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Photo: Christophe Bouliercq / MONUC

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Success at Montreux

Progress on the Swiss Initiative

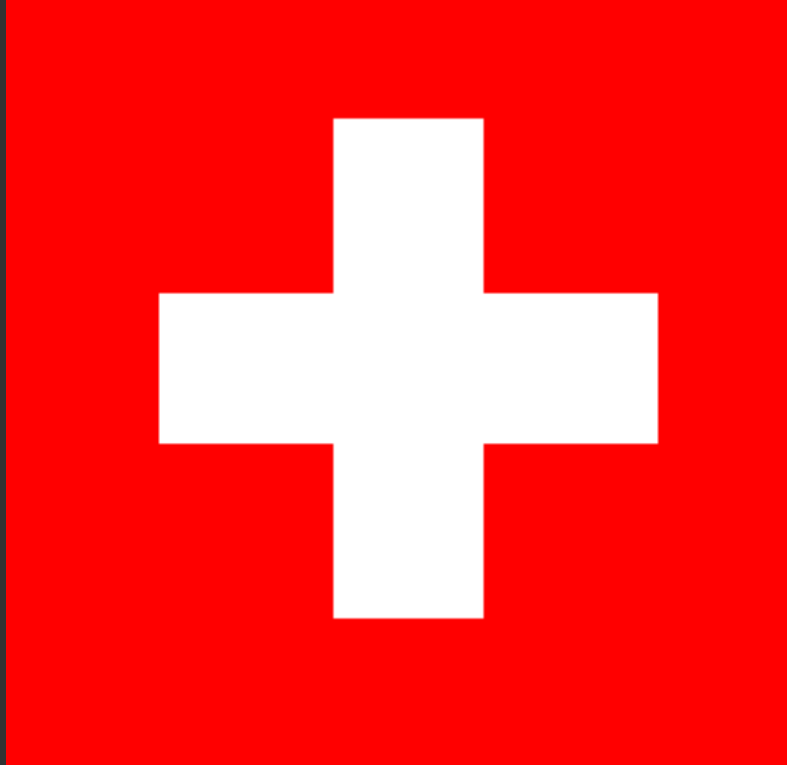


Photo: Stock

I WROTE about the Montreux Document in a previous column, but progress continues in the recognition, value and implementation of its principles.

The Document was the result of the 'Swiss Initiative,' a collaboration of the Swiss Government and the International Committee of the Red Cross (ICRC). It clarifies international legal obligations for states utilizing or hosting companies working in conflict and post conflict environments, and it includes good practices for working with such firms. Originally, 17 states agreed to back the document, including Afghanistan, China, Iraq, the United Kingdom, and the United States. Now the total number of supporting states has surpassed thirty, including Chile, Italy and Spain. The document has been of enormous value to our industry as well, by offering operational guidelines and clarifying the legalities of functioning in peacekeeping and stability operations, ultimately enhancing the humanitarian value of an industry vital to implementing international policies.

The latest initiative related to the Montreux Document is for an international Code of Conduct, with the full participation of the industry. This effort

has been actively supported by the Geneva Center for the Democratic Control of Armed Forces working with industry, governments and other nongovernmental organizations.

At a conference in Nyon, Switzerland industry representatives drafted a statement that stressed the central importance of human rights and international humanitarian law, stating that "We see this process as an opportunity to enhance our ability to address broader stakeholder concerns and to serve all our clients, government and otherwise, in a transparent, professional and ethical manner."

The importance of the Montreux Document was emphasized during a visit to South Africa where the Institute for Security Studies hosted me for a discussion in Pretoria. I later spoke at the Peacekeeping Africa 2009 conference run by DefenceWeb in Midrand. In networking with military officers, government specialists and academics it is abundantly clear that international peace operations, especially in Africa, require the services of the private sector even more than in the past. Western militaries are glaringly absent in African peace operations, leaving these difficult operations to those

from less developed countries. While often well-trained for peace operations, these militaries simply do not have the resources of their Western 'NATO-class' counterparts. Thus services from aviation to medical care to ordnance disposal to security are increasingly provided by the private sector. It is therefore more essential than ever that we have a professional and ethical industry prepared to provide such critical support in some of the most horrific humanitarian crises imaginable. The growing number of countries backing the Montreux Document demonstrates a pragmatic recognition of this reality.

Unfortunately, one of the key issues that face those who are trying to improve quality and ethics, is the reality that clients, including governments and NGOs, overwhelmingly default to hire the lowest bidder, too often without even examining a company's ethics or background. The upshot is that this practice undermines attempts by the industry and others to enhance quality and professionalism. Some in the U.S. Congress have attempted to raise even more the emphasis on contractual cost over quality and value in procurements. Standards can be expensive, but when



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We're all in agreement about the venue. Photo: Doug Brooks

04 ◀

clients are unwilling to pay for quality, the better companies suffer competitive disadvantages, and everyone from taxpayers to industry to the international mission itself is harmed as a result.

The Montreux Document has already clarified international law and best practices for utilizing private services in conflict and post conflict environments. The pending international Code of Conduct will add further guidelines for clients and industry. Ultimately, govern-

ments and international organizations ignoring global efforts to enhance industry standards and failing to recognize the costs involved in quality are doing a disservice that undermines peace operations in Africa and beyond. ■

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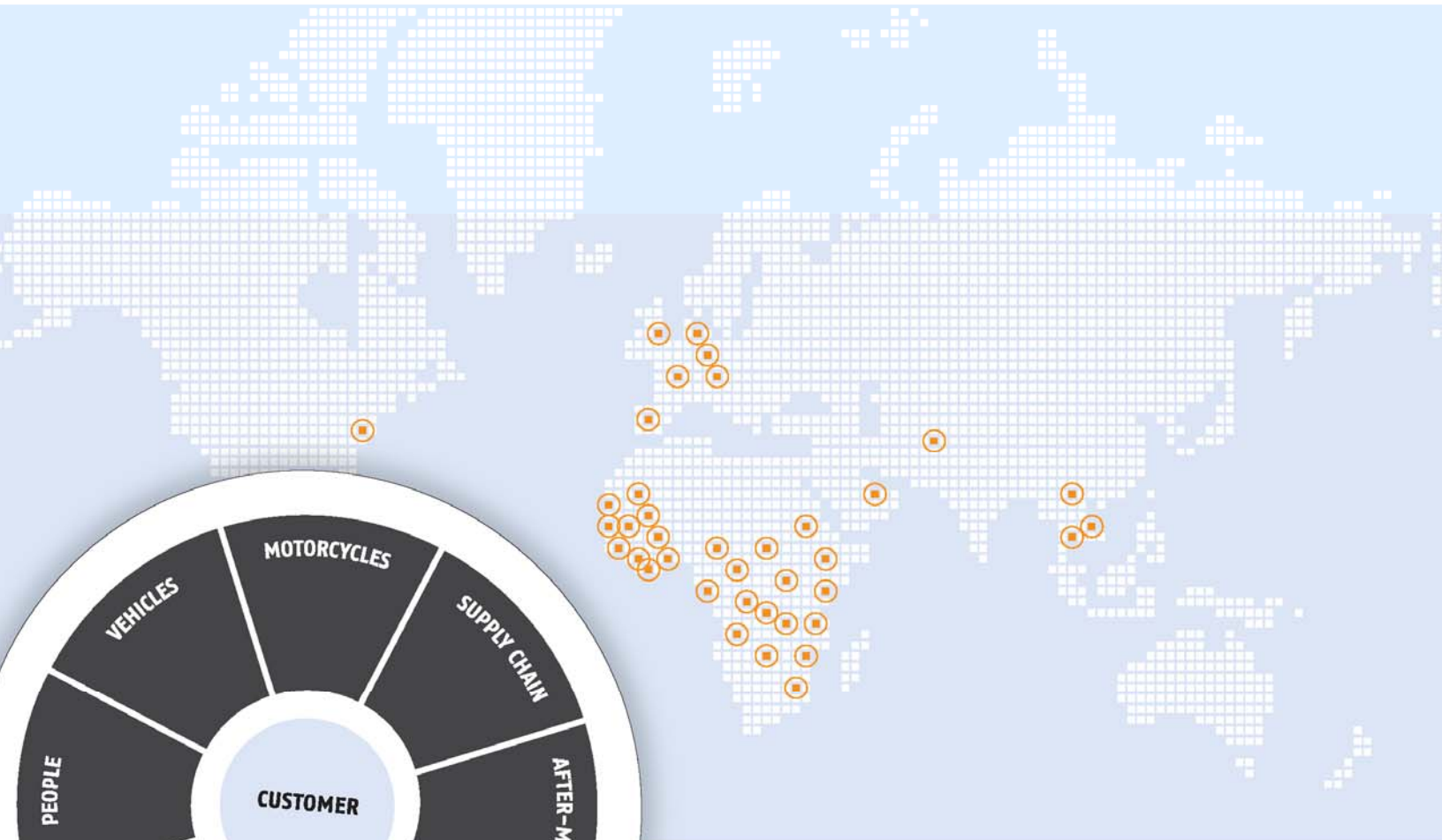
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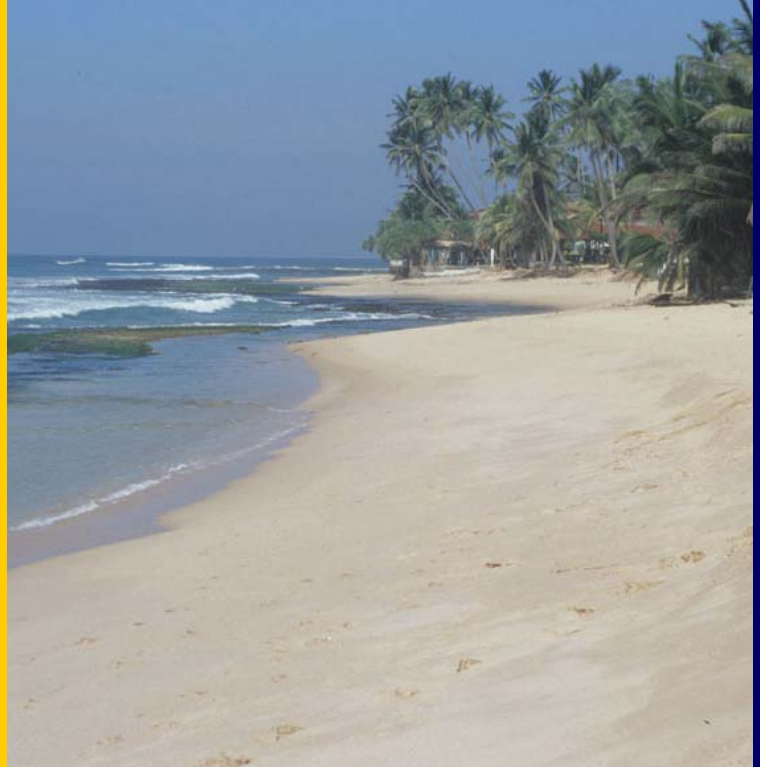
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At Long Last: Finally Peace for Sri Lanka?

**It Has Taken a Quarter-Century,
But Finally the LTTE Appears
Vanquished and the War Over**



Far more idyllic without the fighting. Photo: U.S.G.S.

ON 16 May 2009, the Sri Lankan government announced that it had overrun the last insurgent stronghold and that 26 years of civil conflict had finally come to an end. The Liberation Tigers of Tamil Eelam (LTTE) had been vanquished, its leader had been killed and the military insurgency was finished. Many danced in the streets of Colombo and a stream of messages from world leaders congratulated the government on its successful victory over terrorism.

But the humanitarian emergency continues. The underlying causes of the Tamils' demands – whether for autonomy or simply greater respect for their human rights – have yet to be addressed. The government has come under strong criticism for the way it handled its final assault on the Tigers and the high civilian casualties which occurred. In sum, it is still too early to tell whether the end of the war will usher in a new era of peace and stability or whether it represents just another pause in a conflict that has gone on for too long.

Moreover, the last six months of the war also bring into stark relief the challenges facing the humanitarian community in its work in places far from the small island

nation of Sri Lanka. In fact, Sri Lanka's experiences these past few months could be a textbook on the breadth of the challenges facing the humanitarian community. Landmines, child soldiers, the militarization of aid, lack of access and insecurity for humanitarian workers — unfortunately, Sri Lanka has had it all.

Since 1983, Sri Lanka has been embroiled in a violent civil war, rooted in historical differences between the Buddhist Sinhalese majority and the primarily Hindu Tamil minority. The Tamils, who make up some 20 percent of the population and are concentrated in the north and eastern parts of the country, have long argued for more equitable treatment. Building on growing demands for more autonomy, insurgent Tamil groups emerged in the 1970s. Over time, the Tigers, as the LTTE was known, emerged as the most militant and most effective of these liberation groups. The LTTE adopted guerrilla and terrorist tactics against the Sinhala-dominated government and other targets, and has the dubious claim to fame of being the first group to use suicide bombers. Supported by a large diaspora, the Tigers carried out violent attacks on government officials which in turn led to repeated army offensives. The LTTE's tactics led to its

being banned as a terrorist organization by the United States, the European Union, India, Australia and many other countries. And following the terrorist attacks of September 11, 2001, the Sri Lankan government has largely portrayed its fight against the LTTE as part of the Global War on Terror.

In the years since 1983, the conflict has killed some 80,000-100,000 people, led tens of thousands of Tamils to seek refuge in neighboring India and displaced hundreds of thousands of people within the country. Various international efforts to support a negotiated end to the conflict, including the deployment of the Indian Army as a peacekeeping force from 1987 to 1990, were unsuccessful. In 2002, a ceasefire agreement was signed with international mediation but it fell apart and the conflict resumed again in late 2005. This time the government insisted that it would not be deterred from pursuing a military victory. Beginning in 2006, a series of military offensives against the LTTE led to the insurgents being driven out of the entire eastern part of the country. A year later, the government offensive shifted to the north and over the course of two years, the LTTE was confined to an ever-

smaller area of territory. By early 2009, the LTTE had fallen back to a small area in a part of northeastern Sri Lanka known as the Vanni, where it made its last stand.

For a few months, the humanitarian world's attention focused on a bit of territory within the Vanni where some 200,000 civilians were trapped between an increasingly desperate LTTE and government forces determined not to allow this opportunity to pass. Civilians lived in a shrinking area called a 'safe zone' – a piece of territory which by April of this year was smaller than the size of Central Park in New York City. They were victims of heavy shelling by government forces, were used by the LTTE as human shields and shot by LTTE cadres if they tried to escape. Food, water, shelter and medical care were in desperately short supply. The United Nations, the U.S. government and many others called repeatedly for a 'humanitarian pause' to allow civilians to escape and international workers access to those in need. With a few exceptions, the military priorities carried the day. Civilians who managed to escape were placed in government-run camps where they had little freedom of movement and international agencies had almost no access.

When the military overran the area in May, the remaining civilians were moved into increasingly overcrowded camps run by the Sri Lankan military. The government justified the structure of these camps by arguing that many LTTE had sought protection by infiltrating the displaced civilian populations. U.N. officials, including the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, urged the government to screen the displaced, to separate out the militants and to allow the rest of the internally displaced freedom to move and locate their relatives. But so far, only a few elderly people among the 250,000 people displaced from the Vanni have been allowed to leave. Access to the camps by independent observers and humanitarian agencies is as limited as it was during the fighting. In fact, the government has



Time to rebuild Sri Lanka. Photo: U.S.G.S.

forced some NGOs to leave by refusing to renew their visas. Some charge that the government limits access to prevent reports on the extent of suffering in the Vanni during its final assault, citing the case of three Sri Lankan doctors who were arrested for reporting on casualty figures in hospitals where they were working during the bombardment.

While the humanitarian issues in the Vanni are many and urgent, they are far from the only humanitarian challenges facing the country. In fact, Sri Lanka has a long history of restricting the operations of aid agencies and many humanitarian workers have been killed in recent years. In addition, the newly displaced half a million people from the Vanni add to the 500,000 or so who had been displaced, often multiple times, before this latest offensive. While most of the 170,000 or so displaced in the eastern part of the country have returned to their communities, they still face major problems of security, conflict and tension among different groups. The government has announced that the newly displaced will be returned to their communities in the next six months. But there are questions about the clearance of landmines and unexploded ordnance that dot the Vanni and will affect the ability of the displaced to return. And for those who have been displaced for longer periods of time, there are questions about whether solutions can be found to the layers of property disputes which are the result of decades of displacement. The U.N. Guiding Principles on Internal Displacement, based on binding international law, state

that the onus of providing assistance and protection of the internally displaced persons lies with the national authorities. While the international community can assist, it is the government which is responsible for creating conditions for the displaced to find durable solutions.

Sri Lanka also raises questions about transitional justice. Many human rights groups and others have called for investigations into possible violations of international humanitarian law by the government and by the LTTE. For its part, the Sri Lankan government managed to fend off these calls during a recent special session of the U.N. Human Rights Council. However, the issues of accountability, justice and reconciliation remain. Can the government demonstrate a new spirit of reconciliation in responding to the concerns and grievances of the country's Tamil minority with concrete actions? What role will the million-strong Sri Lankan diaspora play in the months and years ahead? Will the diaspora invest in projects of peacebuilding or will it seek other means of continuing the struggle for Tamil autonomy?

Sri Lanka's military victory and the ending of the country's quarter-century civil war is an important watershed. But there is a risk that the gains on the battlefield could be undermined unless there is serious attention to upholding the human rights of civilians affected by the conflict, finding durable solutions to those displaced by violence and ultimately by addressing the country's need for reconciliation. ■

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Winging It

The Importance of Aviation to Stability Operations and the Dangers of Ignoring It



Photo: Martine Perret/UN

It is surprising how little attention is paid to ensuring adequate air support for peacekeeping and similar operations. It is difficult to think of even a single mission that has enjoyed good quality – or even adequate – air support.

That may be fine for straightforward peacekeeping in a benign environment, when little more is required than the initial deployment, some routine liaison, trooping and supply flights, and the occasional medical evacuation. However, it is insufficient for situations that hold any real risk of deteriorating. This is particularly true when force densities are low and when the theater is one of rough terrain and few roads, as they so often are.

Airpower is well understood as a potent and flexible force multiplier in war, including low-intensity warfare, which has much in common at the tactical and technical levels with peace enforcement and stabilization operations. It is potentially as valuable in peace support, not least because it allows combat power – and logistical efforts – to be quickly focused and refocused as a situation develops. That makes possible the quick response that can prevent a minor hiccup from developing into a major problem. Unfortunately, however, there is a

continued reluctance to commit sufficient air assets to peace support operations.

In many cases peacekeeping forces will find little or no local transport infrastructure in the theater; they will also find that air transport is the only practical means of moving and sustaining force elements. D.R. Congo is an extreme example, with less than 3,000 km of tar roads in a country of 2.3 million km². Worse, gravel roads are often “roads” in name only; not all the infrastructure that supposedly exists, (such as bridges), actually exists in a useable state. The forces allocated for peace support operations are also almost always small in number relative to their task, making rapid deployment and rapid operational and tactical maneuver essential. But inadequate transport infrastructure will make rapid deployment on arrival difficult to achieve, will complicate operational redeployment and tactical maneuver, and will render convoys vulnerable to ambush.

Adequate fixed and rotary wing airlift can be the difference between success and protracted stalemate or even failure. As a case in point, the South African battalion serving with U.N. Mission in D.R. Congo (MONUC) had to use a Mil Mi-26 helicopter to move its Casspir mine-

protected Armored Personnel Carriers from Kindu to Goma. Two bridges existed only on maps and Goma’s runway was still closed by lava. Only a single Mi-26 was available.

Other MONUC operations have also often been hampered by the lack of sufficient helicopters to move troops quickly to where they are needed, and to keep them supplied once deployed. The UNAMID in Darfur has been similarly hampered in its operations by the lack of trooping helicopters that would allow a quick response to an attack on local civilians or even its own deployed elements, such as in the slow response to the attack on a Nigerian-manned company base in October 2007.

Emergency evacuations of force elements may sometimes be necessary and will also often only be practicable by air. One example was the Tanzanian Army battalion and training team at Kamina in D.R. Congo in 1998. When the war reignited and rebel forces were thought to be nearing Kamina, it became necessary to evacuate the Tanzanians. The only way to do that was by air. The South African Air Force was able to use a Boeing 707 and C-130s to carry out the evacuation.

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Intelligence, surveillance and reconnaissance are critical to an effective peace support operation. If the peacekeepers do not know where the protagonists are and what they are doing, they cannot do their job effectively. Beyond that obvious requirement, it will often also be necessary to establish what transport infrastructure actually exists – for instance bridges that may be marked on a map may never have actually been built – and to keep an eye on population movements, both as a potential ‘battle indicator’ and to facilitate effective relief work.

Aerial surveillance and reconnaissance can be extremely effective for building up and maintaining the tactical picture, particularly given the reality of low force densities. Only aircraft can effectively and safely monitor remote border crossings, border lakes, major trunk roads in underpopulated areas and river transport routes. Surveillance aircraft can also gather valuable intelligence by, for instance, monitoring potentially vulnerable areas. Experienced crews will be able to tell whether there has been a change in the local routine that might indicate the activities of ‘spoilers.’

In peace enforcement, reconnaissance and surveillance aircraft will be crucial to the ‘find’ part of ‘find, fix and finish.’ Given the usual low force densities, they offer the best chance of finding and keeping track of hostile forces until ground forces can engage. Then they will be invaluable in monitoring the situation as it develops, particularly in difficult terrain, and in

tracking elements that might disengage. The French, for example, used Mirage F-1R reconnaissance aircraft effectively to find and keep track of a 400-vehicle rebel force that entered Chad from Sudan. That enabled Chad’s small armed forces to focus their efforts and stop the incursion. Previous raids had penetrated, effectively undetected and quite unhindered, as far as N’djamena, 700 km from the Sudanese border.

Such missions do not necessarily require sophisticated aircraft or sensors. In most cases relatively simple aircraft, such as a King Air or Pilatus PC-12, will be quite sufficient. In some situations visual reconnaissance alone will suffice, with the experienced judgment of the aircrew being the key. At the other end of the scale are the French Mirages in Chad, or the British Nimrod and American PC-3 Orion maritime patrol aircraft being employed in Afghanistan. Unmanned Aerial Vehicles (UAVs) also hold potential, with medium endurance systems being used for surveillance and tactical UAVs for battle management and patrol and convoy support. A UAV that a patrol or convoy can take along and launch immediately, would be worth far more to the troops than a reconnaissance aircraft based an hour or so away.

The idea of combat operations in a peace support context is anathema to many in the diplomatic and political worlds, but combat operations will sometimes be necessary. The Indian Mil Mi-24s in the eastern DRC, for instance, have provided valuable close air support for the troops

operating against militias and rebels, and the Nigerian Air Force used its Alpha Jet ground attack aircraft to support the ground forces during the initial operations to stabilize Liberia and Sierra Leone. There is also, of course, the example of air operations in the Balkans and there have been calls for a ‘deny flight’ operation to prevent the Sudanese Air Force from bombing villages in Darfur.

By the very nature of things, many ‘spoilers’ will tend to base themselves and even to operate in areas far from main centers. That not only makes them difficult to find, it also presents deployment and sustainment challenges to stabilization forces – even for supporting aviation elements. In many cases there will be few conveniently located airfields, and those will often be badly maintained and lack much of the expected infrastructure. It will often also be difficult to support operations from those remote airfields: fuel can be difficult to deliver and all too easily contaminated, generators must be brought in to provide reliable power, safe water can be a problem, and there may be no local source of even the most common items, such as ordinary flashlight batteries. The airbase at Kamina in the D.R. Congo is an example, with the nearest population center a small village that has very little to offer in the way of supplies.

A peace enforcement operation will bring the additional risk of opposing forces being in possession of shoulder-launched anti-aircraft missiles and heavy machine-guns. The latter can be lethal if placed to cover a runway. In addition, runways and taxiways can be mined or blocked by vehicles, rubble, or trenches. And, of course, airfields can be mortared or rocketed without undue difficulty.

Peace support operations are military operations often conducted under very difficult circumstances, usually with inadequate forces and in difficult terrain. The flexibility that airpower can bring to such an operation can make a crucial difference to whether it will succeed at all, and to how quickly effective results can be achieved. ■



Impassable roads make air capabilities a necessity. Photo: Helmoed Römer Heitman

Humanitarian Aviation

A Key Component of Humanitarian Assistance



Aircraft are critical for humanitarian aid to reach remote areas. Photo NOAA

GAINING access to the world's most difficult places to relieve the suffering of millions is never an easy feat. Natural disasters, extreme weather, war. Antagonistic and thoroughly corrupted governments in countries without rule of law and with little or no infrastructure. Youths with Kalashnikov assault rifles. These are but a few of the challenges aid workers face in doing their daily lifesaving work. One of the critical elements of increasing access to these, the most inhospitable and hostile areas of the world, is what is usually referred to as humanitarian aviation.

Historically, aviation support in the aid industry is the resource of last resort. Logisticians are left to frantically search and procure aircraft with the clock ticking and people dying. Aviation support has thus far not featured in the strategic approach to relief and development as it is largely considered an expensive luxury and a 'necessary evil.' The lack of coordination between donors, host governments, aid agencies and contractors engaged in similar activities only compounds the difficulties related to procuring and managing cost effective and efficient aviation resources.

Enter what is widely known as humanitar-

ian aviation. This seemingly simple and uncomplicated phrase conjures a host of interesting, and sometimes conflicting, definitions and interpretations, from an "Out of Africa" style romance, to images of starving children, from superhero pilots to unscrupulous villains. The concept of humanitarian aviation is an increasingly overused and largely misunderstood phenomenon that is interpreted as widely as the situation might require. Most recently, an upsurge in commercial air operators, some more questionable than others, are increasingly claiming to provide "humanitarian air service." Operators whose total experience within the arena of providing humanitarian aid probably reaches no further than what they might have seen on the poignant World Vision appeal on public television are the very same operators that happily transport anything from gold to guns to golf clubs. The line between providing humanitarian air support and participating in illicit trade becomes irrevocably blurred with the aid agencies and humanitarian workers who use these services often drawing the short end of the stick.

There was a 92 percent increase in the number of violent attacks against aid workers from 1997 to 2005 and with the

ever-increasing dilemma faced by non-governmental agencies (NGOs) and aid workers to maintain neutrality, these lines can ill afford to be blurred.

Any organization claiming to be engaged in international relief and development, whether it be humanitarian air service or any other aid related activity, should perhaps go back to the definition of these two distinguishable but intrinsically related concepts before professing its humanitarian nature. Humanitarian aid is loosely defined as material or logistical assistance provided for humanitarian purposes, typically in response to humanitarian crises. The primary objective of humanitarian aid is to save lives, alleviate suffering, and maintain human dignity. International development, however, seeks to implement long-term solutions to problems by helping developing countries create the necessary capacity to provide sustainable solutions to their problems. A truly sustainable development project is one which will be able to carry on indefinitely with no further international involvement or support, whether it be financial or otherwise.

When researching humanitarian aviation



Photo: Martine Perret/UN

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providers, whether it be via the internet or any other source, the question that should be asked of these providers is the following: aside from playing a part in increasing access to the vulnerable through transporting the occasional load of aid workers or supplies, where and how do they directly alleviate human suffering or maintain human dignity, especially if gun running and mineral smuggling is the very source of this human suffering?

There are a few truly humanitarian aviation providers. They include Mission Aviation Fellowship, Aviation Sans Frontieres and Aim Air (African Inland Mission). These organizations immerse themselves in the sustainable support and development of areas hit hardest by natural or manmade disasters. Their staff are dedicated to their mission and the organization remains engaged in the same community over the course of several years. Unfortunately, their scope and size are fairly limited and on their own, they face severe limitations in shaping the

overall trend of humanitarian aviation.

Considering that the international relief and development industry is now the eighth largest in the world, it is very problematic that there is not a single industry leader that provides a sustainable solution to the ever increasing problem of humanitarian access. No neutral authority exists to which donors and aid agencies alike can turn for unbiased counsel on sourcing aircraft and aviation services; nor is there any internationally accepted resource for implementing or monitoring a code of conduct or operational standards in humanitarian aviation specifically. The lack of organized air logistics leaves the entire aid and donor community extremely vulnerable, not to mention the people they aim to serve.

In a perfect world, all of the various sectors involved in international relief and development would relax their insistence on following a fractured approach to the funding and implementation of foreign aid to increase access and efficiency exponentially. Theoretically, industry

leaders in the private, government donor, non-profit aid agency, and aviation sectors could utilize their combined knowledge and resources in finding that elusive and cost effective solution to the problem of humanitarian access and sustainable development in aviation. Unfortunately, as long as the trend follows a reactive and fractured approach, rather than a proactive and more cohesive one, finding a better solution to the problem will remain a pipe dream.

Looking at the bright side, the ever increasing spotlight that is being shone on international aviation safety has galvanized several international regulatory authorities into action. Africa's aviation record is among the worst in the world, with about 12 accidents for every 1 million departures, compared with a world average of 1.16 accidents for every 1 million departures. Internationally recognized authorities, such as the U.S. Federal Aviation Administration and the International Civil Aviation Authority, are taking steps towards elevating the standard of aviation in the developing world, most prominently in the African continent. Specifically, these groups are focusing on the areas of air traffic control, crew training, airport security, improved navigational aids and a few others. How the challenges of implementing first world, scheduled aviation principles into the chaos and unpredictability of the developing world are to be overcome still remains to be seen.

One could lament about the challenges of humanitarian access and the role aviation plays for many a page, but there is one very bright lining to the gray cloud of woe. There are a group of people that are truly the unsung and underappreciated heroes of the humanitarian effort worldwide, brave souls that risk life and limb on a daily basis, facing the extreme elements as well as hostility both on the ground and in the air. These are the men and woman who perform their duties as air crew with honor and pride, in the most challenging of operations, some losing their lives in doing so; they are the true heart of humanitarian aviation. ■

Tom Culbert

Destination: Africa

Key Issues Involved with Traversing Africa by Air



Finnish troops in search of the arrivals hall, Namibia. Photo: Milton Grant/UN

S EVEN decades ago, airports across Africa served as main operating bases along what was then considered to be, "... the busiest and most important air-route in the world." Africa proved to be the vital link through which thousands of military aircraft passed, destined for the Allied war effort in World War II. The aviation infrastructure, established by the Allies in Africa, was critical to the successes taking place on the battlefields in North Africa, Western Europe, and Asia as aircraft and vital supplies were airlifted to the combat fronts.

Times have changed and the world's main air routes have drifted away from Africa. Much of this was due to the continent's inability to support route development and its unwillingness to make the financial commitment to support and to sustain the infrastructure needed by the aviation industry. This has resulted in the general decay of the African aviation infrastructure and the demise of most good airlift services. This fact has had a direct, mostly negative, impact on the many companies operating on the continent and in particular those companies that need reliable, cost-effective, and safe air transportation to complete their work.

Air travel in Africa must be considered to be an "essential service", as roads, water, and rail systems are inadequate or non-existent in many parts of the continent. Today, the commercial airlift sector in Africa is underdeveloped and underserved by the world's major air carriers, regional carriers, and local contractors alike. Where there is service available, it predominately serves the north-south routes in Africa. One is hard pressed to find convenient passenger or cargo services on any "east-west" route.

Many African States have begun to institute structural changes to their aviation regulatory environment in an attempt to fix these problems. Africans are making a serious effort to ensure that their aviation industry is more competitive in the private sector marketplace of international and continental air travel.

The international community has promised to help. The International Civil Aviation Organization, the European Aviation Safety Association, and the U.S. Department of Transportation, Federal Aviation Administration and Air Force, along with regional organizations like Agency for the Safety of Aerial Navigation in Africa, East African Community, and the Southern Africa Development

Community have all shown interest in assisting the nations of Africa in improving their aviation infrastructure. Thus, there is hope that the airlift industry in Africa will emerge as a viable contributor to the economies on the continent, and at the same time, allow today's business owners and operators to enjoy the types of air services that they need in order to support their operations in Africa.

Until these services reach world-class standards, the companies operating in Africa are left with two basic choices when it comes to securing airlift support: they can contract out for the support, or they can develop their own in-house flight support. Both of these options are replete with numerous opportunities and pitfalls.

When considering an airlift contract support arrangement, there are many options and variables that must be taken into account. At first glance, one of the more attractive options is the Aircraft, Crew, Maintenance and Insurance, or ACMI, agreement. It normally covers a particular number of flight hours figured on a monthly basis, a particular aircraft type, and a set dollar amount for the contracted support. Of course, there are differing versions of this type of agree-

ment that can be applied. The most critical variables that must be considered in an ACMI type of agreement are the competency and reliability of the contractor. In Africa this can be problematic. Africa has recently seen its share of “fly-by-night” airlift contract operators, using poorly trained crews and substandard aircraft (mostly from eastern Europe). The situation has become so serious that several African nations have attempted to limit, or even prohibit older and poorly-maintained aircraft from their airspace.

follow flight activities and to ensure that the airlift operations are supporting all aspects of the business’s mission.

In the African environment, where airlift capability is a significant business tool, a company is likely to see major changes in their basic airlift mission evolve over time. These changes can easily be integrated into the tasks being supported by the aviation department. The aircraft provide the company with a flexible business tool that can be used to satisfy short-term, frequently changing requirements that may not have been envisioned when the flight operation was started.

an extremely important consideration, with terrain and environment ranging from sandy deserts to muddy jungles. Does the aircraft need balloon tires? Will a high or low wing affect the ground operation or loading of cargo? Does the aircraft need a cargo door? What type of navigational and communications equipment should be installed?

The importance of reliable, cost-effective, and safe air transportation in Africa cannot be overstated. Numerous recent crashes highlight the precarious situation that exists in the aviation community on the continent. While steps are being taken



Quite an oddity at the time. A UN flight by Douglas DC-3 to Burundi in 1962. Photo: UN

On the positive side, an ACMI agreement can result in initiating airlift operations in a relatively short period of time. And with a good contractor, the provided airlift support can be reliable and safe. It also frees the company’s senior staff to concentrate on running their core business and not being overly concerned by the day-to-day airlift operation.

Establishing, and then using, an in-house corporate aviation department is not an easy task. But, it does enable the company’s leadership to exercise complete and direct control over the airlift operations. The aviation department of the company becomes responsible for the organization, management, policies and procedures, training, and aircraft procurement for the company.

The corporate flight department enables the company leadership to more closely

In Africa, having this direct and immediate control over aviation assets helps to ensure that the company maintains its lead over the competition.

No matter which type of flight support management format (contract or in-house) the company decides to use, the most important decisions to be made are to clearly identify what the core mission will be, and then what type and how many aircraft are needed to accomplish that mission. Again, there are many competing issues and requirements at play in making these decisions. Some of these include — but are not limited to — the type of aircraft, its performance, the type of airports to be used, the crew required and the cost.

The last, but not least, question is to identify the environment in which the flights will be conducted. In Africa this is

to fix the problems in the airlift sector, companies that need airlift support are left with an unreliable and sometimes unsafe mode of transportation. A mode of transportation that should be available to its users as an “essential service” is now relegated to being considered as a “questionable service” at best.

Until Africans, with the help of the international community, find ways to fix their aviation regulatory and infrastructure system, companies operating in Africa will have to find their own “best way” to identify and engage the airlift services that they need. Their decision will be whether to contract out their airlift requirements to a reliable contractor or to establish their own in-house flight department. There will be no quick fix to the issues facing the airlift industry on a continent the size of Africa. ■

Landing the Best Solution

One Size Doesn't Fit All in Aviation Support



Catering is not necessary on this flight. Photo: Evergreen International

THE sun comes up over a hilly expanse in Eastern Africa, and the morning silence is punctuated by the familiar thump-thump sound of a helicopter rotor. The craft flies far above the terrain, quickly moving its three passengers to their destination for a crucial meeting. This is modern peacekeeping in action and the ability to communicate and meet face-to-face in challenging terrain is one of the key benefits of aviation and vertical lift. However, in this case, and many just like it, the aircraft is designed to transport up to 20 passengers and is mostly empty. Unfortunately, this is a common element of aviation usage in modern peacekeeping: over-purchasing of capacity leading to wasted funds. Stories about a lack of helicopters are prevalent, but less discussed is the lack of matching the machine to the mission.

Current aviation procurement practices in peacekeeping and many government and NGO circles continue to follow an old model of “purchase more than you need, as budgets may dry up,” along with an all too common approach of buying “what you know.” The above example of utilizing a heavy lift aircraft to move three passengers is repeated day-in and day-out throughout the world, primarily due to

the specifications becoming overly familiar and repeated just by rote, something that could be remedied by the inclusion of aviation vendors in the planning of procurement. More often, an aircraft is specified and vendors provide it as requested, a situation which works well if contract buyers are aviation specialists. Often, however, this is not true. Buyer's remorse is common as an aircraft sits on the tarmac, downed again due to known supply chain challenges and a lack of maintenance parts.

Early engagement with the industry can assist in clearly defining the overall mission requirements for aircraft, rather than worrying about exactly what type of aircraft is needed. This approach can bring industry best-practices and new and innovative approaches to the aviation requirements of the mission. A more interactive and inclusive planning process can typically assist in avoiding a one-size-fits-all approach which results in wasted capacity, overly expensive lift, and reduced specificity and capability of assets.

In extreme cases, a client may request specifications which simply do not exist in any aircraft. While a well-intentioned client seeks to bring together the best

elements of multiple aircraft, often that configuration has never been assembled or tested for airworthiness, and is either a chimera or ‘Frankenstein’ specification.

The approval process for U.S. aviation companies to alter an aircraft is governed by the FAA, and by specific country and international conventions for non-U.S. companies. In essence, the timeframe for certification of airworthiness for equipment changes is often longer than a client is willing to wait. Choosing a desired specification (range, flight ceiling, cargo load), while desirable, usually forces compromises on other elements and can result in a less than desirable situation. It fits the old balloon analogy: if you squeeze it in one place, it affects all other parts. In aviation, as with most things, everything is a tradeoff and all decisions impact other variables, be it cost, repair cycle or safety.

Solution development rather than just the offering of an aircraft is central to companies like Evergreen Aviation. Aircraft configuration changes and environmental concerns significantly affect the operating performance of an aircraft, and working with the aviation vendor is the best way to mitigate such

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risk. For example, the amount of weight a helicopter can carry is significantly different in hot and cold climates, due to air density. The aviation industry uses the term “hot and high” to identify the most difficult operating conditions for a helicopter, and the performance is very different from one airframe to another. In this situation, weight is the enemy and clients asking for additional capacity do not realize that performance will suffer. Every aircraft performs differently, even exhibiting performance changes between altitudes and temperatures. This type of understanding is crucial to solution development for lift requirements, and a modern and advanced aviation partner will seek to work with the mission planners to bring the most capable and greatest value option to the table.

Imagine a scenario where a client has the following aviation mission: frequent transportation of up to five passengers; frequent transportation of a few thousand kilos of cargo and five passengers; occasional transport of 12 passengers; and occasional aerial verification of agriculture, livestock or security. In many cases, the client would ask for a large helicopter, as it can easily fulfill all of the requirements. But, the mission would have far more aircraft than they really need, akin to having a semi-truck when you usually just go to the grocery store. Additionally, we cannot overlook the financial cost of the extra fuel and the inherent risk of transporting and maintaining that fuel. Utilization of less fuel will require less resupply runs and less logistic support.

A more cost-effective solution would be for the aviation provider to offer a mix of aircraft to meet flexible mission requirements, substituting less expensive and more mission-focused aircraft for the large, and relatively expensive helicopter which is rarely used to its full potential. This scenario could be serviced by a small helicopter, a Short Take-Off and Landing (STOL) airplane and occasional Unmanned Aerial Vehicle (UAV) assets.

This combination could easily meet the



A manned aerial vehicle. Photo: Evergreen International Aviation

mission requirements, and when structured properly, would be a less expensive option with the additional benefit of redundancy of aircraft under contract.

An example of potential cost savings is supplementing a STOL airplane for a large helicopter. This is an effective solution to transport a larger number of passengers and cargo, and can typically fly longer, faster and less expensively than a large helicopter. A modern STOL aircraft has the capability to take off and land in unimproved areas and dirt strips. While this is not new for the old-school, smaller airplane bush pilots, a growing number of larger aircraft have the same capability to bring critical cargo and personnel to unimproved areas.

Utilization of oversized tires, in addition to the designed STOL capabilities, allows many 15+ passenger aircraft to service underdeveloped areas utilizing fields, roads and the like as landing sites. Popular aircraft fulfilling this need are the passenger and cargo equipped CASA-212, and the passenger Cessna Caravan and Twin Otter. In general, the operating costs for these aircraft can be a quarter of that of large helicopters, and the purchase cost is a fraction.

Additionally, good planning for aerial surveillance allows for the just-in-time deployment of mission-specific civilian UAVs to the area of operations. Many of today's UAVs are do not require runways of any type – allowing for their use in the field with minimal site preparation.

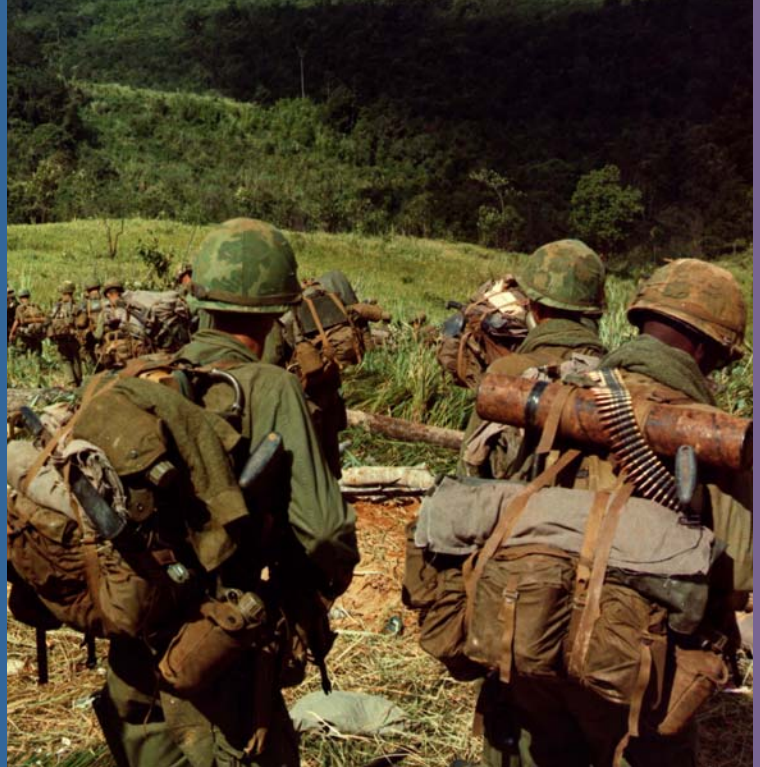
Shipment sizes can be as small as a number of 10' x 3' x 3' containers, containing the aircraft, launch and retrieval equipment and spare parts, allowing for easy shipment and rapid deployment. As an example, Evergreen Aviation is currently utilizing these systems off the coast of Somalia tracking maritime activity as well as in Alaska tracking whales: two extremely different environmental situations and a real testament to the progress of UAV capabilities over the past decade.

The ability to bring easily-transportable UAV assets to the mission for a period and then to demobilize them provides huge cost savings over the use of a helicopter or an airplane. Utilizing UAVs for aerial surveillance is usually the lowest cost solution, and provides the added benefit of ease of mobilization and demobilization – something which is not the case with manned airplanes and helicopters.

In general, the face of civilian aviation continues to change, and the options are greater than ever before. Modern aviation partners are able to bring a broad range of solutions to the table, including manned and unmanned systems, as well as large and small aircraft. But their greatest service to customers is helping to plan the most intelligent mixture of assets so as to provide the greatest value to the mission. *Caveat emptor* the customer who is sold on a single way or aircraft to achieve a mission; often a stronger approach is to match the machine to the mission. ■

Contracting from Vietnam to Sierra Leone

An Interview with Allen Shay



From Vietnam... Photo: U.S. Army

A LLEN E. Shay served as Chairman & CEO of PAE from 1995 through 2006. PAE, founded in 1955, provided facilities operations and maintenance, logistics, construction and related support services primarily to the Department of Defense, State Department, United Nations and foreign military. PAE was acquired by Lockheed Martin Corporation in 2006. At the time of the sale, PAE operated in 30 countries, many of which were conflict areas, and employed over 6,000 people, the majority of whom were Host Country and Third Country Nationals.

JIPO: What strengths and weaknesses did you see the private sector bringing to United States operations in Vietnam?

Allen Shay: Use of private contractors in Vietnam served several important objectives for the U.S. government. By relieving troops of the responsibility to perform construction, operations and maintenance, logistics and similar support services, military personnel were freed to serve in combat and in other roles for which only they were trained. Private contractors also enabled the mission to place personnel with a wide range of special skills into the field rapidly and without prior training by the military.

Contractors and their personnel served in the field for longer periods than typical of military personnel resulting in greater stability and quality of work. In addition, the private sector was able to provide such support services cost-effectively through the use of lower salaried, third country nationals (TCNs) and host country nationals (HCNs). Therefore, use

of private contractors provided an effective means to allow for elasticity of resources to supplement efficiently the capabilities and capacity of our military. I suspect an additional factor for use of the private sector in Vietnam was that it helped satisfy certain political considerations to keep troop head counts lower than the total effort required for the conflict.

Those who are opposed to outsourcing often argue that a disadvantage to the use of the private sector, especially in conflict situations, is that the military does not have as much control over civilian contractors as they do over direct hire or military personnel. Admittedly, there exists an inherent tension in contracted services – that was not unique to Vietnam – because of the number of different parties involved in the process, each with their particular objectives and requirements: Commanders want certain things to happen immediately; various supported end-users want specific services; the contracting, or legal authorities, want to

ensure that the proper procedures and reporting lines are in place; and funds must be sourced and committed. Sometimes, there is tension getting all of these elements in line, and it can also be time-consuming, but proactive coordination can usually overcome such challenges.

More recently, issues in Iraq and Afghanistan have added to this tension as additional debate has focused on questions regarding the extent to which civilian personnel would and should be required to stay in harm's way, as well as appropriate consequences for contractor personnel and their employers for misconduct during performance of services. I believe, however, the track record of contractors as a whole demonstrates a clear commitment to provide services, and conscientiously so, even in the face of battle.

JIPO: PAE operated with minimal overhead by maintaining a small Western

staff and relying heavily on the use of HCNs. Considering PAE's experience, what would you consider a good business model for a logistics contracting firm to be?

Allen Shay: For a number of years, PAE operated under what we referred to as “controlled decentralization”; it is nearly impossible to manage with a “6,000 mile screwdriver” when operating in a contingency response environment. We therefore operated with broad but clearly established processes and procedures, and by delegating a lot of authority to the on-the-ground program manager, and by having the program manager in turn delegating to his or her direct reports and on down the line. This “controlled decentralization” is important because contingency response requires agility, resourcefulness, flexibility and rapid response.

Additionally, we found that employing as many HCNs as possible with a supervisory staff of TCNs and a Western managerial staff to be the most effective model from a performance perspective. Employing the right people allows for the delegation required to effectively and efficiently meet mission requirements.

The employment of HCNs and TCNs also allowed PAE to be as local in color and characteristics as possible; we strove to minimize our “American” footprint to better fit in wherever we operated and to be as cost-effective as possible. Minimizing the “outsider” image made us more welcome in the countries in which we were operating, and that, in turn, improved security for our personnel. Furthermore, it allowed training of HCNs to occur in what most often were conflict-ridden areas where nation-building was most required.

JIPO: Did you see any differences in accountability and oversight when working for the United States versus the United Nations?

Allen Shay: The U.S. has been outsourcing for many years and outsourcing has

generally been accepted as a common, if not necessary, practice. As a result, the U.S. has a highly evolved legal and regulatory structure that provides the parties with a clear roadmap for bidding, negotiating, interpreting and performing contracts. These regulations are codified in the voluminous Federal Acquisition Regulations and supplemented by additional regulations promulgated by each federal agency. Further, each contracting agency of the U.S. government maintains a trained corps of contracting personnel.

By contrast, the United Nations has only recently begun the outsourcing of significant service functions. It does not have a sophisticated legal and regulatory structure. The United Nations has not developed an extensive a body of regulations pertaining to contracted services and contract administration tends to be more dependent upon the individuals assigned to provide contract oversight. Therefore, contracting with the United Nations is less consistent and less predictable than with the United States. Moreover, international politics and a bureaucratic culture inhibit decision making. Finally, a fundamental disagreement between the New York headquarters and personnel in the field as to the desirability of using contractors creates constant conflict in which the contractor is caught in the middle.

JIPO: Did you see any differences between the U.S. and the United Nations in terms of contract acquisition policies?

Allen Shay: Conceptually, perhaps the most significant difference in contract acquisition policies between the United States and the United Nations is that the United Nations looks to the contributing member countries to provide for as much capability and capacity as they can offer collectively. Any resulting gaps are then considered for outsourcing to the private sector. Therefore, other than food-services, which is commonly anticipated at the start of any mission, the United Nations, and consequently private sector contractors, do not know what specific support requirements will be needed until

contributing member countries volunteer their military capabilities. And such support requirements may change during the course of a mission as there are changes in the contributing member countries or their military profiles. Another significant difference, as I mentioned earlier, is that outsourcing is more commonly accepted in the United States than in other countries and the United Nations, as a very international organization, reflects the disparate views on outsourcing in general.

In regards to general trends in contracting, the United States has been trying to move towards performance-based contracting, where the acquisition process dictates outcomes as opposed to specifying the details of how things are to be done in an effort to allow commercial best practices; however, even within the U.S. government, this move towards performance-based contracting is at different levels of implementation.

For example, the State Department is currently largely performance-based, while the Department of Defense (DoD) is experiencing challenges moving towards more performance-based contracting because its contracts still tend to require compliance with numerous well established technical specifications. With the United Nations, newer contracts tend to be more like performance-based contracting, while more mature contracts that have been completed multiple times tend to become very detailed in regards to specifications and unit pricing.

Another general trend of both the United States and the United Nations is towards more firm-fixed price contracts. This has both advantages and disadvantages. Cost-reimbursable contracts are more sophisticated and therefore more difficult and expensive to administer. They also tend to draw negative media attention when alleged overruns occur, which in turn feeds Congressional and other oversight interest and inquiry as to why these perceived overruns occur. Although the trend towards firm-fixed price contracts might seem like the solution, use of these contracts exclusively runs the risk of

limiting the flexibility required especially in contingency response contracts, thereby impairing the contractor's ability to meet continuously changing mission requirements and, ultimately, the supported activities' ability to receive responsive support.

JIPO: From your experiences operating in Africa, do you have any recommendations for the improvement of coordination between private sector actors in the field and other relevant actors? How can the inherent tension between private sector firms and their clients in stability operations be managed?

Allen Shay: Effective contracting requires balancing the requirements of a number of different parties. The com-

by-case basis. Getting all of these different elements to come together quickly, especially in a contingency operation, sometimes takes time; this is not necessarily the fault of any one agency or group, but it does create challenges for contingency contractors who are required to be agile, flexible, and able to respond rapidly.

JIPO: How do you see industry consolidation and the increasing trend towards conglomerations affecting the stability operations industry?

Allen Shay: Each contingency, or stability, operation is unique and continuously evolving. Successful stability operations require flexibility, agility, rapid response, and resourcefulness in challeng-

Allen Shay: I do think that there is a tremendous amount of capability that private sector companies can offer, and I think the key is how comfortable an agency or institution is with outsourcing. As I alluded to earlier, the United Nations is an international organization comprised of members with differing ideologies, values and ethics, and with very different experiences forming their individual views of the advantages and disadvantages of outsourcing. The United Nations is, however, increasingly using militaries from developing nations to fulfill the requirements of peacekeeping operations.

As we see a trend of militaries from developed countries putting less boots on the ground in peacekeeping operations, we are also seeing a trend towards the



...to Sierra Leone. Photo: Eric Kanalstein/UN

mand-side wants certain operational responses; the audit-side requires specific formats, forms and records; the contracting-side wants compliance with all the applicable U.S. rules and regulations; customer budgets and timely funding of contracts frequently present challenges.

Operating overseas often involves other elements of the U.S. government, such as the Treasury Department and the State Department, which impose their own licensing and clearance procedures, and the contractor must comply with the laws and regulations of the host country. Foreign operations in areas where the United States and its support elements are not universally welcome present further difficulties. How much of all this coordination is necessary varies on a case-

ing, and often austere and hostile, environments. Organizations able to demonstrate these attributes in a cost-effective manner will succeed. The stability operations industry requires an entrepreneurial business environment. Large companies that acquire smaller firms must be able to maintain these characteristics. Thus, the question is really, "Can larger organizations that tend to be more policy- and procedurally-driven maintain agility and flexibility while remaining comfortable managing by 'controlled decentralization' or an equivalent business model?"

JIPO: What are some gaps in current United Nations and regional peacekeeping operations that the stability operations industry could fill?

deployment of militaries in peacekeeping operations that do not have the organic capabilities to sustain themselves effectively. This creates a greater need for private sector companies to fill in and supplement these internal capabilities.

The need to fill in gaps in logistical sustainability is further compounded as the United States increasingly supports the idea that countries from within regions should be responsible for looking after their own region. This has led to an increase in the use of militaries from developing countries, which also translates into a greater need for a private sector that can efficiently and cost-effectively shore up these militaries' capabilities. ■



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A young child with dark skin is walking from left to right across a dry, dusty landscape. The child is wearing a bright yellow headscarf with a floral pattern in shades of red and orange. They are also wearing a white, patterned dress with some reddish-brown stains. The child's expression is neutral as they look slightly ahead. In the background, there are some white plastic bags or debris on the ground, suggesting a rural or impoverished setting. The overall lighting is bright, casting soft shadows on the ground.

EVERY

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The logo for Mission Essential Personnel features a stylized graphic of two curved lines, one black and one red, that sweep upwards and to the right, resembling a checkmark or a dynamic motion line.

MISSION ESSENTIAL
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Katrina Mason

UK Pursues Self-Regulation Over Licensing

Foreign & Commonwealth Office Releases Public Consultation Document



Photo: U.K. FCO

IN April, the British Foreign & Commonwealth Office (FCO) released a public consultation document, *Impact Assessment and Promoting High Standards of Conduct by Private Military and Security Companies Internationally*, which represents a dramatic shift in the UK's stance on the regulation of contractors.

The consultation is a response to the 2002 Green Paper, *Private Military Companies: Options for Regulation*, which concluded that licensing by the government of approved contractors was the best option for UK regulation. However, this option has many recognized downfalls, including the lack of enforceability due to the fact that private security companies mainly operate outside of British jurisdiction.

This new consultation presents an option for regulation that is based on a level of self-enforcement by an independent industry body as well as international implementation standards. It would be enforced through the promotion of a trade association and governmental monitoring, requiring *a priori* certification and a three-year review cycle. The goal would be to increase oversight, accountability and transparency outside of British jurisdiction. Since contracts are awarded mainly based upon reputation, this self-

regulation option is seen as the best to address any violations and enforce adherence to international standards.

The industry will benefit from the £75 million decrease in annual fees that would otherwise have been paid through licensing, as well as from the flexibility to implement international standards within their companies in the way they see fit. Moreover, the incentive to maintain and improve one's reputation will create a level of competition and improved quality of service by firms in the industry as they try to win the best contracts in the international arena.

The government has the opportunity to save around £45 million with this self-regulation option. This will also take the majority of organizational and enforcement responsibilities away from the government and transfer them to the trade associations. While there will still be an inspection of contracting companies every three years, monitored by the trade association and the government, the government will only actually step in during extreme circumstances. Furthermore, because the international standards were set by the UK with the help of outside organizations, there is a high likelihood that there will be increased

voluntary utilization of the code as well as an increased likelihood that contractors will not evade British jurisdiction despite the fact that they are being held to stricter standards than those held internationally.

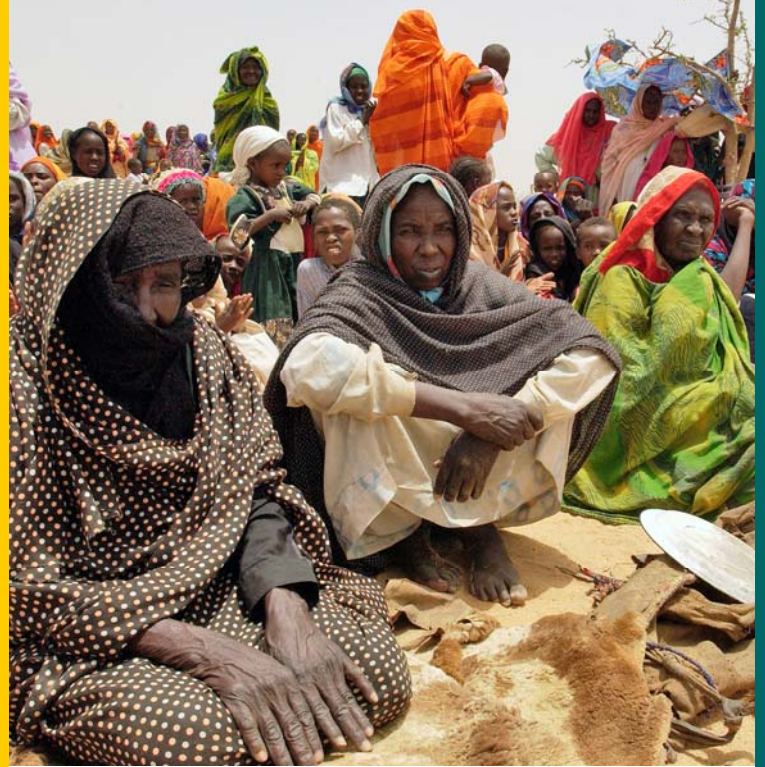
Despite all this, there are pitfalls to this self-regulation option. The document remains a very broadly defined proposal, within which there is very little in-depth guidance given regarding the exact actions the FCO plans to take toward forming the international standards, or toward the application and funding of the proposed overseeing International Secretariat. Another concern is that the document neglects to address the individual level of employee treatment, training regulations, and insurance plans. Without taking a stance on these factors during the institution of this regulation option, the ground level questions will be arbitrarily applied and may cause problems during future enforcement.

A greater concern is the lack of distinction between the types of work contractors perform, whether it is logistical support, supplemental security, security sector reform or armed conflict assistance. The exact standards should be defined in accordance to the specific

Soraya Narfeldt and Nick Cheadle

Act Globally, Hire Locally

The Importance of Including the Local Population in Reconstruction Activities



Chad: A Country in Dire Need. Photo: Eskinder Debebe/U.N.

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SINCE the turn of the century, major foreign oil investments as well as ongoing foreign assistance and capital have continued to boost Chad's economy. Despite this, more than 80 percent of Chad's population still relies on subsistence farming and raising livestock for its economic sustenance. Handicapped by its landlocked position and a largely desert climate, not to mention a colorful history of political instability, Chad's primarily agricultural economy faces an ongoing battle to regain control and improve the livelihood of its AIDS-ravaged population. The question is what can be done to make this happen and where does the responsibility lie?

Breathing new life into Chad's economy will require cooperation on both a local and international scale. The Chadian Government, international and local aid agencies as well as the global companies investing in the country's estimated 1.5 billion barrels of oil reserves must take an active role in building and sustaining the country's future. Hiring from within the country, using local resources and encouraging entrepreneurship in Chad will be critical to the country's success.

To ensure the future of its nation, the Chadian Government must recognize the

importance of developing its people. It needs to implement regulations that require all companies entering Chad to ensure a percentage of the workforce is hired locally. Rather than simply choosing the lowest tender, companies should be required to include a social development clause within their proposal, be it to employ a number of trained indigenous peoples over the course of the contract, generate employment through investment within agriculture, or assist in setting up a local mechanics business where their trucks and equipment would be serviced. In short, a sustainable development plan should support every proposal that goes through the Chadian Government.

Companies need to understand that working in some of the poorest parts of the world entails a responsibility to assist these local nationals in improving their prospects.

Companies entering into Chad should be aiming for a local hire rate of between 60 to 80 percent. When recruiting local teams and whilst gaining the local knowledge to self perform, companies should work with local employment agencies to source manpower. RA International, for example, maintains a workforce in Chad made up of over 70 percent local

nationals, working on various projects under the guidance of an international management team made up from countries such as Benin, Bosnia, Canada, Côte D'Ivoire, Kenya, Morocco, the Philippines, the United Kingdom, South Africa and Zimbabwe. All of the company's local employees not only work on projects within their home country but are also given the opportunity to work abroad, providing them with exposure to different skills and work environments. A source of great pride is the ability for an associate to leave their home country for training and development in order to return in a senior position. Management teams ensure that there is a constant downwards flow of information and that all employees get hands on experience and training.

It is important that any organization implements the highest standards for their employees, focusing on correct procedures and best practice, precise paper work and training that is conducted to the highest standards. All companies should encourage their employees to abide by the very highest level of corporate governance. Local employees should be trained and given the necessary skills and expertise that will allow them to replace



Looking to the future for Chad. Photo: H. Caux/UNHCR

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the international management team within 18 months.

The residual effect of any company's operations for their local employees should be education and skills training, investment into the community through salaries and, wherever possible, local material purchases. By building a

sustainable presence in Chad, a positive legacy should be left behind that will improve the country's infrastructure, bolster the economy and improve the prospects of the population. Using local labor and resources and encouraging entrepreneurship is critical to this, equipping Chad's people with practical skills for business and industry. Once the project is complete, the local workforce is familiar and accustomed to working with

the latest state-of-the-art technology and can use these skills for future projects of their own.

At the start of any project, companies should identify and work with local suppliers who can provide the necessary materials. A good practice is to use local companies to supply materials for projects. Not only is it important to source these suppliers, but to also assist in purchasing and quality control - teaching your employees along the way. This process creates viability, which in turn provides a positive 'multiplier' effect for Chad. Transferring the relevant knowledge and best practice onto both the supplier and workers for future activities creates future economic opportunities.

Rallying the support of companies and organizations to help, train and in turn create healthy and sustainable communities in Chad is critical. Organizations involved in the country must work together to improve the employability of disadvantaged people through the sharing and transferring of expertise. By doing this, local communities can prosper and use their new found skills to develop new and ongoing income-generating activities - bolstering the economy and creating a sustainable future for their country.

The ten principals set out in the United Nations Global Impact report relating to human rights, labor standards, the environment and anti-corruption should be the underpin of all business principles. Within two years of starting a contract, a company's aim should be to ensure that at least 90 percent of the people on its projects are indigenous to the country. Any projects undertaken should be those that help improve lives and add value to local communities in Chad.

Developing nations - and, more importantly the people within them - have a lot to offer companies that work inside their borders. Through skills and knowledge sharing with the local workforce, developed nations can help countries like Chad to achieve a greater outlook for prosperity and to create a legacy that will be passed down through generations. ■

Dr Joanna Kyriakakis

Australia and International Criminal Law

The Responsibilities of Companies to Abide by International Criminal Law



Photo: J. J. Messner

IN recent years there has been much talk about governance gaps in relation to transnational corporations operating in the global marketplace. The argument is that incomplete regulation and a failure to enforce existing laws have resulted in impunity for companies that may have perpetrated, or assisted in, serious human rights abuses in the context of transnational operations.

Concerns regarding regulatory shortfalls have been driven in a large part by human rights abuses surrounding the extractive industries. Companies in those industries can find themselves working in close partnerships with state or private security forces in order to protect company assets in volatile local environments. These business-security partnerships have been coined ‘militarized commerce.’ Militarized commerce arrangements are ripe opportunities for companies to become involved in serious human rights abuses, willingly or otherwise - particularly where security partners have poor human rights records. Anvil Mining, for example, came under scrutiny in 2005 for making possible a military offensive in the Democratic Republic of the Congo by providing vehicles to soldiers, who are accused of committing executions, rapes, detentions and looting during the course

of the offensive. Likewise, Shell Oil this year reached a US\$15.5 million settlement in a civil case claiming the company had colluded in human rights abuses committed by the then Nigerian military regime – abuses that culminated in the execution of a group of environmental activists in 1995.

The private security industry is also at the fore of debates regarding governance gaps, particularly as the presence and range of activities of private security firms in conflict settings increases. With international humanitarian law developed to address violence during both inter- and intrastate conflicts, questions have been posed as to where this leaves private security firms in relation to the laws of war. What is important for companies to now be aware of are the ways in which the governance gaps are closing.

With the advent of the International Criminal Court (ICC), a new era in accountability is being heralded – at least in relation to those human rights abuses that constitute international crimes. International crimes include crimes of genocide, crimes against humanity and war crimes. Any individual, military or civilian, who commits or aids in an international crime is potentially account-

able, either before the ICC or before national courts implementing international criminal law. It is this latter phenomenon – the growth in domestic implementation of international criminal law – that could turn out to be the most significant legacy of the ICC. Coinciding with the establishment of the ICC, countries around the world have introduced international crimes into national criminal laws and in doing so have ensured the competence of their national courts to hear cases involving international crimes. But unlike the ICC, many countries do not limit criminal responsibility to individuals but extend their criminal laws to include corporate entities. Australia provides one example of this trend, where national courts have been empowered to hear cases against companies for their part in international crimes.

In 2002 Australia introduced crimes of genocide, crimes against humanity and war crimes into its federal Criminal Code that are broadly equivalent to those within the competence of the ICC. As a matter of best policy, Australian federal criminal law applies equally to both individuals and corporate bodies. So with the advent of these laws, charges can in principle be

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brought against corporations for involvement in international crimes. The jurisdictional reach of the Australian international criminal laws is also very broad, in keeping with the international nature of the conduct under scrutiny. The laws confer universal jurisdiction, meaning that an action can be brought against any person or company, whether an Australian national or otherwise, for conduct committed anywhere in the world. Thus, there is no statutory requirement of a nexus to Australia, although it is likely that some Australian interest in bringing the case would need to exist before a prosecution would proceed.

Despite the relatively short time that these international criminal laws have been in operation in Australia, there is already some evidence that Australian federal agencies might consider their application to cases of business related human rights abuses. The Australian Federal Police investigated Anvil Mining's role in the events in the Democratic Republic of the Congo. The investigation was closed without charges being brought against the company or any of its employees, but it indicates that federal agencies will consider applying the Australian laws to extraterritorial business activities where appropriate.

In terms of the responsibility of corporations to abide by international criminal law, Australia provides a further point of

interest in terms of the approach it adopts in attributing criminal fault to a company. The wrongful conduct of a corporate employee, agent or officer can be attributed to a company where the company expressly, tacitly or implicitly permitted the commission of the offense. Such permission can be proven by the existence of a corporate culture – namely an attitude, policy, rule, course of conduct or practice – that condoned, encouraged, tolerated or led to the wrongful conduct. For this reason an environment or culture of compliance to international criminal law must be cultivated throughout a company in order to protect against potential liability and must be built into decision making in relation to business partners.

Making a company liable for international crimes can act as an incentive for companies to monitor their internal processes. This justifies, in part, the attachment of liability to the corporation, as well as the individual involved in the commission of international crimes. It is by punishing a corporate entity directly that lasting results are likely to be achieved, as it motivates changes to internal company culture and procedures that would not stem from the punishment of individuals. From a pragmatic point of view, the difficulty of identifying individual perpetrators in the context of complex corporate structures has also been used to justify attaching criminal liability directly to companies involved in international crimes.

An argument often put forward is the importance of stigmatizing those businesses that do participate in international crimes and of sending a message of public condemnation that such practices do not constitute an acceptable way of doing business. This is beneficial not only to victims of human rights abuses but also to law abiding companies – providing a means by which rogue businesses that do not comply with international criminal law can be brought to account and differentiated.

The U.N. Special Representative of the Secretary-General on Business and Human Rights has maligned the current permissive environment for business related human rights abuses arising from governance gaps in national and international regulatory frameworks. He has approached the problem as one of particular concern to business, warning that unless the social harms that flow from economic globalization are addressed, the continuing viability of economic globalization itself is at risk.

Australia's international crimes laws and similar laws of other countries around the world are therefore a welcome development. These laws clarify the obligations of individuals and companies to act in compliance with international criminal law and create opportunities for companies that fail to internalize these obligations to be brought to account. ■

UK Pursues Self-Regulation Over Licensing

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service being provided in order to successfully enforce self-regulation and international standards. This leads to the issue of regulating a contracting company that uses sub-contractors within their contracting activities. The assumption is made that the contracting company will be the sole provider of services and that therefore, the standards set will be directly

applied and enforced, but how will regulation work for subcontractors?

Finally, it is questionable whether companies will truly find the incentive of reputation to be worth these fees, or whether they will find it in their interest to evade all forms of self-regulation and standards. Reputation is important in the industry, but maverick companies might need a bit more incentive, such as tax

breaks, in order to sign on to compliance with international standards.

Ultimately, this new option of self-regulation of international standards should enhance accountability and transparency in the industry. There remain, however, several outstanding issues that need to be addressed prior to its successful implementation. ■

Cyril Magnon-Pujo

ITAR: Problems and Perspectives

Difficulties in Exporting Defense Products and Services



ITAR definitely applies to these. Photo: Stock

ESTABLISHED in 1978 in the context of the Cold War, regulation of defense-related exports has become a central but frequently problematic issue both for the U.S. exporters and for American foreign policy in general. Thirty years of the International Traffic in Arms Regulation (ITAR) have revealed an outdated process, which significantly hampers the U.S. defense industry. Multiple reform attempts and persistent criticism have until now failed to improve this overly complex, overloaded and dated procedure, and it has become necessary to modify and improve the functioning of America's defense export control procedures.

The practice of American companies exporting defense products and services, combined with the necessary compliance of this commercial exchange with U.S. national security objectives, falls under the State Department's responsibility (and constitutes the core duties of ITAR). Persistent criticisms are voiced as the process appears complex and increasingly under pressure, at significant cost to the U.S. defense industry. But ITAR is only a part of the export regulation iceberg. Export regulation for defense related items can also fall under the supervision of the Defense Department and the

Commerce Department for dual-use items. Navigating between these agencies creates many difficulties for companies in search of trade compliance.

ITAR internal functioning is also inherently complex. It serves dual and possibly contradictory purposes, dealing with both safeguarding U.S. national security and promoting U.S. industry. It functions according to a two-step procedure: a company must first register and then subsequently apply for a license for each contract. The State Department finally completes the approval after examining the products' technical specificities and verifying the end-users of the product or services exported. This extensive process creates delays in the fulfillment of a contract.

The ITAR procedure implies a great deal of responsibility for the company. Companies are required to determine which U.S. Department they must engage with regarding the granting of a license. This leaves room for interpretation with the imprecise definitions characterizing the U.S. munitions lists, especially when it comes to services. Any incorrect submission is time lost and could lead to penalties if not addressed. Demand for advice (i.e. 'commodity jurisdiction') is

also uncertain and delays fulfillment of the contract.

The multiple reform initiatives underway highlight the problems with ITAR. If none of these question the idea of regulation, they certainly highlight its mismanagements, excesses and irrelevance in certain fields. Internal review has been developed by the State Department and a Congressional Export Control Working Group also works on the topic. At an industry level, significant concern has been voiced about the procedure and there are calls for improvements. Common reform attempts seek to primarily address the time consuming and complex nature of the procedure of processing each demand. These later contribute to damaging delays between the signature of a contract and its possible execution, leading, in the end, to a deterrent effect and therefore a limitation on U.S. companies.

More fundamental concerns are also expressed. Inconsistencies are pointed out by defense services exporters who complain of inefficiencies in the actual procedure. Delays are problematic for both the clients and the companies. Yet, most of the time the client is the U.S.

Government operating abroad, requiring the completion of a service through a contractor. The Government can find itself requesting a service on short notice, but being hampered by delays in its own licensing apparatus.

While the ITAR system made sense in the context of the Cold War, the current global system era —characterized by the availability of any product and service throughout the world — has displaced the control problem from monitoring ‘what is the product exported’ to ‘where is the product already available?’ The relevance of forbidding the export of a product that client could find anywhere else is highly questionable. This drives the industry to ask for more emphasis put on a product or service’s beneficiary and its commercial availability in order to lower the pressure on low technological exports.

Repeated failures of ITAR have led to

several proposals for change, calling either for management improvements or for renewed functioning principles. The defense services exporters’ perspective allows additional observations, notably because of their submission to a procedure initially designed for manufacturers. Many problems occur when controlling services exports — pre- and post license approval — because of their immaterial nature. An efficient regulatory system should therefore take into account both the new global context where products and services are easily available, and the specificity of services export:

- The creation of one single agency dealing with defense related exports would be one way to rationalize the control procedure. The avoidance of negotiations between governmental agencies and wrongful requests from companies would significantly reduce administration workload and licensing delays.
- The development of licenses already

contained in U.S. Government contracts would increase the regulation efficiency by preventing useless back and forth since it is the regulatory authority (i.e. the U.S. Government) that chooses the contractors and the services provided.

- The possibility of broader licenses should also be considered. Once the provider, the end-user and the services’ specificities are known and approved in the process of the first license approval, further exchanges in the same framework should automatically come under the first authorization.

The emphasis of the control should finally be put on promoting U.S. defense industry export and encouraging a cooperative attitude. Removing commercial restrictions such as the mandatory use of U.S. products or banning the use of certain U.S. sensitive technologies by foreigners (even if employed by a U.S. company) should be considered. ■



ITAR would likely apply to this, too. Photo: U.S.A.F.

Will the Real Zuma Please Stand Up?

Change for South Africa, but Will it be Change for the Better?



Zuming along. Photo: Government of South Africa

THE recently elected third President of post-apartheid South Africa projects different images to different audiences.

In his native Kwazulu province, Zuma is the powerful warrior chief with three wives who will crush all opposition. His political theme song is called “Bring me my machine gun.” Before his political base in the ruling African National Congress (ANC), Zuma is the hero and great hope of the labor unions and the South African Communist Party. They want him to redistribute wealth away from the white economic elites to the vast army of poor and unemployed. Visiting Washington for discussions with the U.S. Government and the business community in the U.S. Corporate Council on Africa, Zuma is the epitome of economic prudence. He promises not to rock the boat with radical economic policies that might endanger the substantial progress South Africa has made since 1994.

A prognosis as to the likely orientation of the Zuma administration begins with the election itself. Democracy has clearly been consolidated in South Africa. The May 2009 election was universally acclaimed for its fairness and impartiality. In addition, the result saw the start of cracks

developing in the ANC’s near total monopoly of power.

The opposition Democratic Alliance party has become more racially diversified, and now controls the entire province of Western Cape, including the city of Cape Town. A break-away faction of the ANC, the Congress of the People (COPE) was able to muster seven percent of the vote despite its very late start. Although still dominant, the ANC no longer controls two-thirds of Parliament, and must be more vigilant about keeping the loyalty of its various constituencies.

Zuma’s strongest support within the ANC comes from the labor union federation (COSATU) and the South African Communist Party (SACP). He will be confronted by demands from these two constituents for the expansion of government to create employment, and for the slowing of previous plans to privatize government-owned enterprises. At the same time, Zuma has to worry about the sluggish pace of private investment in South Africa, especially from South African investors.

Zuma’s predecessor, Thabo Mbeki, ended his presidential career highly unpopular. He was a distant intellectual who lacked

chemistry with the masses. Zuma comes into office with the popularity of a politician who knows how to connect with the common people. He will therefore enjoy a lengthy honeymoon during which he should be able to stave off or temper populist demands.

Zuma should be able to take some bold action with respect to South Africa’s high crime rate, a major deterrent to investors, both domestic and foreign. Mbeki was a prisoner of ideology who saw the police as a repressive force against black Africans, as it had been under the white minority apartheid regime. Mbeki was reluctant to crack down. Zuma should have no such qualms. The black majority, who are the main victims of crime, will give Zuma their full support.

The South African educational system badly needs reform. The system needs a revolution because it is not producing the level of skills needed by a growing industrial nation. Zuma should not have a problem with stepping on the toes of vested interests. If Zuma can make progress with crime and education, he will have accomplished a great deal in making South Africa a more attractive destination for investors. Right now, South African

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investors are looking for opportunities outside of South Africa more than they are in their own country. Zuma will have the capability to reverse that trend.

In foreign policy, Zuma will probably not change South Africa's policy of active support for African regional conflict resolution activities, as well as participation in both United Nations and African Union peacekeeping operations. Prior to becoming president, Zuma voiced growing frustration with the situation in neighboring Zimbabwe. He and the COSATO labor federation were very vocal in demanding a tougher stance against Zimbabwe President Robert Mugabe than the Mbeki government was willing to assume. Right now, there is a coalition government in Zimbabwe. Zuma and South Africa could play a role in boosting the power of Prime Minister Morgan Tsvangirai in his struggle to blunt the predatory, repressive and corrupt practices of the ruling ZANU-PF party. Since Zuma took office, the high court of the Southern African Development Community (SADC), ordered the



Dance, dance, revolution. Photo: Government of South Africa

Zimbabwe Government to pay compensation to white farmers whose farms had been seized and given to ZANU-PF cronies. It is doubtful that the court would have rendered such a judgment when Mbeki was in power.

On balance, this writer's outlook for the Zuma administration is positive. He is very unlikely to take actions that will undermine the substantial progress made in South Africa's economic development since 1994, and above all, he is very

unlikely to dismantle the effective macroeconomic policies that have been in place since 1994. He should be able to appeal to his labor union and populist base through a vigorous program to combat crime, as well as introduce major reforms of the educational system in order to provide the skill base required by the investment community. And in foreign policy, we can expect Zuma to be more supportive of efforts by the opposition in Zimbabwe to undermine the Mugabe regime. ■



Flagging their support. Photo: Government of South Africa

In or Out?

And the Pursuit of a Definition of Inherently Governmental



Hoping to clarify contracting. Photo: White House

THE U.S. Government is suffering from a case of buyer's remorse. After years of steadily contracting out increasing amounts of government functions, there is now a movement to perform a U-turn and "insource."

The discussion intensified in March when a memorandum from President Barack Obama directed the Executive to take steps to alter the current contracting framework. Specifically, the memorandum directed the White House Office of Management and Budget (OMB) to clarify which functions are inherently governmental and therefore should not be outsourced to contractors. Though valid arguments can be made for certain functions to remain within the government's purview, to insource for the sake of insourcing would do nothing more than satisfy short-term political goals while ultimately hurting the overall U.S. government mission in the long-run.

The OMB currently defines inherently governmental functions as those "so intimately related to the public interest as to mandate performance by government employees. These functions include those activities that require either the exercise of discretion in applying Government authority or the making of value judg-

ments in making decisions for the Government." This definition, along with some further OMB guidance, has been deemed insufficient and there is now talk of more precisely defining which jobs should be within the realm of government, including some (if not many) that are currently within the sphere of the private sector.

This is not necessarily a bad development, as clarification would mitigate confusion and ensure that services are contracted out appropriately in accordance with government policy. But to define inherently governmental functions too broadly as to encompass functions well outside what is "intimately related to the public interest" would not only be a negative development for the private sector, but it would also negatively affect government policy objectives.

Contracting is by no means a catch-all solution. Indeed, it is not always the best option. Certainly, there are some tasks that the government can better perform. Beyond this, there are some functions for which the government naturally should, as a policy, possess sole responsibility. However, where a particular function is executed by the private sector in a faster, better and cheaper manner, that function

should continue to be outsourced. After all, if one of the policy objectives of reforming contracting practices is to stem abject waste of taxpayer dollars, does it really make sense to insource a non-critical function that then accordingly becomes more expensive and less effective?

Insourcing also should not be considered as an easy solution to the ills (perceived or otherwise) of contracting. Certainly, there have been some problems with contracting in recent years, many of them very highly publicized. But the government should take its fair share of the blame too. For example, how many of those well-publicized problems could have been avoided were there sufficient contract officers in the field? Surely, many of the ills of contracting could just as easily be solved with improvements to the contracting process and better oversight of contracting. In this sense, where relatively sensible solutions exist, insourcing should not simply be used as a policy tool that "throws the baby out with the bathwater."

It is also important to pause to consider who is going to be employed by the government to execute the functions

currently being outsourced. After all, if a function is so important that it must be insourced, then chances are that the function demands a commensurate amount of skill and technical expertise from the people already carrying it out in the private sector. This then raises key questions: Is the government going to raid private companies for expertise (in the same manner that the private sector is often criticized for “raiding” government talent)? Is the government going to match private sector salaries and conditions? And, as such a situation would likely create a revolving door of private contractors becoming government workers, surely this demonstrates that this issue is being blown out of proportion since the policy would actually lead to many of the same people doing the same jobs, just under new auspices.



Telling contractors where to go. Photo: Tech. Sgt. Andrew M. Rodier/U.S.A.F.

When pursuing this policy of insourcing, it will be important for both Congress and the Administration to ensure that functions are insourced because they are genuinely considered to be inherently governmental: it would be counter-productive to insource contracted-out functions simply for political reasons.

Furthermore, where functions are to be insourced, it is critical that they are brought back into the government fold sensibly, such that the government is not suddenly faced with a deluge of new personnel and responsibilities that were yesterday contracted out and today governmental. Insourcing should occur

only where there is a clear need and a sensible plan for the public sector to directly execute a particular function, mindful that professional private contractors retain a legitimate and constructive role in supporting the work of the government. ■



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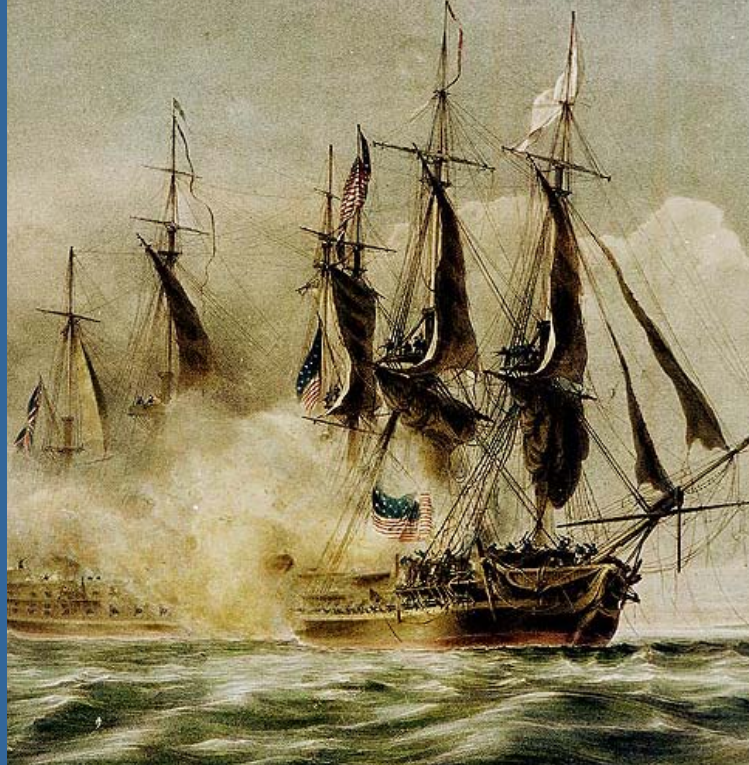
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Privateering and Letters of Marque

An Historical Analysis of the Commercialization of War



A revolutionary idea. Photo: U.S. Navy

THE American Civil War was probably the last conflict in which private vessels were licensed by the state to conduct war against enemy shipping. It was the end of a practice that had been deliberately employed by European states for hundreds of years.

In studying the wars of the 18th century, one is struck by how pervasive privateering was. One study estimated that at the height of the American War of Independence, privateers employed one-fifth of all seafarers involved in Britain's coastal and overseas trade. Another has claimed that during the Republican and Napoleonic Wars (1793-1814), around 11,000 British ships were taken by the French and Spanish.

Privateering was business. For the most part, investors were drawn from the maritime community, but capital was subscribed by the nobility and the middle class, 'as bakers, bankers, butchers, cheesemongers, coal merchants, dyers, grocers and haberdashers invested in commerce-raiding activity.' In North America, England and Scotland, privateering associations were formed to mobilize the funds of the small investor.

Apart from those ships explicitly fitted

out for hunting prizes, the vast majority of merchant ships, in times of war, carried a 'letter of marque' or government permit, which entitled them to defend themselves if attacked and to make prizes of enemy ships if the occasion arose. Around the turn of the century, South Sea whalers often carried letters of marque and raided Spanish shipping off the South American coast when fishing was quiet.

Naval vessels were also part of this commercialization of war, with officers and crew entitled to prize money from the ships and cargoes they seized. The prospect of fabulous windfall gains from prize-taking was widely seen as a valuable tool in recruiting men for naval service.

We discover how pervasive this dream was in reading Jane Austen. *Persuasion* tells the story of a young naval officer who, after being rejected by the family of his beloved on account of his poverty, rescues her from spinsterhood by returning home with the modern equivalent of £2.5 million in prize money.

It was not just the stuff of fiction. *El Thetis* and *Santa Brigida* were Spanish treasure ships taken by four British frigates in October 1799, carrying £661,206 in silver, dollars and doubloons

– the equivalent of around £132 million today. The ships were taken into Plymouth, where the treasure was loaded onto 44 artillery wagons and paraded through the town before being transported overland to London.

Each of the four captains took home the equivalent of around £8 million today; each of the 894 seamen, around £36,000. This was exceptional. The average value of a ship and cargo at the beginning of the Republican War was less than £2,500, although the government exploited *El Thetis* and *Santa Brigida* in a deliberate attempt to stimulate recruitment.

While they often hunted alone, privateers were also capable of organizing small fleets and bringing home handsome returns. The Royal Family squadron consisted of five vessels mounted with 112 guns and carrying 853 men between them. It was a 'deep-water' enterprise raised in London in 1746 at an initial cost of £40,000.

On her first expedition, the squadron brought home four prizes with the loss of only one seaman, a gross return of £220,000 (in 18th century values). The second cruise netted a prize fund of

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£191,000, a five-fold return on the investment for the voyage. Half of this went to the investors, while the other half was divided up among the officers and the crew. This eight month voyage earned the crew more than ten times the yearly wages of an able seaman in the Royal Navy.

Not all captures turned out so well. Naval officers were indemnified by the Crown for ships seized by mistake, but private letters of marque were not so protected. And even where they did succeed in the courts, legal costs sometimes outstripped the profits. To some extent, success in prize-taking was a matter of luck. And yet in this, as in other forms of maritime activity, there were ideal ships and outstanding commanders. Among the privateers, there was none better known than the French corsair, Robert Surcouf, who built a personal fortune – six or seven million francs – attacking British shipping in the Indian Ocean throughout the Republican and Napoleonic Wars.

Fortunes were made out of prize-taking by many naval officers. Henry Digby, one of the naval captains who took the Spanish treasure ships in 1799, captured some fifty enemy vessels in twenty months in 1797 and 1798, and restored the family estate.

Contrary to what some writers have claimed, privateering was not piracy – privateers were licensed by the state and regulated by domestic courts enforcing a well-established body of international law. Capturing an enemy ship remained an act of state, albeit an act of state delegated to private actors. The law was, however, highly complex and it changed from time to time as governments, both allied and alien, adjusted their policies. We do not fully understand how captains made sense of this potpourri of domestic and international, statutory and judge-made law when faced with a potential prize at sea.

Unsurprisingly, this was a highly contested area of the law. Ships close to the scene of capture might demand a share,



Marque that one down to history. Photo: U.S. Navy

insisting that their proximity had encouraged the prize to surrender. The owners of former prizes recaptured from the enemy would argue that the captors were entitled to nothing more than salvage – a mere fraction of the full value. Neutral ships accused of carrying contraband protested their innocence. And while Admiral Nelson was widely respected for putting public duty ahead of private gain, he took one of his admirals to court over an unfair distribution of prize money.

Which raises a fascinating question – how did the Royal Navy manage the conflict of interest that prize-taking engendered? Surely there were occasions on which the prospect of commercial gain got in the way of larger military objectives?

The legendary sea wolf, Thomas Cochrane, was sometimes accused of having sordid motives in his ventures. And we know from private correspondence that there were very few young officers who did not dream of taking a Spanish treasure ship or a fine French frigate.

And yet the evidence suggests that the pursuit of riches did not often get in the way of professional duty. We know that Nelson was acutely interested in the commercial value of his ventures, and yet

it is universally agreed that in military decisions, he was motivated foremost by the destruction of the enemy.

There are several explanations. Reluctance to engage the enemy left naval officers open to legal sanction, but there was much more to it than a threatened stick. For the most part, senior officers such as Nelson set a good example to the younger men, and promotion and peer esteem were built on success in the face of armed resistance, not the rapid accumulation of prize money.

Merchant prizes were rarely mentioned in the press at home, and the hero of *Persuasion* made his fortune not from a Spanish treasure ship but a French frigate. This was an age that placed honor high among the social virtues, and venal motives ranked well below martial ones. The British respected Surcouf partly because he was a superb sailor, but also because he was generous and good humored.

With the resurgence of piracy in recent years, some have called for the reinstatement of letters of marque. That would be unwise. We cannot resurrect policies that worked so imperfectly in the past, and relied on values that can no longer be taken for granted. ■



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Quentin Davies, Minister for Defence Equipment & Support, Ministry of Defence, UK

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Armoured Combat Mobility Survivability & Protection

12th & 13th October 2009, Crowne Plaza City Hotel, London

Chaired by:

Brigadier Simon Caraffi, Director, HQ Directorate Royal Armoured Corps

Exceptional line up of speakers includes:

- **Brigadier General Salvatore Farina**, Deputy Director Battlespace Capability, Policy & Plans, **Ministry of Defence, Italy**
- **Colonel Jean-François Prévost**, Director Land Requirements, **Canadian DND**
- **Colonel Robert Schumitz**, Project Manager, Stryker Brigade Combat Team, **US Army**
- **Colonel David Teeples**, Commander, US Army Armour Centre Command Group, Fort Knox, **US Army**
- **Colonel Mark Goldsack**, Assistant Director Capability, HQ Infantry – Land Warfare Centre, **UK**
- **Lieutenant Colonel Andrew Stuart MBE**, Commander Equipment Capability Op HERRICK & Commanding Officer 4 Close Support Battalion, **Royal Electrical Mechanical Engineers (REME), UK**
- **Lieutenant Colonel Jerome Lemaire**, Land Combat Capabilities Architect, **DGA France**
- **Lieutenant Colonel Antonio Fragua**, Project Officer, Spanish Joint Staff
- **Major Kim Kristensen**, Chief of R&D Branch, **Danish Army Combat Centre**
- **Warrant Officer Darren Restarick MBE RM**, LAS IPT ATV SME, Light Armoured System IPT – MOD UK

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30th November & 1st December 2009, Hilton Frankfurt, Germany

Early confirmed speakers include:

- **Brigadier General Mark Dillon**, Commander 86th Airlift Wing, Kaiserslautern Military Community Commander, Headquarters US Air Forces in Europe, **Ramstein Air Base, Germany**
- **Brigadier General Susan Desjardins**, Deputy Director, Strategic Plans, Requirements and Programs, **Headquarters Air Mobility Command, United States Air Force**
- **Colonel Birame Diop**, Officer in Command, Air Transport Section, **Senegal Air Force**
- **Colonel John Zazworsky**, Commander, SAC Heavy Airlift Wing, **United States Air Force**
- **Colonel Philippe Rutz**, Director, **European Air Transport Command**
- **Senior Representative**, EU Movement Planning Cell, **EU Military Staff**
- **Doug Brooks**, President, **International Peace Operations Association**
- **Gunnar Borch**, General Manager, **NATO Airlift Management Agency**
- **Laurent Donnet**, Project Officer for Deployment Issues, **European Defence Agency**
- **James Smith**, Officer in Charge, Movements Control Section, **United Nations**
- **Michel Schaffner**, Head, ICRC Aviation Services, **International Committee of the Red Cross**
- **Paul Steiner**, Chief, Transport and Warehousing, **NAMSA**

CONFERENCE HIGHLIGHTS:

- A**ssess the latest International and European programme updates; including the A400M and C-17
- I**dentify the most-up-to-date capabilities
- R**eview the lessons learned from airlift operations in Iraq and Afghanistan
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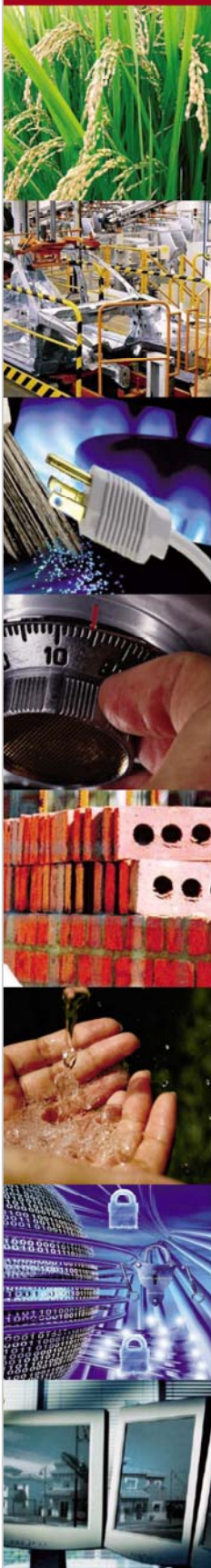
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Humanitarian Development Summit

Nairobi, Kenya
29-30 September
2009



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Half of the summit time devoted to stimulating debate and the other half to focused **private meetings** on partnership and procurement

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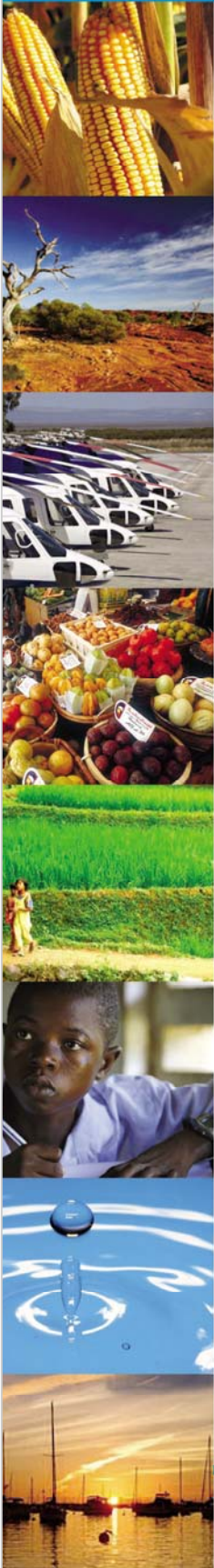


IPOA in association with Global Investment Summits will be holding a drinks reception on 29 September 2009 at the Safari Park Resort. All attendees are invited.

We look forward to welcoming you in Nairobi

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