this proposition, thinking of the dangers to their lives considering this a more dangerous route to the North.

This is a good example to prove the AFs suspicion of the LTTE, even with all the niceties expressed by the LTTE and others. The manner in which the LTTE behaved when straying Army soldiers were detected (i.e. Weli Oya) and Police officers in uniform were found in Kilinochchi and Padirippu would have made the security officers justly nervous to accept this offer. Furthermore, they would not have forgotten the killing of more than 600 surrendered policemen²⁴ fifteen years ago in the Ampara District.

The Articles 1.11 to 1.13 were facilitations given for the unarmed LTTE cadres to return to their kith and kin and to engage in politics. These were security interventions, which when stepped up would become normalisation interventions. This activity required an assurance of "no threats" from other rival groups. The contradiction in this arrangement is that the other rival groups could not be moving to the LTTE dominated areas, even after giving up arms. Therefore, they had to limit their political activities to the cleared areas and even face the threat of elimination, purportedly by the LTTE activists. This non-pluralistic attitude and discrimination has been highlighted by LTTE opponents as a serious security threat and an anti-democratic behaviour. This affected the progress of the peace process as all affected groups, especially in the South, and generally in the Western countries gave negative publicity on this account.

The positive and negative security situations arising were many. Initial responses to implementing Article 1.11 to Article 1.13 were organised to ensure control over indiscriminate movement. However, there were the black sheep that created problems by insisting on wearing LTTE military appurtenances, which irked the AFs at checkpoints.

Though it did not take place at the inception due to strict controls it was alleged that arms and ammunitions were transferred later to the cleared areas. Of course, there is no doubt that the LTTE had caches of arms and ammunition left over in the cleared areas when the CFA was signed. The number of killings of political opponents, intelligence cadres and other persons who were close to the AFs in cleared areas are indirect, confirmatory and arguable evidences of the presence of such illegal caches or transfers. However, the LTTE has denied any involvement, and these allegations are yet to be proved concretely.

The complaint by the AFs that travel relaxation gave an edge to the LTTE to use their political cadres in military activity if required could be accepted; this triggered negative repercussions for security. Furthermore, from the point of view of the AFs, losing the grip the military had on civilian administration affected normalisation in the conventional manner; as such a void was filled by the LTTE political cadres. While it may have had a security impact, one may argue that the final outcome of normalisation as a rule should have been to reduce military presence. The non-reciprocity of entry for other groups into LTTE held areas under Article 1.13 became a negative southern political concern on the peace process for which the UNF received brickbats.

Police and Judicial Actions

Seventeen LTTE Police Stations did policing in the LTTE dominated areas before the CFA, and the number of policemen and their activities increased after the CFA was signed. There had been quick LTTE Police action in localised cases, but not so when the southerners were involved.

Southerners taken to custody had to wait for long for decisions. This delay brought many criticisms against the Government, SLMM and LTTE. However, there had been a few incidents where they had tried to co-operate with the GoSL administration, but not directly with the Sri Lankan Police. For example, one could quote the case where some Sinhalese were murdered in the uncleared areas of Mannar, where the LTTE Police co-ordinated with the Government Agent of Vavuniya and not with the Sri Lankan Police.

Antagonistic feelings were aroused when the LTTE allegedly killed some intelligence personnel in the police and military. There were several other killings, especially in the East, of intelligence informants who were residents in the North and East. Though Karuna Amman denied any hand in those killings, the general impression was that he was responsible for those events. The GoSL was heavily criticised for inaction after these killings, though some threatened intelligence informants were given security cover to the extent possible by the GoSL security authorities. In some cases, it was apparent that the intelligence informants and even officers had behaved in a very casual manner, making it easy for the LTTE to attack them. However, the number of intelligence officers and informants killed has increased several folds after the President took over the Defence and Interior Ministries in November 2003 proving the coverage given to them might have been better managed by the UNF than under her.

The judicial system too expanded after the CFA, but was in place before the CFA, as in the case of LTTE Police. The LTTE judges and lawyers who have been trained in law were functioning in the LTTE courts. Even the legal instruments have been written for the LTTE areas and are in use. In a way, having such arrangements replaced the non-functional policing and judicial apparatus in these areas. However, the manner in which they have been performing shows some hardened attitudes against those who are from the South. In the case of the locals, reportedly, there had been quick justice meted out, but to what extent justice was meted out to ensure that justice should not only be meted out but appear to have been meted out, has to be studied further.

On the whole, the policing and judicial functions were important for human security and law and order. However, attention had not been drawn to how the integration of the Police organisations could be achieved, which the author believes is essential, due to operational requirements, ease of communication, lack of confidence between the Government Police and established infrastructures. However, there has not been much discussion on this even at the negotiation table, perhaps due to the fact that it is somewhat premature. A positive development was an intervention of the British to study the process of policing in the North and East.

Manipulative Politics, Military Operations and the Peace Process

As stated earlier, the conflict between the Executive President and the Legislature (i.e. the UNF) invariably created manipulations that could affect the peace process. With a longstanding conflict, the easiest way to destroy a peace move was to create sensation on security and excitement on the sovereignty of the country. This happened in the Sri Lankan Peace Process too. There were several instances that could be quoted at length on this point, but due to space restrictions only one aspect related to the UNF regime will be discussed here.

A critical situation was born in the peace making process with the exposure (in the media) of a large number of LTTE camps threatening the security of Trincomalee Harbour and the Naval Base in Trincomalee. The small camps exposed as severe security threats were temporary transfer camps that had been in existence, and a few that have been newly organised as LTTE transfer camps. The military had their plans to deal with them if required, but did not go into action in order to facilitate the maintenance of the CFA and as the threat perception was not so serious.

It is believed that the SLN had divulged this information to the former Minister of Foreign Affairs Late Lakshman Kadirgamar and others, without informing the Prime Minister, Minister of Defence or Secretary of Defence of the situation. However, conveying such sensitive information (even under duress) to a Member of the Parliament from the Opposition, who is openly disliked by the LTTE, was

interpreted as a part of political manipulations against the peace moves.

The purported dangerous security situation in Trincomalee created a strong wave of protests which affected the peace process on the grounds of credibility of the UNF Government and LTTE and a threat to national security. There were protests in the vicinity of Manirasakulam carried out by the Sinhala Urumaya, which changed its name to Jathika Hela Urumaya later, in which Buddhist priests took overall charge. JVP too protested against this security issue.

The situation became more acute when the SLMM determined this as a violation, and the LTTE argued, indicating their desire to investigate further. In other words it meant that the LTTE is the alleged perpetrator, judge, executor and the appellate authority too. This made the southern polity to believe that the role of the Facilitator and SLMM have been negated by the LTTE. This aggravated the criticisms against the Facilitator, SLMM and the GoSL.

Having built a case against Ranil Wickremesinghe's government with massive campaigns, the United Peoples' Freedom Alliance (UPFA) came into power with alliance partners who were very actively canvassing against Manirasakulam. Up to date, Manirasakulam is in existence, and said to be more permanently established. Security eroded in Trincomalee, to the extent that movement was totally restricted due to killings in the open. The comedy was that there was no way to penalise all those responsible for the devastated security management in Trincomalee, because those at the helm were responsible for it; and the chief person responsible was the Minister of Defence!

In dealing with the security aspects of the peace process, the Government was restrained by the constitutional provisions, wherein power, authority, responsibility and accountability for security were split. A President waiting to grab political power, possessing the constitutional authority over the and the power to prorogue or dissolve Parliament could have nullified the peace process on two fronts - militarily and procedurally through the Parliament. The path to peace was extremely crooked,²⁵ and the Executive tried to cash in at any point to create problems for the then Prime Minister, resorting to unbelievable tactics only for political expediency.

Reaping the accumulated harvest of such manipulations, the efforts to break the back of the Government were accelerated by the LTTE adding fuel to many security related incidents involving the organization (e.g. the breaking into Army camps, the attack on a STF camp, sea incidents, confrontations based on the wearing of military belts, possession of cyanide capsules, importation of logos and literature etc.). The result has been negative criticisms from the media (e.g. the Voice of Tigers Radio issue, which was done with the total verification of the representatives, National Television, the Media Ministry,²⁶ political and religious groups etc.) ending with the establishment of organisations such as the Patriotic National Movement backed by radical parliamentarians and Buddhist priests.

The antagonistic private media, weak state media interventions and non-aggressive media personnel in the Government's Peace Secretariat, contributed to the easy conviction among the masses of the liability of the UNF regime for the threats to national security and sovereignty caused by the peace process. Admittedly, the LTTE media interventions were far superior to that of the GoSL's. Perhaps, the alleged 'softness' highlighted by the media of the AFs during clashes / confrontations and of Government negotiators at the talks on LTTE's human rights violations, killings, and abductions etc., made the UNF unpopular. It damaged the image of the Party in the eyes of political opponents and the public as a political organization that jeopardized the security and sovereignty of the nation / country.

There were other actions by political authorities which were considered negative approaches for peace making by the LTTE. The purchase of "Courageous" by the GoSL irked them, but more so when one of the negotiators was given publicity going on board of this vessel! On the other hand, one could have argued that at a time when it was known that the LTTE while engaged in peace making was importing arms to keep the morale of LTTE cadres by enhanced reinforcements, what was wrong in the morale boosting actions of the by a Minister engaged in peace making. Another sensitive issue was the negotiations that were going on between the GoSL and India for a Defence Agreement which never saw the light of the day.

Article 2 of the CFA- Measures to Restore Normalcy

Let us look at Article 2 of the CFA and observe the implications on the peace process.

Article 2.1 and Article 2.2 specify requirements to refrain from engaging in hostile and provocative action respectively. These were dishonoured mostly by the LTTE. For example, hoisting of LTTE flags in cleared areas, wearing military appurtenances, carrying cyanide vials, attacks on religious places of worship, breaking into AFs Camps (e.g. Point Pedro) and a Special Task Forces (STF) Camp in Ampara etc. could be quoted. In addition, attempts to crash into HSZs also created defiance among the .The MoD and AFs took up the position that Article 1.11 and Article 1.12 gave them the right "to deny entry to specified military areas," and therefore, there was no need to bargain on the HSZs, unless a final settlement dictated that they vacate or contract the HSZs.

When roadblocks in Colombo were removed, the LTTE was blocking roads in the Jaffna Peninsula during protest marches. Some Tamil National Alliance (TNA) politicians too have tried to espouse the cause of the LTTE. The pedigree of the LTTE after the CFA, on torture, intimidation, abduction, extortion, conscription and harassment has been much more inglorious and notorious than that of the AFs. There had not been allegations made against the LTTE on rape or immoral sexual behaviour, except when their cadres broke away from the organization. Previously, the Government and LTTE were both considered by commentators as violators of rights. There were complaints against the AFs too, on harassment at checkpoints, road accidents, assault etc. All these were threats to the security situation and normalisation in the North and East.

Peacemaking and HSZs

The schools and public buildings issue is yet another important factor in the normalisation process related to security (See CFA Articles 2.3 and 2.4). The reluctance of the AFs to release these buildings perturbed the LTTE. However, some Tamil civilians also agreed about the necessity to have HSZs in the North. Even the public officers who were stationed within the HSZs, (e.g. Point Pedro) did not face difficulties when dealing with the AFs in their day to day official affairs. However, it is a fact that the return of the less fortunate displaced persons was invariably delayed by the existence of HSZs (e.g. Valikamam area). Similarly, HSZ is a necessity if the AFs were to perform their duty without hindrance.

The HSZs are in the areas surrounding the head quarters, command elements, and vital areas like the Palaly airfield or the Kankasanturai Port; and in the lagoon areas, areas where suicide attacks against selected posts could be made and mined areas. Local commanders of the Army did not want to reduce the size of the HSZs as LTTE firepower has increased over the years. They suspected that the opening of the HSZs would permit infiltration by the LTTE cadres. Moreover, they rightly believe that contracting the HSZs would reduce their operational capacity.

Nevertheless, the HSZs have displaced many families from their roots. According to the LTTE the number is about 30,000. The Army says that it is less than 10,000. The civil administration believes that the number is in between, about 15,000 or a little more. Anyhow, the need to review the HSZ positions is based on the need to facilitate the return of the displaced people. This is not an issue that can be ignored for long and will be a main item in the agenda for negotiations whenever it takes place.

Gen Sathis Nambiar, one time UN peacekeeper in Bosnia who was appointed as an outcome of the peace talks suggested stage by stage action and that any review of the scope and content of the HSZs will only come about by dismantling the HSZs in selected areas; this should be done "in appropriate stages, in the first phase of the process."²⁷

The second phase was to be in the "HSZs around the Palaly air field and Kankesanthurai Harbour... for reduction in size, to the extent of perimeter security, as for any other vital defence installation."²⁸

However, he placed importance on the "legitimate concerns of the Sri Lanka Defence Forces commanders, at the operational level," and the "mutual lack of trust, and the consequent need for the

institution of confidence building measures."²⁹

Simultaneous dismantling of the LTTE operational military positions; appropriate and neutral supervision and monitoring, supplementing the SLMM to undertake these activities or to introduce international military or police observers were proposed by Gen Nambiar. The need to obtain agreement from both parties to the conflict and the necessity of enhancing naval and aerial monitoring and supervision capacities too were considered important in his report. As a new tool he considered the introduction of "challenge inspection" through international monitors, as both parties would not agree to do it by them.

Confidence-building measures were considered by Gen Nambiar³⁰ as another effective means to develop confidence between the parties. Initially, he thought that crossing the borders by using the A 9 as a confidence-building measure could be undertaken with international monitor support. He suggested that these convoys should not be searched or escorted by the LTTE. He discussed the relocation of AFs too, with the assistance of the Government Agents, but this did not succeed when attempts were made to shift the Subash Hotel and some other military camps in the Peninsula.

Places of Worship

The LTTE was very concerned with the places of worship, schools and public buildings within the HSZs. The superficial insistence was on leaving these places in order for the displaced people to return. It was a popular and militaristic move. It must be noted that even the SLMM has considered the need to keep the balance of forces,³¹ for which HSZs were a grand tool. Though the AFs vacated the places of worship and school buildings, not all such places were made available for public use. The LTTE and TNA demanded the use of these premises immediately, and instigated public protests. In round about terms, they wanted the AFs to leave HSZs creating an imbalance of forces. At times, there was breach of peace due to such protests, especially in the North. LTTE had shown that it had a hidden agenda when making demands for relocation of security establishments or security points.³²

Public Buildings

The public buildings issue was more problematic. Article 2.4 of the CFA required "a schedule indicating the return of all other public buildings to their intended use" be drawn up by D-day+ 30. A schedule was prepared and submitted to the SLMM accordingly. In the Jaffna District, several such buildings were released for public use, but it was not satisfactorily repeated in the Vavuniya, Mannar, Batticaloa or Trincomalee Districts. The normalisation process was invariably affected when institutions close to the people were non-functional. For example, the Army occupied the Municipal Council Building in Batticaloa, and the municipal functions had to be carried out elsewhere. Similar situations were observed with regard to some other Agrarian Services, Co-operative buildings, libraries etc.

The AFs too had difficult problems in giving up these buildings. On one hand, there were no suitable state owned buildings or state lands available to relocate their camps. No private property was offered by landowners due to reprisals from the LTTE. Though the demand by the LTTE was for the purported benefit of the people, the LTTE was not helpful in sorting out the problem. Even if there were any attempts made to shift camps, as was done in the Jaffna Peninsula where 152 campsites were to be reduced to 88, the LTTE would not agree and instigate the public to protest. This was the same in the case of relocating Subash Hotel in Jaffna town. The latter demand was made at the negotiations and when alternate locations were considered a series of protests were made. The result was the non-movement of the camp from the hotel. Therefore, the disagreement between AFs and LTTE was manifested as a conflict between security and normalisation.³³

Check Points

Article 2.5 was another stipulation that sometimes created confrontations. The LTTE in hearts of hearts wished that all GoSL security activity in the cleared areas be withdrawn. This could have been possible only when a final solution had been reached. When conflicts were rampant based on simple issues such as military uniforms or cyanide capsules it was difficult to agree to such propositions. The best example was the protesters who crashed into the Point Pedro Army Camp instigated by the LTTE,

demanding unlimited access through the HSZ on the pretext of visiting the two colleges situated within the HSZ. Fortunately, the Army responded mildly, unlike in the case of an attempt to break into a STF camp in Ampara where seven were killed in the shoot out.

Similar protests were raised at Madhu Road checkpoint where the MoD agreed to open an entry point to permit some villagers to move across, although the checkpoint was not in ANNEX B of the CFA. This was allowed though the Army initially disliked the suggestion. It was interesting to note the extremely slow change of attitude in the Army to adjust in the face of such events.³⁴

The AFs and Police were complaining of the derogatory behaviour of LTTE cadres while the former performed duties in the cleared areas. These were heightened by accidents in which military vehicles were involved, with either deaths or serious injuries caused to civilians. The MoD usually obtained the interventions of the District Secretary, NGOs and the Bishop of the city where such incidents took place for "cooling down" the situation. This was a successful mechanism and there were no adverse reactions from the LTTE as was observed later where even a Superintendent of Police was killed after such an incident. However, there were certain times where even the influential Catholic Bishop of Jaffna could not help. It showed the extent to which the cold war has grown between the two parties during the CFA.

Transfer of Goods

When the relaxation on transfer of goods (Refer ANNEX A of the CFA) took place initially and even later under Articles 2.6 and 2.7, the GoSL made working arrangements to ensure that security was not disturbed. It was done by the establishment of checkpoints at Omanthai and Muhamalai on the A 9 Road, and other points on the Medawachchiya – Mannar Road etc. Furthermore, the civil administration was engaged to issue permits when required. However, the AFs' operatives suspected that there could be transfer of arms and ammunition to the cleared areas from the uncleared areas through these checkpoints. Therefore, checking of goods became routine, though inconvenient to the public. The LTTE had other motives in operations that were economic. Taxation and levying of duties were done at checkpoints. Importantly, the checkpoints were places for them to ensure that unwanted parties did not enter the area under their domination; once again for their security reasons which were similar to those of the GoSL.

The normalisation process required the rehabilitation of roads (i.e. A 9) for which metal had to be supplied from the Southern areas. In this operation, the Armed Force checkpoint at Omanthai was considered by the LTTE as a bottleneck. Unloading, reloading etc. was considered a hindrance. This had security connotations as it was suspected that the LTTE was constructing an airfield. This suspicion was heightened and in November 2003 UAV reconnaissance confirmed clearing of land for an airfield. UAV reconnaissance in August 2003 gave negative results when it was undertaken on suspicion.³⁵

Transportation issues were the content of Articles 2.8 and 2.9. The Trincomalee-Habarana Road was open, even at the time of the signing the CFA. The Batticaloa and Welikanda stretch of rail line was reconstructed with the intervention of the Railway Department and MoD. However, it is suspected that the railway line was soon destroyed by the LTTE, presumably due to the hindrances it created for taxation by the LTTE on main roads. (The opening of the A 9 road under Article 2.10 was discussed earlier.)

Attempts to Normalise Fishing

Unrestricted fishing has been a serious issue (Article 2.11) taken up by the LTTE as a factor that is delaying normalisation. This has security concerns such as entry-exit points for fishermen, control of distance and times for fishing, Muslim fishermen's problems, Indian fishing trawler issues, multinational fishing operations as reminded by the attack on a Chinese trawler etc. Fishing has security connotations as unrestricted fishing could assist LTTE activities, such as transfer of arms and ammunition and intelligence interventions.

Certain agreements have been reached between the SLN, SLMM and fishermen on fishing issues. On requests made by the LTTE through the SLMM, the SLN reviewed the entry-exit points and increased the number of such points. However, the SLN later reported that this has not enhanced the

interest in fishing or the usage of new entry/exit points.³⁶

Implementing of Prevention of Terrorism Act

Another step towards normalisation which affected security was in Article 2.12 which dealt with the Prevention of Terrorism Act (PTA). Accordingly, the GoSL suspended the application of the PTA and even relaxed the inspection of movements by Tamil civilians in Colombo. No arrests were made under the PTA. The access to the detainees under the PTA (Article 2.13) was satisfactorily implemented.

For the purpose of normalisation and confidence building a prisoner release was arranged between the parties. The LTTE appreciated the positive responses of the International Committee of the Red Cross (ICRC), MoD and Ministry of Interior Affairs in this matter at the meeting held to commemorate the release in Omanthai.

Peace Negotiations and Security Issues

At the Talks, the negotiators took decisions related to security aspects, and they may be mentioned in a summary here.

- (a) In the first round of talks, there were two decisions taken, namely to establish a Joint Committee to deal with the issues related to HSZs and to create a provision to expand the international mobility (of the LTTE). The second decision was executed, but not the first.³⁷
- (b) At the second session of peace talks, there were three security related decisions taken; i.e. (i) regarding the improvement of the security situation in the East through discussions with Minister Rauf Hakeem and Karuna, discussions did not take place; (ii) the establishment of the Sub Committee on de-escalation and Normalisation, which by its very composition was more related to military activities, and concerned mostly with the HSZs³⁸
- (c) Several security related decisions were taken at the third session of talks that included :
 - (i) the return of a hotel occupied by the ,
 - (ii) transportation of LTTE area commanders under SLMM supervision,
 - (iii) LTTE's right to engage in political activity under the CFA,
 - (iv) solving the issues in the Delft Island, and,
 - (v) limiting LTTE Law and Order status only to LTTE dominated areas.³⁹

Decision (i) could not be achieved due to the inability to find alternate lands or accommodation. Action was pursued regarding decisions (ii), (iii) and (iv), but decision (v) created issues later, with negative media exposures.

- (d) The fourth session of the Talks decided to-
 - (i) follow up on the Action Plan for an accelerated Resettlement Program in the Jaffna District,
 - (ii) review the resettlement of displaced persons in the HSZs by an internationally recognised military expert (i.e. General Sathis Nambiar), and,
 - (iii) the author and Karuna to meet monthly with the SLMM to discuss the complaints and violations related to the CFA.⁴⁰

As stated earlier, due to lack of consensus on lands, decision (i) was stalled; decision (ii) was carried out by General Sathis Nambiar; Decision (iii) was a useful exercise for confidence building, but could not proceed due to the breakdown of the Talks and the centralised nature of decision making within the LTTE. This attitude of the LTTE may have haunted Karuna, and may have been a reason for his breakaway, among other reasons.

- (e) Decisions 4, 6 and 7 taken at the fifth session of Talks were relevant to security, though the child recruitment by the LTTE too had an impact on the actions taken by the AFs⁴¹; as the AFs

and Police had occasion to take to task the LTTE violating the CFA during conscription. Decision 4 on jointly contacting the ICRC, did not bring results, as the mandate of the ICRC was in question, to undertake this activity. The establishment of a committee, as per Decision 6, did not bring in satisfactory results, though the LTTE met a group of Muslims. This showed another important aspect; i.e. the militarily powerful LTTE's desire to work without the GoSL and SLMM and negotiate directly in these matters. Decision 7 too was related to settlements and this was another move to suspend any normalisation attempts to assist the Muslims and Sinhalese.

- (f) Decisions 1, 2, 3, 4, 5 and 8 taken during the sixth session of Talks were relevant to the security aspects.⁴² Decision 1 could not be carried out due to leakage of the draft prepared by the SLMM as explained earlier. With reference to Decision 2, there was only one problem with regard to the AFs. It was in relation to the flying of the SLMM flag on SLN vessels. Regarding Decision 3, though there were acceptable ways to handle straying soldiers or LTTE cadres, the LTTE delayed reacting. Decisions 4 and 5 could not be implemented with the breakdown of the Talks. Decision 8 could not be implemented due to the manipulative actions of the LTTE through the TNA politicians and instigation of the public.

Timing of Talks and Violent Incidents

When one looks at various incidents, it is noticeable that there have been untoward episodes that happened just before the talks began or when the talks were in progress. These may be coincidences or deliberate acts by unknown groups. Some of them are highlighted here only to caution future negotiators of both parties to be vigilant. If these were planned efforts, domestically initiated or otherwise, they may have been to provoke one of the parties or to destabilise the improving relations between the two parties. In both ways, these are dangerous situations and it is only balanced thinking and tolerance that could be of help.

- (a) Just before the First Round of Peace Talks in Session on 16th September 2002, there was an incident - the attack on the Point Pedro HSZ. It must be noted that this happened against the backdrop of the AFs negotiating directly at district level, the MoD negotiating with the LTTE on the release of prisoners from both sides with ICRC assistance, and the pursuit of action to lift the ban on LTTE by the GoSL.
- (b) The Second Round of Peace Talks Sessions was held on the 1st of November 2002. The MoD had completed the prisoner release by then and reduced the security perimeter in Jaffna HSZ after field inspections. On 9th October 2002, the STF camp in the Ampara District was attacked and seven LTTE supporters were shot dead. The LTTE also commenced a large recruitment campaign. While the Peace Talks were in progress, six LTTE cadres were apprehended off Trincomalee by the SLN on 2nd November 2002, with 34 mines and 25 sets of communication equipment.
- (c) The Third Round of Talks commenced on 2nd December 2002. On a positive note, the District Meetings were held in Omantai, Trincomalee and Ampara Districts before the Talks. These were useful, as there was some rapport developed between the parties and communities too. However, the return of EPDP cadres (40) did not please the LTTE, giving rise to grumbling. Minister Rauf Hakeem, who arrived in Oslo for Talks, had to return immediately due to internal problems of the party in Sri Lanka without attending the Talks.
- (d) The Fourth Round of Talks commenced on 6th January 2003. On 10th December, the Sub-Committee on De-escalation and Normalisation met. Though this was not a great success, it was a forum to reduce the stress on both parties. The report submitted by the Army on 28th December created a rumpus, due to certain words which were used to provoke the LTTE leadership. This created unpleasantness ever afterwards.
- (e) On 6th February 2003, the Fifth Round of Talks commenced. There were several incidents during this month, i.e. kidnapping, prohibition of female cadres to move wearing military appurtenances etc. The worst was the incident at sea in Delft in which the crew committed

suicide on the day before the Talks, which created greater unpleasantness than in the previous month.

- (f) The Sixth Round of Talks commenced on the 18th of March, 2003. The Kuchchaveli incident, LTTE cadres crossing over the Habarana road, the incident involving the merchant ship on the 10th of March 2003, potential conflict threats in Mutur and Kantale, and the apprehension of an LTTE boat near the Trincomalee harbour were very negative. On the 20th of March 2003, there was a Chinese Trawler that was attacked and sunk by the LTTE.

Sri Lanka Monitoring Mission (SLMM) and Security

The objectives and duties of the SLMM clearly state the roles to be played by the SLMM with regard to the CFA. The fact that the SLMM had only inquiring and determining powers, without implementation power or capacity (i.e. about sixty Monitors) are, observable weaknesses. There is a need to strengthen the SLMM in those spheres and in numbers, if peace and security are to go hand in hand. Nevertheless, the service the SLMM has rendered in taking the peace process forward through rough and complex situations should be appreciated. As many references were made earlier of the SLMM and their participation, there will not be specific mention of such action in this section.

The relationship between the SLMM and MoD grew positively during the period of the first Head of SLMM who handled matters without creating much suspicion in the minds of the AFs or MoD. Even his reliability was questioned later with the "revelations" made by some antagonistic groups, assisted by journalists, to the effect that he had been communicating favourably to the LTTE, thus jeopardising the impartiality expected from him and SLMM. However, incidents at sea that were distressing the SLN came to a head with the second Head of SLMM being suspected of leaking information to the LTTE.

The suspicion on the SLMM was inimical to the peace process. The difficulties encountered by the SLMM were more with the LTTE who did not give opportunities for inspection and inquiry while delaying the implementation of determinations etc. Some Monitors nearly lost their lives at the hands of the LTTE. The decisions taken at the Hakone Talks regarding compliance with the SLMM determinations were empty rhetoric with the LTTE. Due to lacking co-operation from the LTTE, the SLMM was exposed and made to look inactive; and the southern media and anti-SLMM politicians used this to prove their notions of favouritism towards the LTTE, which affected the process.

It must be positively appreciated that the SLMM was instrumental in proposing several working arrangements with a professional touch. This was observed best during the period of the first Head of the SLMM. The purported leak of information by his successor blotted out the good work done by his predecessor and the criticism against the SLMM increased to such an extent, that people demanded a change of Monitors. The demand that the Facilitator and Monitor should not be one and the same was firmly rooted due to these allegations.

The MoD was not privy to the relationship between the Facilitator and the SLMM. However, there was a feeling among the AFs and even in the MoD, that there could have been some unofficial and informal influence wielded on the SLMM by the Facilitator. Though there was no special evidence, it was evident that the personal interest of the then Norwegian Ambassador to find a peaceful solution could have been the reason for any such influence.

Conclusions and Lessons Learnt

The peace process and security are intertwined. The CFA has been drafted with this in mind, whether in engaging the LTTE, the AFs or in normalisation. Nevertheless, the CFA cannot be the panacea for all ills related to the conflict or peacemaking. It has to be considered as a stepping stone to a negotiated settlement and a document which could be further developed as the process progresses.

Due to security issues that loom over the peace process, there ought to have been a more straightforward and frank dialogue between the Executive and representatives of the Legislature. This pitfall should have been avoided, but could not be done due to political competitiveness. If the peace process is to succeed and the movement to gather momentum with real force such consensus is essential,

irrespective of party affiliations.

In this event, the AFs too should not succumb to pressure, but be straight forward, irrespective of personal losses such as promotions, postings etc. that may be the 'adverse' consequences of being so. Such strong gestures will be appreciated by the history of Sri Lanka, though the political hierarchies may depreciate it, when such stand is taken. Similarly, they should be flexible within their area of authority to make peacemaking happen and this needs high level of balanced thinking.

The strengths, weaknesses, opportunities and threats in the CFA have to be understood. It must be understood that what is considered strength of the CFA by one party, may be considered a weakness by the other. For example, the application of Article 1.3 proved the strength gained by the GoSL with national military interventions (sometimes silencing the LTTE). The application of Article 3 by the Facilitator and Monitors proved the weakness in tackling the violations by the LTTE, thus indirectly strengthening their position. Therefore, it is normal for such aggrieved parties to manipulate their stances to benefit themselves (e.g. the LTTE unofficially but seriously demanding Sea-Lanes, and the SLN strategically and stealthily avoiding SLMM interventions). Keeping a balance on these is essential to ensure the peace process does not shatter.

In order to achieve peace, having a CFA in place or several negotiating sessions will not suffice. It requires having a good understanding of the other's needs, aspirations, ideologies, demands etc. Tolerance with firmness towards the misdeeds of the other party, patience, and total commitment make a peace move to forge ahead. The GoSL may review their past actions on these points, as there is extreme criticism against the Government for having lacked in firmness on LTTE misdeeds and being over patient when the LTTE exhibited the opposite. However, one must appreciate that both parties have been patient and committed to peace to a very great extent, especially when LTTE cadres were killed at sea in large numbers, and when the AFs were humiliated extensively by the LTTE.

The necessity to take the people along with a peace process is essential, especially in a militarily sensitive background. The independent media going berserk on issues with a venom of partiality; politicians and reportedly some military high-ups using the media to meet their narrow ends; the state media being ineffective and distancing the realities from the people; and the failures on the part of the GoSL's Peace Secretariat in dealing with the developments related to the peace processes cannot be compared with the positive media performances of the LTTE. The Media's role -especially the vernacular press- in carrying the people, both parties and AFs on the rails of the peace process could have been achieved better, but did not happen so due to the hunger for news and sensation. This has to be corrected in the future, and it will not only be the responsibility of the GoSL and LTTE, but of the journalistic community too in a much bigger way.

Confidence building and novel and bold decision making with ingenuity are essential for the success of CFA. The success of the UNF peacemaking lay here, however much it had been criticized mercilessly. Once such measures have been installed, it is essential that follow up should be on the same lines. To be able to build further on the foundations that have been laid by individuals, groups and organisations, and sharing experiences etc. are important qualities to succeed in peacemaking. Sharing of experiences is withheld due to the high level of politicisation in peacemaking, which should not happen in the interest of peace.⁴³

Trying to be too legalistic or perfect in operations has always affected peacemaking. When working with a leader-centred organisation like the LTTE, one has to expect uncertainty, ambiguity and unpredictability, because everything depends on one individual. The critics of UNF's peacemaking counter argue that there is no necessity to succumb to the thinking of one person in this manner, and he should change over. Though there is some logic in this argument, one has to concede that as a state, the GoSL has to consider the economic, political, military and international obligations etc. and respond accordingly.

Being a militarily and economically less powerful country, Sri Lanka is deemed to be supplemented by similarly uncertain, ambiguous and unpredictable world powers; and balancing LTTE's aspirations with these supplementary influences will be an important requirement. The GoSL's safety net moves could be considered as satisfying this need, but has brought about negativism from the LTTE.

Therefore, the limits of using the safety net, especially in military affairs should be analysed very cautiously.

Political and other negative manipulations always affect peacemaking. This has been proved beyond doubt in the Sri Lankan peace process. The need is not to gain through political expediency, but to co-operate and commit one self to peace making. Especially when governments change hands, some dissenting voices may influence the succeeding peacemakers in a negative manner and this should be taken care of by the succeeding Government. This has not been possible from the beginning between the two major southern political parties. Genuine co-operation and support to whoever is carrying on with the peace process is greatly lacking.

The number of violations of the CFA by the LTTE show a lack of commitment to the Agreement and the pressure brought on the LTTE is insufficient (between 2002 and the end of 2003) according to many critics of the way the CFA was implemented. Therefore, with this lesson learnt it is time for the international community, especially the countries where the Diaspora lives and funds are raised to bring the required influence on the LTTE to co-operate with the GoSL in peace making.

Similar influence should be brought on the GoSL and the Southern groups, who have been destructive by their efforts to dislodge the peace process by creating emotional barriers. Asking the LTTE or these southern groups to understand the difficulties of peacemaking will not suffice. More exposure to practical and successful power sharing methods should be brought to their attention. The LTTE has had many opportunities through the Facilitator's interventions, and similar opportunities should be made available to others too, including the media that has sometimes played a negative role.

The latest demand in Southern Sri Lanka is to redraft or review the CFA in order to attain peace with the ulterior motive of controlling the LTTE by strengthening the CFA. The experience with the LTTE shows that they are obstinate to such moves as their attention is limited to a clear cut objective, for which one individual takes responsibility, without references to Presidents, Prime Ministers, Leaders of the Opposition, Parliaments, people or the AFs etc. Everybody who represents the LTTE comes with a clear vision, irrespective of any southern political manipulations. Their demands are firm, and any attempt to revise them will be faced with similar difficult demands from the LTTE. Therefore, any change should be thought of only at a formal negotiation according to the CFA and that too very cautiously.

The unseen security affairs are not minor in volume, and thus, what has been achieved so far could only be the tip of the iceberg. The need to find working arrangements to face certain issues has already commenced and more such interventions may be required as the process moves forward. In that event, the need to co-operate with each other and with the Monitors and Facilitator will become quite important. In doing so, consideration must be paid to revisiting the role, functions, powers and authority of the Facilitator and Monitors, and changes thereof, for more effective and efficient peacemaking. One should not lose sight of the fact that all these should be done only with consensus and not *ex-parte*.

END NOTES

- 1 Article read at a Workshop organised by the Centre for Policy Alternatives, SL, titled "Transformation of a Conflict via an Economic Dividend": Dr. Saman Kelegama. May 2005 (Institute of Fundamental Studies, Colombo)-page 23
- 2 TamilNet- April 11th 2002-Interview with V.Pirapaharan on 10th April 2002.
- 3 The author, like any other Sri Lankan, has immense respect for the Late Lakshman Kadirgamar as a Minister of Foreign Affairs, a man who really worked hard for Sri Lanka, as a Tamil and one of the greatest intellects ever produced by Sri Lanka.
- 4 Source: SLMM Secretariat
- 5 Budget Estimates 2003, Vol. 1, page 455
- 6 Budget Estimates 2004, Vol. 2, page 1
- 7 Budget Estimates 2005, Vol. 1, page 715
- 8 Source: SLMM Secretariat
- 9 Anton Balasingham queried the author about LRRP operations at the negotiating table in

Hakone, and stated that the LRRP personnel have robbed food from the LTTE camps in Vanni, which was untrue, and hence denied, as the GoSL did not engage them in Vanni even for training. Throughout the peace process, fingers were directed on the then Prime Minister for not engaging the LRRPs, which apparently scared the LTTE. Similar scare was in the minds of the southern population on suicide bombers. It is true that some of the LTTE high ups in the military establishment were killed before the CFA, allegedly by the LRRPs, as commendably referred to by anti LTTECFAs commentators, and the concern of Anton Balasingham had to be expected.

- 10 Government Gazette Extraordinary No: 1237/20 of 23-5-2002
- 11 Source: SLMM Secretariat
- 12 Statements were made by parliamentarian, Wimal Weerawansa of the JVP during several television talk shows, quoting the dangers of the CFA and referring to the Montevideo Convention. A closer look at the Montevideo Convention shows that it has limited agreement and is not connected to international agreements to which the Sri Lankan Government has been a signatory. The preamble to the Convention states "Who, after having exhibited their Full Powers, which were found to be in good and due order, have agreed upon the following:" and goes on to explain the sixteen Articles of the Convention. Further, some States who participated at the Convention (e.g. USA, Brazil and Peru) have made reservations on some contents in the Convention. Sri Lanka and the United Nations, not being participants or signatories, may not be guided by this Convention. Unfortunately, the UNF politicians did not refute this, and Wimal Weerawansa with grand oratory, repeated this allegation and won the hearts of the people, who did not know much of the Convention.
- 13 "Declaration of CoHs"-Agreement between PA Government and LTTE in 1995.
- 14 When Karuna Amman was moving on board a LTTE boat from Batticaloa towards Mullaitivu in the night without permission from the MoD or SLN, orders were sought on the phone from the author whether to engage him and the crew, which was turned down, as military engagement would have blasted the peace process. This was an incident which showed that the ability to take appropriate but unconventional and out of the box decisions under pressure adds value to the Sri Lankan peace process. Perhaps, in retrospect, the LTTE must be now regretting the author's refusal to engage Karuna, though they were then overjoyed at his brave feat!
- 15 Dissimilarity of decision making by the LTTE when similar situations arose is proved by the LTTE's reluctance to respond positively in the Kuchchaveli incident, where the Head of SLMM had to vehemently demand for nearly three weeks for the release of the Sri Lankan soldier and the constable.
- 16 Decision 7 taken at the Talks held in Thailand , January 6th-9th 2003
- 17 One clear example was the Nagarkovil FDL, which has been narrowing daily! The author's requests to the SLMM to settle disputes on FDLs were unsuccessful because the SLMM was not permitted inspection (e.g. Weli Oya). Even when the FDL was determined, the LTTE did not adhere to the SLMM determinations (e.g. Manirasakulam), making a mockery of SLMM determinations. The critics branded the Government as ineffective, when such determinations were negatively responded to by the LTTE. They branded the SLMM and the Facilitator as biased towards the LTTE and many angry demonstrations held opposite the Norwegian Embassy were the manifestation of such anger. Many a time, when such weaknesses were queried, the SLMM and the then Norwegian Ambassador had a stock reply, which, when summed up, meant that they had no policing or execution power, but had only inquiring / assisting / determining powers. In a way it was true. Nevertheless, there were no clear attempts made to alleviate these weaknesses at the negotiations, other than to mention such incidents. Anyway, it is a pity that the then Prime Minister, MoD and SLMM were hauled before public scrutiny for the stubbornness of the LTTE.
18. The author has seen this map which composes a veiled threat of "intrusion" which was rejected without any further discussion. However, it did not create any negative security effect on the peace process, but could be considered as an inescapable and invidious issue under the carpet. It will be a permanent security concern for future negotiators.
19. Paragraph 7 c of SLMM letter NO: SLMM/27th June 03/OPS/1679.
20. Once Karuna Amman mentioned to the author in Batticaloa that such taxation was required to maintain 25,000 LTTE cadres, which was an exaggeration, but an indication of the maintenance of a large "army," perhaps doubting peace!

21. This representation is not on record anywhere. It is known only to Major General Trygve Teleffson (SLMM), Bernard Gunathilake, the then Director General of the Sri Lankan Peace Secretariat, and the author. This was not discussed, as the author and the Director General of the Peace Secretariat rejected the proposal forthwith, as it was impinging on the sovereignty of Sri Lanka, against the provisions of the CFA and international law. There was no known follow up by the LTTE either.
22. This proved the negativity of extensive sharing of documentation, especially related to security in a peace process, and justified non-sharing of the draft CFA earlier with the AFs and others. Further, it questioned the loyalty and allegiance of the "leaker" and indicated the silent and camouflaged protest on the proposals.
23. Press Release dated 4-1-1995 issued by the Presidential Secretariat- Paragraph 3, which stated "The government team suggested that two access routes be opened to and from Jaffna, i.e. Elephant Pass and Sangupiddy", meaning giving access to the LTTE across the Jaffna Lagoon, even jeopardising the security of Jaffna Peninsula.
24. Lion Song: Sandaruwan Madduma Bandara, Page 233
25. The manner in which the President behaved when incidents took place at sea on 10th March 2003, by making false statements that she ordered destroying the LTTE ship, is a good example that could be quoted as an example to show the crooked channels to be crossed over in peacemaking.
26. MoD File No SMOD / 133 / PN (XIII)
27. Report on the Aspect of HSZs : Lt. Gen. Satish Nambiar :Page 4
28. ibid. Page 5
29. ibid.
30. ibid. Page 7
31. Review Report of the Head of the SLMM dated 26-12-200232
32. For examples of LTTE hidden agendas, the following could be mentioned.
 - (a) The MoD agreed to release Union College at Tellippilai, situated within the HSZ, and the immediate demand was to withdraw the checkpoint beyond Tellippilai Junction, a militarily vantage point. The LTTE knew that he who holds Tellippilai Junction holds sway over the Jaffna HSZ, and especially the Kankesanturai Port. When this failed, the demand was for the LTTE cadres to have unhindered access to Union College.
 - (b) Similarly, when Mahajana College was opened, the demand was to give access to the school along the fence of the Army Camp.
 - (c) When the agreement was reached to release Tellippilai Cancer Hospital for service, the demand was unhindered access through the AF held area and withdrawal of the checkpoint at Tellippilai Junction.
 - (d) On the request of TNA parliamentarians, when cultivation of lands (more than 1,000 acres) in Tanankilappu was permitted by the AFs with the author's concurrence, with controlled access to the HSZ, no cultivation was undertaken during the rainy Maha season, because the entry of non-farmer LTTE cadres was curtailed by the AFs.
33. The subtle manner in which LTTE did this was interesting. At the negotiations in Hakone the GoSL undertook with the agreement of the LTTE, to temporarily relocate camps to allow normalisation (Decision 8 of 21st March 2003), but when action was pursued the TNA parliamentarians were in the forefront protesting. They proposed alternate lands that will be inundated for the slightest rain. The end result was the continuance of the status quo. One wonders whether the TNA was silently and positively responding to the purported civilian demand of continuing with the HSZs!
34. The then Commander of the Army argued that permission to open a new check point could be given only after fulfilling CFA Article 4.3 (i.e. after modification of the CFA) This was during a period when the talks had been suspended. The unseen reason for such a response by the Army Commander may have been to stall the justified request of the villagers. The MoD's reaction was to disallow an opportunity for the LTTE to demand opening or closing of several other checkpoints by trying to negotiate the inclusion of Madhu checkpoint in to **ANNEX B** of the CFA. This is very relevant currently, as there is a demand in the South to revise the CFA, which has to be undertaken cautiously.
35. About six months after the take over of the MoD by the President, it was reported that an airstrip had been constructed by the LTTE. It seems to be true from the statements made by

S. P. Tamilselvam later, and proves that the suspicions of the AFs were true; and this has happened under total presidential administration of defence.

36. The author had the opportunity to meet the fishermen in Jaffna with Minister Milinda Moragoda on a representation made by TNA parliamentarians, and is convinced that the demands had a thread of security vulnerability for the AFs, and the fishermen were satisfied with the facilities afforded to them for fishing under existing security situations. However, they deplored the weak rehabilitation exercises.
37. Record of Decisions of the First Round of Talks- Decisions 3 and 4 respectively taken on 18th September 2002
38. Record of Decisions of the Second Session Talks- Decisions 5, 6 and 7 respectively taken on 3rd November 2002
39. Record of Decisions of the Third Session of Talks- Decisions 2, 3, 4, 5 and 6 taken on 5th December 2002
40. Record of Decisions of the Fourth Session of Talks- Decisions 4, 5 and 6 respectively taken on 9th January 2003.
41. Record of Decisions of the Fifth Session of Talks- Decisions 4, 6 and 7 respectively taken on 9th February 2003
42. Record of Decisions of the Sixth Session of Talks- Decisions 1, 2, 3, 4, 5 and 8 respectively taken on 21st March 2003.
43. On a personal note, the author could say that there was hardly any consultation by the Peace Secretariat of the UPFA Government on any issue related to security, considering the national interest of the peace programme. To the author, the danger seems to be not the non-recognition of the individuals or parties, but the overdependence on individuals and parties who could mislead the process. One should not be unmindful that there were some who did not act with conviction during the UNF regime, but remain in authority to influence the thinking in the UPFA's peace process. Even if they were correct in their thinking, in trying to energise and synergise the different experiences of the UNF regime, the UPFA Peace Secretariat could have lost nothing. This was required, as peace making is not a governmental or political need alone, but of great national importance.