

THE UNITED STATES' ROLE IN SRI LANKA'S PEACE PROCESS

2002 – 2006



Jeffrey Lunstead



The Asia Foundation

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By Jeffrey Lunstead

A Supplementary Study to the Sri Lanka Strategic Conflict Assessment 2005



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About the Author

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Executive Summary

The United States has been deeply involved in the current phase of the Sri Lanka peace process since it began in late 2001. This is in distinct contrast to U.S. engagement in earlier phases of Sri Lanka's ethnic conflict since it erupted into armed conflict in 1983. While the U.S. was supportive of peacemaking efforts in the 1980s and 1990s, it played a relatively low-key role, deferring to India as the lead outside actor. With the end of the Cold War, U.S. interest in Sri Lanka waned. As recently as 2000, the United States Agency for International Development (USAID) was planning for significantly reduced development assistance levels.

The enhanced engagement that commenced in 2001 occurred despite the absence of significant U.S. strategic interests in Sri Lanka. Political-military interests are not high, and the U.S. has no interest in military bases in Sri Lanka. From an economic and commercial standpoint, Sri Lanka is unlikely to be a major U.S. trading partner in the near future. There is not a large enough Sri Lankan-origin community in the U.S. to have an impact on U.S. domestic politics. The main U.S. strategic interest in Sri Lanka is in ensuring that a terrorist organization does not obtain its goals through the use of terror.

Heightened U.S. interest in Sri Lanka from 2001 onwards was largely driven by then-Deputy Secretary of State Richard Armitage. The enhanced interest was largely based on a belief that Sri Lanka was engaged in a process which, if successful, would resolve a conflict marked by terrorism through peaceful political means—assisted by the international community. This would be a model for the region and, indeed, for the world. It would show that a seemingly intractable problem could be solved peacefully when the internal actors were

willing, and that the international community could play a major role in assisting them.

U.S. enthusiasm was bolstered by the policies of the Ranil Wickremesinghe government that was elected in December 2001. In addition to its willingness to engage in a risky peace process; that government was generally friendly to the U.S., in favor of market-oriented economic reform, and pro-free trade and globalization. While the U.S. clearly supported the Wickremesinghe government, it attempted to maintain productive relationships with both Prime Minister Wickremesinghe and President Chandrika Bandaranaike Kumaratunga. The U.S. did not, however, attempt to act as a mediator between them. The U.S. adopted a bipolar approach, concentrating its attention on the government and the Liberation Tigers of Tamil Eelam (LTTE); but also tried to work with outliers and potential spoilers. Exchanges with potential spoilers such as the radical Sinhalese/Marxist Janatha Vimukta Peramuna (JVP) and the Buddhist monk-based Jatika Hela Urumaya (JHU) were cordial but did not produce any changes in attitude. Efforts to encourage the involvement of other internal parties depended on progress in the peace process. As the process stalled and then moved backwards, such efforts diminished.

The U.S. worked closely with other members of the international community—other countries involved in peace negotiations (Japan, EU members, and Norway); the larger donor group; the multilateral development banks (MDBs); and UN agencies. A differentiation of roles developed, more through natural evolution than by plan. With this differentiation, the U.S. took a harder line than its international partners toward the LTTE. U.S. interaction with the LTTE was constrained both by

law and by policy, especially after September 11, 2001. Legal restraints derived from the U.S. designation of the LTTE since 1997 as a Foreign Terrorist Organization (FTO), and subsequent anti-terrorism legislation. In addition to these legal restraints directed against the LTTE, U.S. policy also differed from most other international players¹ in its willingness to provide security assistance to the Government of Sri Lanka (GSL). This security assistance was not large in absolute terms, but was intended to send a message to the LTTE that a return to war would not yield benefits. The U.S. also tried to make clear to the LTTE that its position regarding the LTTE was open to change *if* LTTE behavior changed and the LTTE gave up terrorism "in word and deed." At the same time, the U.S. tried to make clear to the GSL that U.S. support, including military support, was not an encouragement to seek a military solution. Quite the opposite, as the U.S. stated clearly that it believed there was no military solution to the conflict and that the GSL needed to develop a political strategy which included substantial devolution of power.

While this differentiation of roles among international players clearly existed, it is too simplistic to view the U.S. as the "bad cop" and other players the "good cops," since at least in theory U.S. policy was more nuanced. This differentiation of roles is viewed by most other international players as generally positive in terms of the peace process, as it offered an incentive to the LTTE to move in a positive direction. There are questions, however, as to how this worked in practice. Did the LTTE understand the U.S. message and believe that a change in their status was possible? Or did they feel hemmed in and isolated, if not threatened? Did the GSL understand the U.S. message? Or did at least some in the government feel encouraged to put greater military pressure on the LTTE? The U.S. decision to avoid all contact with the LTTE made it more difficult to convey the nuances of its position. At a minimum, a one-time

meeting with the LTTE to ensure that the U.S. position was understood clearly and to allow some dialogue could have been useful.

USAID development assistance to Sri Lanka increased markedly as a result of the peace process, although it was not large in absolute or relative terms. None of this assistance was delivered through the GSL, but instead through various nongovernmental organizations (NGOs). A substantial portion of this assistance was intended to address root causes of the conflict. The U.S. also provided assistance in other areas, including demining and police modernization. U.S. selection of Sri Lanka as eligible for Millennium Challenge Corporation (MCC) funding was not based on political grounds and not connected to the peace process. As the peace process began to fray, planned USAID and other funding have declined. The U.S. was a strong supporter of the link between progress on peace and development assistance laid out in paragraph 18 of the Tokyo Declaration, but viewed it more as a linkage than a strict conditionality. The U.S. believed at the time, as did most other international players, that *economic* incentives could help motivate the domestic players to make the *political* choices needed to move the peace process forward.

The U.S. enthusiastically embraced the dramatic economic reform program of Prime Minister Wickremesinghe's government in the belief that it would strengthen, not weaken, Wickremesinghe's ability to move the peace process forward—a view shared by some other international players. This was based in part on the mistaken assumption that the government and its program would have a full five-year term to show results. The U.S. and others did not have to push the Wickremesinghe government to implement radical economic reforms, as this was already a prime goal of the new government.

1. I use the term "international players" rather than the commonly used "donors" because I believe the countries and institutions involved in the peace process played other roles in addition to being donors of assistance.

U.S. attention to the Sri Lanka peace process continued after the departure of Deputy Secretary Armitage at the beginning of the second Bush Administration, although not at the same level of engagement. The U.S. has made it clear that, despite the designation of the LTTE as a terrorist organization, it believes peace can only be achieved by a process that involves the LTTE. The U.S. clearly differentiates between an elected government in a society with multiple centers of power and channels for redress of grievances, on the one hand; and an authoritarian terrorist organization which ruthlessly suppresses dissent, on the other. However, if the GSL does not take action to improve an increasingly difficult human rights situation, and show that it is ready to make the dramatic political changes necessary to meet legitimate Tamil grievances, U.S. support may well diminish. Concern in the U.S. Congress over these issues is already apparent, and will grow if the human rights situation continues to deteriorate and the GSL shows no signs of a serious political strategy.

With an increasingly troubled peace process, and with competing demands for attention to and resources for other world problems, it will become even more difficult to sustain continued U.S. high-level involvement in Sri Lanka.

In hindsight, a number of questions emerge:

- Did the "division of labor" among the co-chairs of the peace talks specifically, and the international players in general, have a positive effect on both the LTTE and the GSL? Did the hardline U.S. approach to the LTTE have a positive effect, motivating the LTTE toward better behavior in the hope of gaining legitimacy? Or did it convince the LTTE that it would never be accepted as an equal partner in the peace process? Did the LTTE understand the U.S. message that removal of the terrorist designation was possible if LTTE behavior changed? Would

direct U.S. contact with the LTTE have made that position more clear?

- o More specifically, did the U.S. decision not to allow the LTTE to attend the April 2003 Washington Development Conference play a major role in LTTE withdrawal from the political negotiations, or did it simply reinforce a developing trend? Was this decision simply used as an excuse for an LTTE decision that had been already made?
- o Did the inability of the U.S. to conduct development projects in LTTE controlled areas have a significant negative impact on the peace process?
- Did the supportive U.S. military relationship with the Government of Sri Lanka have a positive effect by showing the LTTE that a return to armed conflict would be more costly? What effect did it have on the Government of Sri Lanka?
- Did U.S. support for Prime Minister Wickremesinghe and his government encourage him to try to sideline President Kumaratunga? Should the U.S. (and other international players) have made greater efforts to encourage cooperation between the two, and would such efforts have been successful?
- Did U.S. support for Prime Minister Wickremesinghe's economic reform program encourage him to move in a direction that undermined his ability to move the peace process forward?

There are no clear answers to most of these questions. However, the conclusions of the first two Strategic Conflict Analyses that "international actors must maintain a sense of proportion about their capacity to engineer complex political and social changes"² appear correct. The ability of the U.S. to force *internal* players

2. USAID, Conflict and Peacebuilding in Sri Lanka 2000-2005, p. 89

by *external* pressure is limited, at best. In cases where the internal player believes the issue is one of existential consequence—as most of these issues are perceived—that influence approaches zero. The best approach, therefore, appears to be one of patient work with all significant players, while awaiting a constellation of circumstances that would be favorable for a renewed political process, such as occurred in late 2001. The difficulty will be in sustaining both political interest and commitment of resources at a time of other pressing issues.

1. Introduction

This report is a contribution to a broader study entitled, "Aid, Conflict and Peacebuilding in Sri Lanka," which examines the peace process in Sri Lanka with a particular focus on international engagement. This study focuses on the role of the United States in the peace process since the inception of its current phase in late 2001 through 2006.

The report is divided into eight sections. After the Introduction, Section 2 explores the background of U.S. interests and engagement in Sri Lanka. Section 3 details the enhanced U.S. engagement which began with the latest stage of the peace process and the election of the Ranil Wickremesinghe government in late-2001. It explains the complex legal and political issues governing U.S. relations with the LTTE. It describes U.S. economic and military assistance to the Government of Sri Lanka, and U.S. attitudes toward the Tokyo Conference and to the link ("conditionality") between assistance and the peace process. Section 4 describes U.S. relations with other countries involved in the peace process, including the other co-chairs of the peace negotiations, the larger donor group, and India. Section 5 describes the U.S. involvement in economic issues related to the peace process and to the Wickremesinghe government's economic reform program. Section 6 describes the U.S. relationship to internal Sri Lankan political issues, including U.S. involvement in the troubled relationship between Prime Minister Wickremesinghe and President Kumaratunga, and U.S. attempts to engage other interested parties, such as the JVP, the JHU, and Sri Lankan Muslims. Section 7 describes diminishing U.S. attention to and resources for support of the peace process. Section 8 poses a number

of questions and alternative scenarios in an attempt to assess what might have been done better in the past and what could be done in the future.

The study was conducted over a two-month period in October and November 2006. It involved interviews with a wide range of participants in the peace process from the U.S. government, other countries, the government of Sri Lanka, and other relevant entities, such as the multilateral development banks.³ It draws heavily on the author's own experience as U.S. Ambassador to Sri Lanka and Maldives from August 2003 through July 2006. The opinions expressed are solely those of the author and do not represent the views of the U.S. Department of State or the U.S. government. No classified material was used in the preparation of this report. It contains no information that is not in the public domain or widely known.

3. In total, 17 individuals were interviewed specifically for this report. They included U.S. diplomats and USAID officials; diplomats and officials from the major international players; senior officials from the multilateral development banks; and senior government of Sri Lanka officials. No individuals from the LTTE or LTTE-affiliated organizations were interviewed.

2. U.S. Interests and Engagement in Sri Lanka

U.S. engagement in Sri Lanka's peace process since it began in late-2001 has been substantial. The degree of engagement and commitment of U.S. attention could, in fact, be viewed as out of proportion to U.S. interests in Sri Lanka. This is not meant as a negative comment, nor to imply that the U.S. has no interests in Sri Lanka. Rather, it signifies that the U.S. has no significant *strategic* interests in Sri Lanka, certainly in comparison to other areas of enhanced U.S. engagement.

Even within the South Asia region, U.S. strategic interests are concentrated on other countries and issues. The U.S. has strategic interests in India as a nuclear power and a growing economic/commercial partner. Pakistan is important because of its nuclear status and its frontline position in the war on terror. Afghanistan is a focus of the battle against al-Qaida and an attempt to create a stable, democratic, and pro-U.S. government; with the commitment of U.S. and NATO forces. In comparison, U.S. interests in Sri Lanka are much smaller. While the U.S. has a congenial military to military relationship with Sri Lanka, strategic military interests of the type present in India, Pakistan, and Afghanistan do not exist. Contrary to the musings of various South Asian theorists, the U.S. does not have, and has never had, any interest in use of the harbor at Trincomalee for military purposes. As long as the ethnic conflict persists, and Trincomalee remains under threat of attack by LTTE forces, the harbor is clearly not an attractive destination for U.S. forces. Even leaving aside the threat from the ethnic conflict, Trincomalee has little to recommend it and has several distinct disadvantages. For one, as the U.S. strategic relationship with India grows, there is little reason for the U.S. to irritate India by setting up a base in one of its neighbor countries. Trincomalee also has minimal facilities and only the most basic infrastructure. Trincomalee is also not ideally

located in terms of access to major sea lanes of communication. Contrast the Trincomalee situation with that of Singapore, where the U.S. Navy has a major facility. Singapore is ideal because of its internal stability, its superb facilities and infrastructure, and its position near major sea lanes of communication. Trincomalee currently lacks all of these, and is unlikely to gain any of them in the foreseeable future.

On the economic side as well, U.S. interests in Sri Lanka are limited. U.S. trade with Sri Lanka is relatively insignificant, at about \$2.3 billion in 2005. By way of comparison, U.S. 2005 trade with Malaysia, a country of similar population to Sri Lanka, was about \$34 billion. More significantly, Sri Lanka is not a major market for U.S. goods, as the U.S. exported only \$198 million to Sri Lanka in 2005, leading to a trade deficit of -\$1.88 billion. Foreign Direct Investment (FDI) by U.S. companies in Sri Lanka is also quite small. In general, the U.S. views Sri Lanka as a country with significant economic and commercial potential—a potential which, unfortunately, has never been reached. That lack is due partially to the continuing ethnic conflict, but in the U.S. view other factors play a larger role. The level of U.S. analysis of the Sri Lankan economy and its potential for U.S. investors and trading partners has, in fact, declined in recent years. For instance, the 2006 *Investment Climate Report* for Sri Lanka, issued by the U.S. Embassy, is headlined, "Claimed Openness to Foreign Investment; Reality Differs," and lists a number of problems faced by U.S. investors in Sri Lanka. The 2006 *Country Commercial Guide* states that there are "persistent problems, caused mainly by an inefficient bureaucracy...corruption, government failure to honor commitments"; as well as concerns about "new taxes which reverse the previous liberal trade regime," intellectual property piracy, local

labor laws and inadequate infrastructure.⁴ Nonetheless, a number of U.S. companies have invested in Sri Lanka, and many of them are pleased with their experience. One significant opportunity is offered by the Indo-Sri Lanka Free Trade Agreement, which allows companies that manufacture products in Sri Lanka with a minimum of 35 percent value addition to export these products duty free to India. U.S. companies have shown some interest in this opportunity, but the risk premium due to the ethnic conflict is significant.

Looking further back, U.S. engagement with Sri Lanka after independence was driven significantly by the Cold War and the worldwide struggle with the Soviet Union for influence. Sri Lanka's early role as an influential leader in the Non-Aligned Movement, its early friendly relations with the Peoples Republic of China, and its flirtation with a statist, closed economic system did not endear the country to U.S. policymakers in the 1950s and 60s. Nonetheless, the U.S. expended substantial resources in Sri Lanka during that period. A substantial U.S. information effort brought visitors such as the Apollo astronauts to Sri Lanka. USAID began operations in Sri Lanka in 1956. A Peace Corps program was established, although it too was subject to political trends and the program was terminated at one point by Prime Minister Sirimaivo Bandaranaike. It was later re-established but left Sri Lanka again in the late 1990s because of security concerns, and has not yet returned.

USAID operations grew after the election of J.R. Jayawardene in 1977, as Jayawardene took a more free-market and pro-Western stance. USAID was a major contributor, for instance, to Jayawardene's Accelerated Mahaweli Development Program, which was designed to irrigate a substantial portion of the central Sri Lankan dry zone. More than half of USAID's project assistance went to this project. President Jayawardene paid a state

visit to Washington in 1984 and, in a humorous moment, presented a baby elephant to President Ronald Reagan on the lawn of the White House.

Total USAID funding for Sri Lanka from 1956 to 2006 was almost \$2 billion, which is an average of \$40 million per year, a substantial amount. With the end of the Cold War, U.S. attention to Sri Lanka declined. Clear evidence of this is seen in USAID planning. By 1998 USAID programs in Sri Lanka were running at approximately \$5 million per year. USAID's "Country Program Strategy FY 2001- 2005"⁵ called for funding at this level for FY 2001-2004,⁶ dropping to \$2 million in FY 2005. It also noted the "closeout of several large activities continuing in FY 2002," which meant that the number of USAID Direct Hire Personnel (along with the annual budget a useful indicator of USAID's overall interest in a country) would be two persons through the end of FY 2002 and then decline to one person. At the end of the 1990s, at least some persons in USAID proposed closing the program entirely. (This strategy would be substantially revised following the beginning of the peace process.)

4. Both of these documents are available on the U.S. Embassy's website at <http://colombo.usembassy.gov>

5. Available on the USAID website at <http://www.usaid.gov>

6. The U.S. government Fiscal Year runs from Oct. 1 through Sept. 30. E.g., FY 2002 would run from Oct. 1, 2001 through Sept. 30, 2002.

3. Enhanced U.S. Engagement

3.1 ENHANCED U.S. INTEREST

The pattern of limited U.S. engagement with the Sri Lankan ethnic conflict changed dramatically with the start of the new peace process in 2001-2002. This was not due to any dramatic change in U.S. strategic interests in Sri Lanka, but rather to a combination of other factors:

- The post-Sept. 11, 2001 atmosphere that ushered in a new determination by the U.S. to confront terrorism on a worldwide basis.
- The election in Sri Lanka of a UNP/UNF government led by Ranil Wickremesinghe that was markedly more pro-West and pro-free market/globalization.
- The personal interest of then-Deputy Secretary of State Richard Armitage.

In fact, the first two elements were enabling factors. It was the third element—the personal involvement of Deputy Secretary Armitage—that drove U.S. involvement. This view is unanimously held by all of the U.S. government participants in the process. Armitage's involvement was so intense that officials in the State Department referred to him as "the Sri Lanka desk officer." Sri Lankan Ambassador to the U.S. Devinda Subasinghe frequently called Armitage directly—a privilege not normally given to ambassadors from small countries without U.S. strategic interests. One senior level official put it succinctly: "It was all driven by Armitage."

The key question is, "Why?" There was no unique personal connection. Armitage had visited Sri Lanka only once before the peace process began, when Defense

Secretary Weinberger's plane made a refueling stop in Colombo in 1983 and Weinberger's party, which included Armitage, had a short meeting with President Jayawardene. Armitage provided the clearest public explanation of his interest in a speech he delivered at the Center for Strategic and International Studies (CSIS) in Washington in February 2003. In that speech he posed the question himself, "Why should the United States invest significant attention and resources to Sri Lanka, especially at a time when we have such overwhelming competing interests?" It could not be justified in terms of U.S. self-interest, he said, for U.S. interests in Sri Lanka "do not really constitute a clear strategic impetus for the United States...particularly in a time of war and economic uncertainty." However, he concluded that:

"The United States should be playing a role, in concert with other nations...because it can be done...Because the parties to the conflict appear to be ready to reach a solution...This may be the moment when international support can help to spring this country into prominence as a recovering victim of conflict, terrorism, and human rights abuses...Perhaps this is a nation with lessons to offer the world about how to move from despair to hope, from intractable conflict to workable concord, and, indeed, about how the international community can engage and support such conflict resolution."⁷

Armitage's personal interest was bolstered by the politics of the new UNP-led government. The UNP was traditionally the right-of-center party in Sri Lanka. It is a member of the grouping of international conservative political parties, the International Democrat Union (IDU). (President George H.W. Bush was a cofounder

7. Speech delivered at a seminar on "Sri Lanka: Prospects for Peace" at the Center for Strategic and International Studies, Washington, DC, Feb. 14, 2003.

of the IDU, and the U.S. Republican Party is a member.) Some members of the new government had close personal ties with conservative groups in the U.S. Close Wickremesinghe confidant and Minister of Economic Reform, Science and Technology Milinda Moragoda had close ties to the U.S. Republican Party and to the conservative Heritage Foundation. Senator John McCain hosted a reception at the International Republican Institute for the U.S. launch of a book by Moragoda in 2003.

U.S. interest in the Wickremesinghe government was not based purely on personal connections, however. The Wickremesinghe government came to power with a clear economic reform program, based on free market principles. The reform program was articulated in the government's economic program and poverty reduction strategy entitled *Regaining Sri Lanka (RSL)*. This program intended to eliminate poverty by "accelerating growth and eliminating poverty through private sector-led development."⁸ RSL proposed to do this by instituting fiscal discipline, reducing the role of state-owned enterprises through privatization, reforming the labor laws, reducing the size of the government bureaucracy, etc. Sri Lanka had begun to move away from a socialist economy under President Jayawardene in 1977, and the move toward a more market-driven economy continued in the 1990s under President Kumaratunga's SLFP government. The Wickremesinghe government, however, set out a program to drastically accelerate this process. More important, the new approach was largely in line with U.S. government thinking on economic and international development issues. On external economic issues, the new government took a distinctly free-trade approach, which also gained the favor of the U.S. government. In international trade negotiations, such as the WTO Ministerial Meeting in Cancun, Mexico in September 2003, the U.S. and Sri Lankan delegations worked closely together, as the GSL tried to help bridge the gap

between developed and developing nations. United States Trade Representative Robert Zoellick and Sri Lankan Trade Minister Ravi Karunanayake developed a good personal relationship. With this new cooperative relationship, the GSL showed its willingness to cooperate with the U.S. in other ways as well. For instance, it quickly concluded an "Article 98" agreement under the Rome Statute ensuring that U.S. citizens would not be surrendered by Sri Lanka to the jurisdiction of the International Criminal Court without U.S. approval. (This action is not unusual—at least 100 countries have signed such agreements with the U.S.)

If the U.S. developed anything approaching a strategic interest in Sri Lanka, it derived from the feeling in the post-September 11, 2001 world that the threat from terrorism had to be confronted globally, and that governments facing terrorist threats should cooperate against them. Even though the LTTE had never targeted Americans, the simple fact of the LTTE's status as a designated terrorist organization under U.S. law brought the two countries closer together. The U.S. provided assistance on global terrorism issues, to which Sri Lanka responded willingly. For example, U.S. Treasury experts on terrorism financing visited Sri Lanka several times to work with the government on strengthening the Sri Lanka financial system's ability to cut off terrorist financing flows. (This assistance, and GSL cooperation on this issue, continued after the fall of the Wickremesinghe government, and continues today.) While this might be considered a strategic interest, it was also limited by the fact that the LTTE is essentially a local Sri Lankan phenomenon with no clear ties to other terrorist groups with a world-wide reach. The U.S. opposes all terrorist groups, but all such groups are not equal in the extent to which they threaten U.S. interests directly.

8. Sri Lanka Country Assistance Strategy of the World Bank Group 2003-2006.

3.2 U.S. RELATIONS WITH THE LTTE

The peace process initiated by the Wickremesinghe government was based on an acceptance of the LTTE as a partner in the process, and the Cease Fire Agreement (CFA) accepted de facto LTTE control over a portion of Sri Lanka. The GSL's acceptance of the LTTE was marked by its action to legitimize the LTTE, making it a legal organization in Sri Lanka. Other international players quickly moved to establish contact with the LTTE, and the months after the ceasefire showed a steady stream of visitors--ambassadors from individual countries, UN and multilateral agency officials--to Kilinocchi to meet with LTTE officials.

The U.S. stood outside this process, however. The U.S. had designated the LTTE as a Foreign Terrorist Organization (FTO) when the first list of such organizations was compiled in 1997, and the LTTE had remained on the FTO list since then. The original listing of the LTTE in 1997 is interesting. There are three legal criteria for listing:

- 1) The organization must be foreign.
- 2) The organization must engage in terrorist activity, or retain the capability and intent to engage in terrorist activity.
- 3) The organization's terrorist activity must threaten the security of U.S. nationals or the national security (national defense, foreign relations, or the economic interests) of the United States.⁹

Thirty foreign organizations were included on the first list of FTOs in 1997. The majority were Islamic/Middle Eastern groups which could clearly be seen as threatening the security of U.S. nationals, or the national security of the U.S. The LTTE clearly met the first two criteria, but its relationship to the third is not clear, since the LTTE had never targeted U.S. nationals.

Presumably, the LTTE designation was based on a determination that peace and security in South Asia were important to U.S. national security, and that they were threatened by the LTTE.

The legal effects of designation are that:

- 1) It is unlawful for a person in the U.S. to provide funds or material support to an FTO.
- 2) Representatives of a designated FTO are inadmissible to the U.S. (A waiver to this provision is obtainable under the law.)
- 3) U.S. financial institutions must block funds of designated FTOs and their agents.

The legal restrictions were clear: the U.S. government could not provide material assistance to the LTTE, and had to block LTTE funds. LTTE officials could not obtain visas to visit the U.S. unless a waiver was granted by the Attorney General based on a recommendation by the Secretary of State.¹⁰ It should be noted that there is *no* legal proscription against meeting with LTTE officials. A decision not to meet with LTTE officials is a *policy* decision, not a *legal* one.

Even the seemingly clear-cut areas of this law were somewhat murky in application. One of these areas is development and other assistance. If the U.S. were to develop assistance programs in LTTE-controlled areas--as other donors were doing--how would it ensure that these programs did not provide material assistance to the LTTE? If USAID were to work in Jaffna, and therefore would need to move supplies up the A9 highway through LTTE-controlled territory, how would it deal with LTTE "officials" and LTTE taxes and charges? Another problem involved relations with the Tamil Rehabilitation Organization (TRO), a nongovernmental relief agency that conducted development work in the North and East. Though nominally independent, the

9. 8 U.S. Code 1182 ff.

10. 8 United States Code 1182 (d) (3).

TRO was clearly closely linked with the LTTE.¹¹ Other governments and UN agencies funded TRO projects. The U.S. would find that difficult to do unless it was clear that no monies provided to the TRO would benefit the LTTE in any way. USAID was immediately faced with these problems as it expanded its Sri Lanka program. (See section on U.S. assistance below for details.)

U.S. policies and actions on the linked issues of direct contact with the LTTE and removal of the LTTE from the list of FTOs are more complex than they may at first seem. A number of U.S. government participants in the peace process have stated emphatically that policy-level contact with the LTTE was out of the question in the post-9/11 atmosphere. It was simply a political impossibility for the U.S. to be in direct contact with a designated terrorist organization. More than that, however, there was a judgment that it was good policy to take a harder line vis-à-vis the LTTE--that the peace process had to have some sticks as well as carrots. Hence the U.S. maintained the FTO listing, increased its military-to-military relationship with the GSL, and consistently maintained that the LTTE needed to definitively renounce terrorism in "word and deed" before the U.S. could consider a delisting and/or direct contact. Interviews with a number of senior foreign participants in the peace process showed a unanimous opinion that this "good cop/bad cop" strategy was useful, at least in the early stages of the peace process. Senior GSL participants agreed strongly.

While the U.S. maintained this hard line, it tried to communicate, at several levels and both publicly and privately, that a change in LTTE behavior could lead to a change in the U.S. approach. This message was sent through the Norwegians in their facilitator role. It was also made repeatedly to various contacts who could pass it on to the LTTE. These contacts took place both in Sri Lanka, through prominent Tamil politicians; and in the

U.S., through Tamil expatriates who were known to have close connections to the LTTE. On the public side, the U.S. both praised the LTTE for entering the peace process and held out the possibility of de-listing. Armitage made the former point in his address to the December 2002 donor meeting in Oslo when he said that "the United States is greatly encouraged that the LTTE has made a commitment to the political solution." The latter point was made in his February 2003 Washington speech: "if the LTTE can move beyond the terror tactics of the past and make a convincing case through its conduct and its actual actions that it is committed to a political solution and to peace, the United States will certainly consider removing the LTTE from the list of Foreign Terrorist Organizations."

There is always a question, of course, as to whether the LTTE senior leadership, and especially LTTE Chief Prabhakaran, received this message and believed it. This is impossible to ascertain. What should be clear is that the U.S. made strenuous efforts to see that the message got through.

U.S. policy was nuanced in other ways. On the most basic level, the U.S. supported the process as constructed, which involved the acceptance of the LTTE as a negotiating partner of the government. The U.S. also made no objection to, and indeed generally supported, the direct engagement of other parties with the LTTE. When the GSL indicated that it was uncomfortable with a high-level visitor (such as European Commissioner for Foreign Relations Chris Patten) visiting the LTTE headquarters in Kilinochchi to meet LTTE leader Prabhakaran, the U.S. strongly supported the proposed visit. On the assistance side, during the early stages of the peace process, the parties attempted to set up a donor fund called the North East Reconstruction Fund (NERF) that would channel assistance to the North and East, working directly with

11. USAID officials found that when they asked citizens in the North and East about the status of the TRO, the reply was that the TRO was of course a part of the LTTE.

both the government and the LTTE. Because of the prohibition on material assistance, the U.S. could not contribute to the NERF. However, the U.S. did not object to its establishment, even though it would put some donor funds directly into the hands of the LTTE or its front organizations. In fact, the U.S. actively supported the establishment of the NERF, and the U.S. Executive Director at the World Bank pushed enthusiastically for approval of the Bank as administrator of the NERF. Similarly, the U.S. urged the GSL to conclude a tsunami reconstruction mechanism with the LTTE [at first known as the "Joint Mechanism," later as the Post-Tsunami Operational Management Structure (P-TOMS)]. The P-TOMS also envisaged a joint donor fund which would give the LTTE control over some assistance money, and the U.S. therefore could not participate. Nonetheless, the U.S. remained a supporter, both public and privately, of both the P-TOMS in general and the proposed fund.

3.3 MILITARY RELATIONS

As part of its strategy for promoting the peace process, the U.S. began to strengthen its military relationship with the GSL. Prior to the start of the peace process, visits from senior U.S. military officers were rare; and there had not been a U.S. Navy ship visit for a number of years. Before the peace process, the U.S. had no Foreign Military Financing (FMF) program (the program under which the U.S. provides grants to other countries for the purchase of U.S. military equipment) with Sri Lanka. FMF funding for Sri Lanka in 2002 and 2003 was zero. In 2004 it jumped to \$2.5 million. (Since this budget is prepared several years ahead, there is a lag time in implementation.) It declined to \$.5 million in 2005, but the requested amounts for both 2006 and 2007 are just under \$1 million. These are not large amounts in the FMF program, and would procure only modest amounts of equipment. Nonetheless, they

represent a certain commitment to strengthening the Sri Lankan armed forces.

Separately from the FMF program, Sri Lanka was declared eligible for the program under which countries can receive Excess Defense Articles (EDA) from the U.S. Under this program Sri Lanka was offered the surplus U.S. Coast Guard Cutter "Courageous." The ship was provided for free, but Sri Lanka had to pay for refurbishment and for new weapons systems. The selection of Sri Lanka to receive the "Courageous" is another example of the increased U.S. attention paid to Sri Lanka. Items like this ship are highly prized and there is intense competition for them.

Another important aspect of U.S. military assistance is the International Military Education and Training (IMET) program, under which foreign military members receive training in U.S. military schools. IMET funding for Sri Lanka was \$200,000-\$250,000 in 2000-2002. In 2003 it increased to about \$300,000, and from 2004 through 2006 the amount ranged from \$450,000-\$500,000. (IMET includes not only technical and managerial training, but also training on human rights and civil-military-relations, and is intended in general to familiarize participants with U.S. values and democratic processes.)¹²

In addition to these programs, high-level military contacts increased markedly. One observer stated: "Before the Peace process, Sri Lanka might get a visit from one flag-rank U.S. officer per year. By 2004, it seemed there was one visit a month." While there probably were not 12 visits per year, as this would imply, it illustrates an important impression. Most of the high-level U.S. military visitors went to the field as well as Colombo, and their visits were well publicized. Again, these visits were intended to send a message. U.S. Navy ship visits increased to several per year; and the U.S. also increased the amount of military training it offered

12. Figures for these programs can be found in the "Congressional Budget Justification for Foreign Operations" for the relevant year at <http://www.state.gov/s/d/rm/rls/cbj/>. All years listed are U.S. government fiscal years.

within Sri Lanka, through the JCET (Joint Combined Exchange Training) program, which brought small U.S. military units to Sri Lanka to simultaneously exercise with and provide training to their Sri Lankan counterparts.

The U.S. also attempted to help Sri Lanka make the most effective use of what resources it had. In September 2002, a team from the U.S. Pacific Command visited Sri Lanka and spent several weeks examining the entire Sri Lankan military in order to prepare an assessment that would help the GSL understand where its weaknesses were and how it could best address them.¹³

In sum, the U.S. military relationship with Sri Lanka increased substantially from a fairly low base after the start of the peace process. In absolute terms, military assistance funding never reached large levels.¹⁴ The relationship was intended to strengthen the capabilities of the Sri Lankan military in order to (a) deter the LTTE from returning to war and (b) ensure that the Sri Lankan military would be more capable if the LTTE did resume hostilities. U.S. civilian and military officials at all levels stressed repeatedly to Sri Lankan officials that the enhanced military relationship and increased assistance levels were not intended to encourage the GSL to return to war; rather, they were intended to *deter* war. U.S. officials involved in these issues reported that Sri Lankan military and civilian officials stated that they understood this message. Some U.S. officials stated that they believed that most Sri Lankan officials agreed with this point, but that some may have not. Of course a wide range of actors both within and without

government may have interpreted this support in different ways.

The question remains as to whether the LTTE understood the U.S. intent. Several high-level foreign officials who had contact with the LTTE stated that these activities may well have contributed to a feeling by the LTTE that the international community was hemming them in and reducing their options.

3.4 DEVELOPMENT ASSISTANCE

a. Agency for International Development

The U.S. Agency for International Development (USAID) has been present in Sri Lanka since 1956, spending approximately \$2 billion since its inception. USAID played a large role in the Mahaweli Accelerated Development Program in the 1970s and 80s. By the late 1990s, however, with the end of the Cold War and a USAID decision to concentrate its programs, the Sri Lanka program was in jeopardy. The USAID Sri Lanka Strategic Plan 2001-2005 projected a decline in USAID funding to \$5 million per year for FY 2001 to 2004, and then to \$2 million in FY 2005. USAID staffing would decline also, with the projection of only one "U.S. Direct Hire" position by 2005. In fact, there were some in USAID who wished to close the program completely, and the USAID FY 2006 Congressional Budget Justification (CBJ) mentions the "decision in FY 2002 to reverse a mission closeout plan." The following table shows the variation in USAID funding from FY 1998 through FY 2007 (in millions of US dollars.)¹⁵

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
\$6,976	\$8,331	\$7,738	\$7,587	\$9,775	\$10,996	\$16,979	\$16,994	\$7,425	\$7,500

13. This visit was announced by the Sri Lanka Broadcasting Corporation on Aug. 31, 2002. Excerpts of the team's report were published in the Sri Lankan *Sunday Times*, September 14, 2003.

14. Figures of military sales/assistance from countries such as Pakistan and China are not available, but these levels are certainly much higher than U.S. military assistance. The GSL purchased heavy weaponry, such as tanks, artillery, jet fighters, etc., from a variety of sources, including Israel and Ukraine. By comparison, purchases from the U.S. were relatively small.

15. Figures are drawn from USAID documents available on the Internet. They do not include PL-480 assistance (food aid), or tsunami assistance following December 2004. FY-06 is a requested amount, FY-07 is projected. Dollar figures are in millions of U.S. dollars.

The figures show clearly the reversal in USAID planning and budgeting following the inception of the peace process. In fact, USAID prepared a modified strategic plan in 2003 to cover FY 2003-2007 and to supersede the 2001-2005 Strategic Plan, which was based on a phasedown/closeout of the USAID mission.¹⁶ Given the lag time in USAID programming, a significant increase in funding does not show up until 2004, with the USAID program almost doubled in size. Similarly, U.S. Direct Hire USAID personnel increased to eight persons by 2005, in contrast to the earlier projection of a decrease to one person.

USAID programs are divided into four strategic areas:

1. Humanitarian Assistance
2. Supporting the Benefits of Peace
3. Democracy and Governance
4. Economic Growth

Several features of the USAID program should be noted:

- Almost no funds have been provided directly to the Government of Sri Lanka. Almost all funds are programmed through various private sector groups and non-governmental organizations. (Small grants supported government institutions such as the Secretariat for Coordinating the Peace process - SCOPP.)
- Two of the four strategic areas--Supporting the Benefits of Peace, and Democracy and Governance--deal directly with "transformational" issues, those factors that brought about and sustained the conflict. Examples include USAID support for the "One Text" initiative, which allowed stakeholders from all segments of society to hold an ongoing dialogue on the peace process.

A major element in USAID's strengthened program was the establishment of an Office of Transition Initiatives (OTI) office in Sri Lanka in 2003. OTI, as its name

indicates, is intended to operate in countries that are undergoing transition from conflict to peace. OTI is able to operate much more nimbly than regular USAID programs, making small grants to local communities to rebuild basic infrastructure. Through OTI, USAID was able to establish a field presence in the North and East, with OTI offices opened in 2003 in the conflict-affected areas of Amparai and Trincomalee. (An OTI office was later opened in Matara in the South, as a sign that all areas of Sri Lanka are in fact conflict-affected.) OTI grants were often structured to bring ethnic communities together by insisting on a work plan jointly approved by two communities. Through September 2006, OTI had made grants worth almost \$17 million, of which about half was tsunami-related.

USAID's enhanced program had to deal with the same two issues related to the LTTE: material support and contact. As a matter of law, USAID had to ensure that its programs did not provide material support to the LTTE. As a matter of policy, it had to avoid contact with the LTTE. A number of people within USAID and other parts of the U.S. government wanted to conduct development programs within LTTE-controlled territory, as a symbol of U.S. desire to assist the Tamils most severely affected by the conflict. According to accounts of participants in the debate on this issue in 2002-2003, the U.S. government policy process did not establish clear guidelines on what USAID could or could not do. In the absence of such guidelines, USAID understandably did not attempt to carry out projects.

In part as a substitute, USAID carried out projects in Government of Sri Lanka-controlled areas of the North and East. In addition to the OTI small grants mentioned above, USAID also funded a major upgrading of a prosthetic limb workshop in Jaffna. Projects like this also ran into difficulties because of U.S. policy regarding the LTTE. Supplies for projects in Jaffna had to be transported by truck on the A9

16. Inexplicably, the 2001-2007 Strategic Plan is available on USAID's website, but the 2003-07 Modified Strategic Plan is not, although it is mentioned frequently.

highway, which ran through LTTE-controlled territory. LTTE "officials" inspected the cargoes and levied "taxes" on them. USAID payment of those taxes could have been construed as material support for the LTTE, even if indirect and inadvertent. In order to deal with this problem, Washington gave permission for working-level USAID officials to meet with similar-level LTTE officials to discuss technical matters only. Such meetings took place in the second half of 2003, and the LTTE officials agreed to allow passage of the USAID materials without charge. Although these meetings were not publicized, there was no attempt to hide them. Surprisingly, however, they did not become an issue of public comment. Unfortunately, LTTE officials later insisted on imposing loading and unloading fees on the cargoes, effectively blocking USAID from sending them.

b. Other U.S. Assistance

USAID is the U.S. government's main provider of development assistance, but not the only one. Other U.S. agencies and offices have separate funding sources and separate programs, and all of those programs are coordinated at the country level. In addition to USAID's development program, a number of other U.S. assistance programs have operated in Sri Lanka since the beginning of the peace process.

1. Humanitarian Demining

Shortly after the ceasefire began, the U.S. sent two humanitarian demining teams to Sri Lanka, clearing some 200,000 square meters of land. A civilian contractor was hired to train the Sri Lankan Army in humanitarian (as opposed to military) demining procedures, and mine detecting dogs and heavy demining equipment were provided. This program was very successful, with a large number of personnel trained and placed in the field to conduct demining operations. In total, almost \$8 million was spent on this program from FY 2004 through 2006, with another \$1 million planned for FY 2007.

2. U.S. Treasury Assistance

Technical advisers from the U.S. Treasury specializing in areas such as budget preparation, debt management and anti-money laundering were sent to GSL institutions--such as the Central Bank and the Finance Ministry--for periods of one year or longer. This program continued in 2006-07.

3. Police Training

The Ranil Wickremesinghe government removed the Sri Lankan Police from the Ministry of Defense and placed them under civilian control. Essentially used as a paramilitary arm of the security forces throughout the ethnic conflict, the police were poorly trained to carry out normal civilian policing duties. To remedy this, in 2003-04, the U.S. provided training to the Sri Lankan Police under a program run by the U.S. Department of Justice's International Criminal Investigation Training Assistance Program (ICITAP). This program aimed to improve the forensic and investigative capabilities of the police, as well as to train them in modern methods of community policing. Unfortunately, funding for the program was cut and the program terminated in FY 2005. After the election of President Rajapakse, the police were moved back into the Defense Ministry.

c. Millennium Challenge Account

The Millennium Challenge Account (MCA) is the Bush Administration's major new initiative in development assistance. It is based on the principle that assistance should be provided not to those countries that are most *needy*, but rather to those that are most *deserving*. Worthiness is judged by how well countries score in three broad categories--ruling justly, investing in people, and economic freedom--and also in 16 narrower categories. The judgment is intended to be objective and not swayed by political considerations. The Millennium

Challenge Corporation (MCC), which administers the MCA, was established in January 2004 and Sri Lanka was one of the first 16 countries declared eligible for MCA assistance in May 2004. Since that time, MCC officials have been discussing a possible MCC agreement (a "compact") with the GSL. The compact originally proposed by the GSL totaled \$590 million--divided among irrigation, rural electrification, rural roads, industrial park infrastructure and Small and Medium Enterprise (SME) Development. A program of this scale would have been an enormous increase in U.S. assistance to Sri Lanka. Discussions have moved slowly, and the program has now been reduced to rural roads and a small SME project, totaling around \$100 million. The proposed compact is now in the "due diligence" stage. According to MCC officials, the reduction in the program was due to economic, not political considerations. A proposed rural electrification project, for instance, was considered not possible unless there was also government action to reform the power sector and the state-controlled Ceylon Electricity Board. While the proposed amount has been reduced substantially, even a \$100 million project will be a substantial increase in overall U.S. assistance. If the peace process continues to deteriorate and the program moves ahead, U.S. officials will have to explain the apparent contradiction.

Although Sri Lanka's eligibility for MCA funds and discussions on an MCA compact began after the inception of the peace process, they are not formally linked. Sri Lanka qualified for the MCA based on the 16 objective indicators. According to the manner in which the MCA is set up, if the U.S. and the GSL can agree on a compact on economic grounds, it should proceed--whether or not the peace process is progressing. However, if Sri Lanka should fall behind on some indicators, it could lose its eligibility. The current trend toward increased military confrontation could be a factor here. The MCA indicators include political factors such as civil liberties and political freedom, and economic indicators such as trade policy and fiscal policy. As the ceasefire frays and the two sides engage in

increased military action, there is a real danger that Sri Lanka's ranking will fall in these and other areas. If Sri Lanka falls below the median in half of the indicators in each of the three broad categories, it could lose its eligibility.

If Sri Lanka does not lose its eligibility, and a compact is concluded, the resulting increase in U.S. development assistance would be significant, as mentioned above. Even a \$100 million MCC compact would be larger than all other U.S. assistance combined. Equally important, it would almost certainly not be very conflict sensitive. As the MCA is designed--with the focus on reducing poverty through economic growth, and eligibility based on objective criteria rather than political factors--it is almost by definition *not* conflict sensitive. U.S. government officials, working with GSL officials, have tried to bring in conflict sensitivity by designing the proposed compact to include both Sinhalese and Tamil areas. For instance, the rural roads project includes areas directly affected by the conflict, with some proposed road projects in the Jaffna area. Despite the increased conflict, MCC officials believe that such projects can still go ahead, noting, for instance, that the GSL's Road Development Authority (RDA) still has a functioning office in the LTTE headquarters town of Kilinocchi. If fighting in the Jaffna area escalates dramatically, however, it seems questionable whether such projects could proceed. The result could be a large economic development project concentrated largely, if not exclusively, in majority Sinhalese areas of the country. This could well give the GSL the mistaken impression that the U.S. is supporting a course of increased military confrontation.

d. Tokyo and Conditionality

The Tokyo Declaration issued at the Tokyo Conference on Reconstruction and Development of Sri Lanka on June 10, 2003, lays out a specific "linkage between donor support and progress in the peace process" in paragraph 18. This section states that, "Assistance by the

donor community must be loosely linked to substantial and parallel progress in the peace process," and goes on to set out specific "milestones" to measure such progress. In paragraph 20 there are further calls for the "international community" to "monitor and review the progress in the peace process" and states that "in implementing its own assistance programs, the donor community intends to take into careful consideration the results of these periodic reviews." Paragraph 20 concluded that Japan, along with the other co-chairs of the talks, would "undertake necessary consultations to establish the modalities for this purpose as early as possible." What role did the U.S. play in establishing this policy of conditionality, and how did the U.S. understand the concept?

The U.S. was an enthusiastic proponent of adding conditionality to the Tokyo Declaration. Prior to the Tokyo Conference, U.S. Ambassador Ashley Wills chaired a donor group in Colombo which developed these proposals for the Tokyo Declaration. Some donors, especially Japan, with its large and long-standing assistance program in Sri Lanka, were unenthusiastic about any language that would obligate them to take certain actions. Hence the language was carefully crafted to avoid any such obligations.

How did the U.S. and others understand the language on conditionality? For the U.S., conditionality was definitely understood more as a loose linkage--as the Tokyo text itself states--than a strict conditionality.¹⁷ In the most minimal sense, the U.S. saw this language as a statement of a simple reality--that without progress on peace, it would be difficult to increase assistance significantly because it would be difficult to deliver that assistance. In particular, donors intended to program large amounts of assistance in the North and East.

Without a stable and peaceful environment, that would be extremely difficult to do. Beyond that, the conditionality language reflected an opportunity cost. If the peace process were progressing well, donors would be likely to find additional funds for Sri Lanka. Conversely, if the peace process stagnated or regressed, additional funds would likely be spent in other countries that were either more promising or needier.¹⁸ Indeed, a significant number of international donors are now concentrating their development on the poorest nations, many of them in Africa. By way of comparison, the World Bank calculates Sri Lanka's gross national income per capita at \$1160 versus Rwanda's \$230. Thus, any assistance to Sri Lanka would need to be justified by some greater goal, such as a successful peace process.

The U.S. never meant or understood the Tokyo conditionality language to be a binding and uniform concept for all donors. Rather, each donor could interpret the meaning of conditionality as it saw fit. After considerable delay, a donor working group chaired by the United Kingdom was established in Colombo, to follow up on paragraph 20 and assess progress on the milestones. This was done with the explicit understanding that the conclusions of the working group would be advisory, not binding. The working group did meet and produce a report, but its impact was minimal. This was in part because the concept was premised on a peace process that was moving forward, not one that was static or in decline. Seen from this perspective, the Tokyo language was a promise of greater funding if the peace process succeeded. As the peace process has stalled, that hope for greater funding has largely disappeared.

17. By "linkage" we mean here that the willingness *and* ability to deliver assistance would be *affected* by progress on the peace process. "Conditionality," by contrast, would mean that the willingness to deliver assistance would be *determined* by progress in the peace process.

18. One European ambassador stated explicitly in 2004 that this was the situation with regards to funds from his country. Additional funding which had been planned for Sri Lanka was not provided because of the stalled peace process.

4. Relations with other Countries

4.1 CO-CHAIRS AND DONOR GROUP

As the preceding discussion has outlined, the U.S. and other international players achieved a high level of cooperation on Sri Lanka. Inspired by the interest of Deputy Secretary Armitage, the U.S. developed a close working relationship with peace process facilitator Norway, and with the other parties that would eventually make up the Tokyo Co-Chairs, the EU and Japan. (The co-chairs per se did not exist until the Tokyo Conference was at least in the planning stages.) High-level participants have testified to a remarkable degree of consultation among the major players.¹⁹ One senior official noted that there was a conscious effort by the U.S. to maintain close consultations with Norway to avoid surprise actions or statements. If the U.S. were to make a statement on Sri Lanka, he said, its partners were at a minimum informed beforehand. These consultations were normally carried out by telephone conversations. In addition, peace process visitors to Washington were usually able to obtain meetings with Armitage.

Coordination was also close in Colombo. The larger donor group--comprising bilateral donors,²⁰ UN agencies and other international organizations,²¹ and the multilateral development banks--met frequently.²² In the early stages of the peace process, this group had monthly lunch meetings hosted by the Japanese ambassador.

Once the co-chairs of the Tokyo conference had been established, there were two sets of meetings: smaller meetings of the co-chairs and larger donor group meetings. When a high-level visit occurred--Japanese Special Envoy Yasushi Akashi, or Norwegian officials Vidar Helgesen or Erik Solheim, for instance--the co-chairs would normally have a group meeting with the visitor shortly after his arrival. The larger donor group would have a subsequent meeting, frequently toward the end of the visit.²³

4.2 INDIA

Conspicuously missing from the groups mentioned above is India, which has a keen interest in Sri Lanka and its ethnic conflict. India's position is unique, for a number of reasons. As the largest and most powerful nation in South Asia, it has an overriding interest in peace and stability in the region. Moreover, India has a large Tamil population which has a natural sympathy for its Tamil brethren in Sri Lanka. Over the years, India has faced a number of ethnically-based secessionist movements, and hence is keenly aware of the effect that a demonstration of successful secession would have upon its own nation. These factors led India into significant involvement in the Sri Lankan conflict beginning in the 1980s:

19. Personal interviews with the author, September - November 2006.

20. These included the U.S., Norway, Japan, Germany, France, Italy, Sweden, Denmark, Australia, Canada, South Korea, Switzerland, and the U.K, plus the European Commission.

21. These included UNDP, ILO, IOM, UNFPA, UNICEF, UNHCR, WFP, and WHO, plus the ICRC and the IFRC.

22. The World Bank, the Asian Development Bank, and the International Monetary Fund.

23. The large donor group lunches with visiting Norwegian officials were threatened in 2004 when almost verbatim accounts of the discussions appeared in a Sri Lankan newspaper--including warnings that leaks to the press would threaten the continuation of the briefings! The newspaper reports were widely assumed to have been based on a leak, or leaks, from the participants in the lunches.

- Non-violent Sri Lankan Tamil politicians such as the leaders of the Tamil United Liberation Front (TULF) party went into self-imposed exile in Madras (now Chennai) in the early 1980s. Some of them, such as TULF leader Amirthalingam, were hosted by the Tamil Nadu government.
- The five main Tamil insurgent groups, including the LTTE, established facilities in India. In what soon became an open secret, the groups received funding, equipment, and training from the government of Indira Gandhi.

Indian involvement became more intense after the assassination of Indira Gandhi and the ascent to power of her son, Rajiv Gandhi. New Delhi took on the role of mediator and forced the militant groups to accept a ceasefire and negotiations with the Jayawardene government in Bhutan in July 1985 and in Bangalore in March 1986. While these talks were not successful, India strongly pressured the LTTE to agree to the terms of the Indo-Sri Lanka Accord of July 1987. The accord provided among other things for a merger of the Northern and Eastern Provinces (subject to later confirmation by a referendum of the affected population), the establishment of a provincial council in the merged area, and the deployment of an "Indian peace keeping contingent," later known as the Indian Peace Keeping Force (IPKF). The tragic denouement of this process is well known: the agreement broke down; fighting resumed; and the IPKF, designed as a peace-keeping force between the GSL and the LTTE, began combat operations against the LTTE. After several years and the deaths of over a thousand Indian soldiers, the IPKF withdrew in March 1990.²⁴ Rajiv Gandhi was assassinated by an LTTE suicide bomber in 1991.

As mentioned earlier, the U.S. at the time had a friendly relationship with the Jayawardene government, with its pro-West and pro-free market outlook, but did not become intimately involved in the peace process, leaving

this largely to India. India at that time showed some suspicion about U.S. interests and intentions in Sri Lanka. These suspicions were given concrete expression in the exchange of letters on July 29, 1987, between President Jayawardene and Prime Minister Gandhi which were attached to the Indo-Sri Lanka Accord of the same date. The letter from Gandhi states that "it is imperative that both Sri Lanka and India reaffirm the decision not to allow our respective territories to be used for activities prejudicial to each other's unity, territorial integrity and security." The letter continued that:

"2. In this spirit, you had, in the course of our discussions agreed to meet some of India's concerns as follows:

- i. Your Excellency and myself will reach an early understanding about the relevance and employment of foreign military and intelligence personnel with a view to ensuring that such presences will not prejudice Indo-Sri Lankan relations.
- ii. Trincomalee or any other ports in Sri Lanka will not be made available for military use by any country in a manner prejudicial to India's interests.
- iii. The work of restoring and operating the Trincomalee Oil Tank Farm will be undertaken as a joint venture between India and Sri Lanka.
- iv. Sri Lanka's agreements with foreign broadcasting organizations will be reviewed to ensure that any facilities set up by them in Sri Lanka are used solely as public broadcasting facilities and not for any military or intelligence purposes."

Subparagraph (i) could refer to any number of countries and in particular could well have been meant by India to deal with the issue of Pakistani and Israeli personnel. Subparagraph (ii) could also be generic in meaning and could apply, for instance, to Pakistan. Given

24. These events are described in detail in Anton Balasingham's *War and Peace: Armed Struggle and Peace Efforts of Liberation Tigers*, London, 2004, and in then Indian High Commissioner J.N. Dixit's *Assignment Colombo*, New Delhi, 1998.

longstanding rumors about U.S. interest in the naval facilities at Trincomalee, however, it seems reasonable that it was intended to apply at least in part to the U.S.²⁵ Subparagraphs (iii) and (iv), however, almost certainly are directed specifically at the U.S. Sri Lanka had been considering leasing the abandoned Trincomalee oil tank farm to the private sector to restore and operate. One of the major contenders for this proposal was a U.S. private company. Even though this would have been a completely independent private sector operation, it appears that India was suspicious of the arrangement and therefore ensured that the operation would be taken over by an Indian para-statal corporation.

Subparagraph (iv) can only be understood as a reference to the operations of the Voice of America (VOA) in Sri Lanka. An agreement between the U.S. and Sri Lanka to expand and upgrade VOA facilities had been signed in 1983. The eventual result was the construction of a U.S. International Broadcasting Bureau (IBB) facility located at Iranawila north of Colombo.²⁶ This decision caused considerable controversy within Sri Lanka because of suspicions that it would be some type of intelligence facility, and also because of objections by local residents. In fact, the facility operates today as a pure broadcasting facility. It has no intelligence or other covert capabilities or operations, and groups of Sri Lankans routinely tour the facility. Local opposition has largely evaporated as the facility has brought upgrades to local infrastructure and also offers employment to local residents.²⁷

In contrast to the situation at that time, the relationship between the U.S. and India with regard to Sri Lanka during the current peace process has been characterized

by openness, transparency, and a lack of suspicion. This is in large part due to the transformation over time of the entire Indo-U.S. relationship. As that relationship has matured, Indian suspicions that U.S. actions in Sri Lanka would threaten India's national interests have largely subsided. This new atmosphere was bolstered by actions by both sides to share information and, to a lesser extent, to coordinate their policies. Information sharing took place at different levels and different locations. The U.S. Ambassador in Colombo and the Indian High Commissioner met frequently to exchange views and share information on their activities in the country. The two countries' defense attaches also met periodically, and the U.S. defense attache provided his Indian counterpart with a schedule of planned U.S. military activities.²⁸ The situation in Sri Lanka was discussed routinely during policy-level meetings between the two governments, such as the regularly scheduled discussions between the Indian foreign secretary and the U.S. Under Secretary for Political Affairs. The atmosphere of cooperation was strengthened because the two countries found themselves in general accord in their analysis of Sri Lanka and its ethnic problem: that the unity and territorial integrity of Sri Lanka needed to be preserved, that Sri Lanka's Tamils had legitimate grievances which the government needed to address, and that the LTTE had to give up terrorism, renounce violence, and enter a political process.

This atmosphere of consultation and cooperation should not be misunderstood. It was much more consultation than cooperation. The two countries discussed their understanding of the situation in Sri Lanka and their policies. They did not attempt to develop joint policies

25. As noted earlier, the U.S. has, in fact, never had any serious interest in the use of Trincomalee.

26. This facility is widely referred to as a Voice of America (VOA) broadcasting station. The correct term, however, is International Broadcasting Bureau. The facility transmits both VOA and other programs, such as Radio Free Asia.

27. Indian High Commissioner J.N. Dixit made Indian suspicions explicit. He wrote that he told President Jayawardene that "Sri Lanka should fulfill the assurances which it gave in 1985...that Sri Lanka would prevent foreign broadcasting stations like the Voice of America from being utilized for military purposes by countries like the United States." J.N. Dixit, *Assignment Colombo*, New Delhi, 1998

28. This cooperative relationship showed its value during the immediate post-tsunami period, when the Indian and U.S. militaries were both providing disaster relief in the country. Using the established relationship, the two militaries were able to communicate easily to ensure their operations did not conflict.

or operations. This was not some type of U.S.-India condominium with regard to Sri Lanka. It was in many ways a "non-confliction" exercise to ensure the two sides did not work at cross purposes.

India still maintains a unique position among major international players. While deeply interested in events in Sri Lanka, it maintains a somewhat aloof position. The Indian ambassador attended the April 2003 pre-Tokyo donors' conference in Washington, DC, but India did not attend the Tokyo Conference itself. It is not a formal participant in the Colombo Donors Group, and it is not one of the co-chairs of the peace talks. Over time, however, India has established tentative links to these groups. India is invited to participate in donor group lunches in Colombo, and has participated on an on-and-off basis. (The Indian High Commissioner, however, had not attended as of summer 2006, sending a lower-ranking official instead.) When co-chair senior officials meet, they now routinely offer a briefing to India immediately following the meeting. (Though India has been invited to send an official from New Delhi who deals with Sri Lanka to these briefings, they are normally held with a representative from the Indian Embassy in the locale of the meeting.) The U.S. has enthusiastically supported this enhanced contact with India.

5. Economics

As described above, the UNF government of Prime Minister Ranil Wickremesinghe attempted to institute a radical economic reform program. After the defeat of the Wickremesinghe government in the April 2004 parliamentary elections, it has become conventional wisdom that a major reason for the UNF defeat was this economic reform program. Further, many believe, as it is stated in the opening volume of this series, that the UNF lost because it attempted "to simultaneously force through two major structural changes (negotiating a peace settlement and implementing radical reforms), which created unmanageable tensions within the polity." Finally, it is frequently claimed that this was encouraged by the major donors.²⁹ What role did the U.S. play in this area?

As stated earlier, the enhanced U.S. interest in Sri Lanka and its peace process was motivated in part by enthusiasm for the Wickremesinghe government and its policies, including its economic reform plans laid out under the rubric "Regaining Sri Lanka" (RSL). This enthusiasm was generally shared by other donors and the multinational development banks. It is critical to note, however, that at the time a dramatic economic reform program was seen as *enhancing* the Wickremesinghe government's ability to strike a peace deal, not as detracting from it. There is no doubt that RSL was seen as a radical change. For instance, the World Bank's *Sri Lanka Country Assistance Strategy 2003-2006* described RSL as "an aggressive proposal to...change the role of the state, while addressing the key elements of poverty." The strategy was described as "inherently risky" but worth taking as Sri Lanka "faces a rare window of

opportunity." In sum, the Bank stated that "The Country Assistance Strategy strongly supports the government's view that it is imperative that the peace process be accompanied by an equally determined economic reform process."³⁰

The key element here is that while the international community may have urged the government to move forward with a radical economic reform program, the government was equally enthused. High-level foreign officials involved in the economic program are unanimous on the government's enthusiasm. One stated, "Ranil Wickremesinghe was interested in the peace process, but he became really enthused when he talked about free trade." Others echoed the theme that Wickremesinghe was really passionate about economic reform. This enthusiasm was enhanced by that of the MDBs, the U.S., and others.

There were good reasons for enthusiasm for at least part of the reform program, as macroeconomic fundamentals were badly off track. Sri Lanka suffered its first ever economic contraction in 2001, with GDP growth at minus 1.4%. Inflation was over 14 percent, the budget deficit was 10.9 percent of GDP and government debt was over 100 percent of GDP.³¹ A serious macroeconomic stabilization program was imperative, and the Wickremesinghe government provided that. As one high-level foreign official noted, one only had to look at the change by October 2003 to see that this program had worked--the deficit, inflation and interest rates were down, reserves were up, and economic growth was accelerating. On the negative side, however, there

29. Jonathan Goodhand and Bart Klem, *Aid, Conflict and Peacebuilding in Sri Lanka 2000-2005*, Colombo, 2005.

30. *Sri Lanka Country Assistance Strategy of the World Bank Group 2003-2006*, Colombo, 2003, pp 3-18.

31. *Ibid*, p 8.

was no change in employment, and there was a slight increase in poverty. 2004 was projected as Sri Lanka's best economic performance ever, with growth projected at 8 percent and inflation declining to 5 percent. With the budget deficit substantially reduced, the government planned to return to serious anti-poverty programs.

Nonetheless, this official continued, the program was "badly misdesigned" in its lack of concern about poverty. This official noted that when poverty and income inequality were raised, Wickremesinghe and his officials were dismissive--growth would take care of these issues, they said. The government and international players shared one other crucial assumption, however. They all believed that the Wickremesinghe government would have a full five-year term to show the results of its economic reform program. Just at the time that the government was about to be toppled, some government officials believed that they would turn to more targeted anti-poverty programs. This was much more of a political miscalculation than an economic one.

Looking back, it is easy to highlight mistakes the government made. It made sharp cuts in anti-poverty programs like the *Samurdhi* program, essentially a transfer program to poor households. Since *Samurdhi* expenditures were approximately equal to 1% of GDP; at a time of high budget deficits, such a cut made clear fiscal sense. Now, however, it can be seen as a political miscalculation. One senior UNF government official said that such cuts, without any countervailing new or expanded anti-poverty programs, were a political disaster. This official noted that President Jayawardene had balanced his economic reform program with other programs such as the Mahaweli scheme. The Wickremesinghe government did not build in such buffers. In addition to the *economic* impact of a failure to reduce poverty, there was the *psychological* impact of a perception that the Wickremesinghe government cared only about Colombo and the business elite.

Could the U.S. and others have influenced the Wickremesinghe government to modify its economic

policies in ways which might have avoided these problems? To start, it is unlikely that the U.S. would have tried to convince the Wickremesinghe government to modify the basic macroeconomic thrust of the economic reform program, because (a) it aligned closely with U.S. policy prescriptions and (b) it was seen as a remedy for a badly deteriorating economic situation. Could the U.S. have tried to persuade the government to modify the program to pay more attention to poverty alleviation? It could have, but it is doubtful that this would have had a dramatic effect. Moreover, the U.S. shared the perception of both the Wickremesinghe government and almost all outsiders that the government would have a full five-year term to show positive effects of its policies, including a reduction in poverty.

6. Domestic Politics

6.1 POLITICAL FAULT LINES

In hindsight it is easy to see some of the political fault lines that fractured the peace process. The inability of the UNF parliamentary government led by Ranil Wickremesinghe and President Chandrika Kumaratunga to work together resulted in the dissolution of that government in February 2004 and its defeat in the April 2004 parliamentary election. The persistent opposition to important aspects of the peace process by "outliers" such as the radical Sinhalese-Marxist Janatha Vimukta Peramuna (JVP), the Buddhist monk-based Jatika Hela Urumaya (JHU), and affiliated organizations such as the Sinhala Urumaya and the National Patriotic Front created a hostile public atmosphere with regard to the peace process in general, and in particular to the international and especially the Norwegian role. Could the U.S. and others have been realistically expected to foresee these problems and could they have done anything to ameliorate them?

6.2 THE WICKREMESINGHE-KUMARATUNGA RIVALRY

As noted previously, the U.S. was enthusiastic about the Wickremesinghe government when it was elected in December 2001. The U.S. showed its enthusiasm in concrete ways--by increasing U.S. assistance of various types; and by increased involvement in the peace process, culminating in the U.S. co-chairing the Tokyo Conference--and in symbolic ways, by public expressions of support. Prime Minister Wickremesinghe met with President Bush in the White House not once, but twice--in July 2002 and in November 2003. It is quite remarkable that a leader from a small country where the U.S. has minimal strategic interests would be invited to

the Oval Office twice within 16 months. By contrast, President Kumaratunga was never invited to the White House in her 11 years in office.

While the U.S. was clearly enthusiastic about the Wickremesinghe government, it did not disregard President Kumaratunga. U.S. ambassadors made it a point to maintain a relationship with Kumaratunga throughout the uneasy cohabitation period from December 2001 until April 2004. U.S. officials routinely urged both parties to try to find a way to work together. Deputy Secretary Armitage made special efforts to single out the president and to note the efforts she had made for peace. In his speech at CSIS in February 2003, for instance, he said:

"We should all give due credit to President Kumaratunga. She knew this was the only answer for her country long ago. And her peace plan of 1995 was an important precursor to the progress we see now. Of course today, we owe much of that progress to the government of Prime Minister Ranil Wickremesinghe, who continues to take bold steps in the direction of peace. But it is clear that if Sri Lanka is to continue moving forward, the government must move together as one. No individual, no single political party can carry this burden alone. This must be a concerted effort by the president, the prime minister, and the parties."

During the crisis period between President Kumaratunga's takeover of three cabinet ministries in November 2003 and the dissolution of Parliament by the president in February 2004, the present author met numerous times with both the president and the prime minister to urge them to find out way to work out the cohabitation issue. He did not, however, at any time attempt to mediate between them. The U.S. felt that becoming involved in the details of the disputes between

the two to the extent of trying to mediate between them would be counterproductive.

The Wickremesinghe government, or at least many of its members, was not as solicitous of President Kumaratunga. Although she remained, under the constitution, head of state and head of government,³² as well as commander in chief, the government used many opportunities to sideline her. Cabinet meetings were held without her presence. In an episode particularly galling to her, the government did not even inform her of the invitation to speak before the UN General Assembly in the fall of 2004. One high-level foreign official commented that Wickremesinghe urged international players to deal mainly with him and to maintain relations with Kumaratunga at a "polite but minimum level." More than sidelining the president, some cabinet ministers in the Wickremesinghe government publicly and privately denigrated her and attempted to humiliate her. The president reciprocated, and her public and private comments about the government and many of its members were scathing.

Given this poisonous atmosphere, and the political and personal animosity between Wickremesinghe and Kumaratunga, it is unlikely that the U.S. or any other party could have convinced the two sides to work together. This is the conclusion of every senior participant, both Sri Lankan and foreign, with whom the author has spoken.

6.3 OUTLIERS AND SPOILERS

Among the questions raised by the Strategic Conflict Analysis is whether the international players were too accepting of a "bipolar" negotiating model, with the government (either the UNF or the UPFA) on one side and the LTTE on the other. A related question is whether the international players should have engaged

more with outliers and spoilers--parties who were not involved directly in the peace process and attacked it from outside. The most obvious of such groups were the Sinhalese chauvinist/Marxist JVP party and the Buddhist monk JHU party, and their affiliates. Their public campaigns against the peace process instigated great public distrust. The Supreme Court ruling striking down portions of the Post-Tsunami Operational Management Structure (P-TOMS) was in response to legal challenges filed by the JVP and the JHU.

The U.S. in fact made efforts to engage with these parties. The results, however, were disappointing. Mid-level U.S. embassy officials had contact with the JVP and the JHU, as they did with all political players in Sri Lanka. At a higher level, the author in his time as ambassador had periodic meetings with JVP and JHU leadership. The meetings were generally amicable and the discussions open and wide-ranging. Leaders of both parties went out of their way to appear friendly to the U.S. JVP leaders, for instance, expressed their admiration for President Bush's strong stand against terrorism. Despite the friendly atmosphere, it would be hard to say that there was much impact. JVP leaders emphasized that they had given up violence and entered the legitimate political process, and that there should be no dealings with the LTTE until they did the same. The U.S. tried to engage the JVP in a more substantive way than mere discussions, by offering to include younger JVP members of Parliament in the International Visitor Program. (Under this program young leaders from around the world are sent to the U.S. for a one-month tour focused around specific areas of interest.) Although the JVP leadership politely expressed interest in this program and promised to consider it, in the end they did not allow JVP members to participate. (The JVP similarly refused to participate in a program organized by the International Monetary Fund.) In the discussions, JVP leaders were consistently critical of Norway and its role in the peace process. The U.S. urged the JVP

32. It is often misunderstood that under the Sri Lankan Constitution the prime minister is not head of government.

leadership to meet directly with the Norwegians--either Norwegian Ambassador Brattskar or visiting Norwegian officials--to discuss these issues and clear up possible misunderstandings. The JVP consistently demurred.

The U.S. also engaged on a regular basis with other outlying groups, including the Tamil National Alliance and other Tamil political groups, and with Muslim political parties and factions. In contrast to the JVP and the JHU, these groups in general were not opposed to the peace process, but rather wanted a greater role for themselves in the process. The U.S. also attempted to help build the basis for more effective participation in the peace process by providing assistance in the establishment of the Muslim Peace Secretariat.

The statement that a more inclusive negotiating process--at a minimum including the two major political parties (the SLFP and the UNP), but also including outlying groups like the Muslims and nationalist groups like the JVP and JHU--would have been preferable to the bipolar approach that was followed seems unexceptional and obvious. To frame the question in that way sidesteps the real question: to what extent was such an outcome possible in a real, not just theoretical, sense? The U.S. experience in dealing with the JVP and the JHU leads one to the conclusion, once again, that efforts by international players, while laudable, probably would not have made any difference. The phrase "inclusion of the Muslims" begs the difficult question of "which Muslims," as the Sri Lankan Muslim polity is badly fractured. Moreover, the suspension of the bipolar peace talks meant that attention of the entire international community was focused more on rejuvenating those talks than on expanding the participant group. An ongoing peace process with some forward movement would have left ground for the U.S. and others to push for inclusion of others. A deteriorating process left only enough time to try to reverse the backward slide.

7. Peace Process Deteriorates - U.S. Interest Wanes

7.1 NEW ADMINISTRATION IN WASHINGTON

The high point of U.S. engagement in Sri Lanka was the period leading up to and including the Tokyo Conference, and the period thereafter when a return to active negotiations seemed likely. The cohabitation crisis beginning in November 2003, the defeat of the Wickremesinghe government in April 2004, and the shift to a second Bush administration in January 2005 all contributed to a lessened U.S. involvement in the Sri Lankan peace process. The departure of Deputy Secretary Armitage was especially important in this regard. Former U.S. Trade Representative Robert Zoellick replaced Armitage as Deputy Secretary, but declined to take up the Sri Lanka issue. Sri Lanka was passed to Under Secretary for Political Affairs R. Nicholas Burns.³³ Secretary Burns has, in fact, shown interest in Sri Lanka. He has hosted several meetings of senior-level co-chair country officials (most recently in October 2006), and visited Sri Lanka in January 2006. Nonetheless, in contrast to Armitage, Burns has only attended co-chair meetings held in Washington or New York. At meetings outside of the U.S., the senior U.S. representative has been Assistant Secretary for South and Central Asia Richard Boucher. Perhaps the decline in interest was only natural; it could hardly be expected that the same degree of highly personal interest would be sustained in a new administration.

7.2 DECLINING RESOURCES

The decline in U.S. interest is not measured merely in terms of personal involvement. A more telling indicator is the decline in resources. As shown earlier, projected USAID funding for Sri Lanka declined 64.6 percent from 2004 to 2007.³⁴ From one point of view this is only natural. USAID funding was increased because of hope for a successful peace process. As that hope wanes, funding wanes along with it. This is coupled with the global competition for resources, especially the demand for resources for Iraq and Afghanistan. As a country with minimal strategic interests for the U.S., with a deteriorating security situation based in part on the inability of Sri Lankan political elements to cooperate, it is difficult for advocates of Sri Lanka within the U.S. government to obtain continued substantial funding for Sri Lanka. Moreover, as the security situation deteriorates, it becomes problematic even to continue to operate USAID programs. This is particularly true for those programs, such as the OTI projects in Trincomalee and Jaffna, designed in response to the peace process and intended to benefit the conflict-affected. The decline should not be misconstrued. A portion of it is due to waning interest, but another portion is due to practical constraints in the competition for resources and the simple difficulty of programming in a conflict environment. More important, a decline is simply that--a decline. It is not an abdication of interest. U.S. interest in Sri Lanka persists.³⁵

33. The Under Secretary for Political Affairs is the third-ranking official in the State Department, and is usually the highest-ranking career foreign service officer.

34. If the two countries reach agreement on a Millennium Challenge Account program, assistance funding would increase dramatically. As noted earlier, however, the MCA programs are justified on a set of relatively objective indicators.

35. Some of the decline in USAID funding is also due to the fact that Sri Lanka is an MCA-eligible country, as AID has decided to devote fewer resources to such countries.

8. Looking Back and Looking Forward: Lessons from the Past and Projections for the Future

8.1 LESSONS FROM THE PAST

The history of U.S. engagement in the peace process in Sri Lanka since its inception in late-2001 presents a number of questions. With the benefit of hindsight, some of the answers appear obvious. Others are still open to debate.

8.2 ROLE DIFFERENTIATION AMONG INTERNATIONAL PLAYERS AND U.S. HARD LINE TOWARD THE LTTE

- The first question concerns the differentiation of roles among international players, with the U.S. taking a harder line (or "bad cop" role) with regard to the LTTE; while other international players, such as the EU countries, Japan, and Norway, joined by the UN agencies and the multilateral development banks, took a softer ("good cop") role. Did the hard-line U.S. approach to the LTTE have a positive effect, motivating the LTTE toward better behavior in the hope of gaining legitimacy? Or did it convince the LTTE that it would never be accepted as an equal partner in the peace process? Did the LTTE understand the U.S. message that removal of the terrorist designation was possible if LTTE behavior changed? Would direct U.S. contact with the LTTE have made that position clear?

The opinion of all high-level international participants, including those from the Government of Sri Lanka, is that this was a useful position by the U.S., at least in the early stages of the peace process. Some thought that it was valuable early on, but that its value waned over time. In particular, some questioned U.S.

encouragement of the EU to designate the LTTE as a terrorist organization, which they felt was harmful to the peace process.

As noted earlier, the U.S. tried to create a nuanced policy, holding out the possibility of a change in the U.S. attitude if LTTE behavior changed, and the LTTE renounced terrorism "in word and deed." The U.S. tried to make this explicit. Deputy Secretary Armitage stated it clearly in his remarks at both the December 2002 Oslo Donors Conference, and in his February 2003 CSIS speech. The U.S. tried to show this in other ways, also. Despite the U.S. policy decision not to meet with LTTE officials, Armitage made a conscious choice to sit in the same room with LTTE official Anton Balasingham at the Oslo Conference and to remain in the room while Balasingham spoke. The U.S. supported LTTE participation in the June 2003 Tokyo Conference. If the LTTE had attended Tokyo, the U.S. presumably would have continued with at least this limited type of engagement. High-level foreign officials believe that the U.S. position and the possibility of change were transmitted clearly to the LTTE, at least to Balasingham and others at his level. It is, of course, impossible to know whether this was passed on to LTTE leader Prabhakaran, or whether he understood the U.S. position.

Would direct U.S. contact with the LTTE have made this position clearer and perhaps induced a change in behavior? This question is of course unanswerable. As many participants have noted, direct U.S. contact with the LTTE, a designated Foreign Terrorist Organization (FTO), was difficult in the aftermath of September 11, 2001. One potential advantage of direct U.S. communication with the LTTE, had it occurred, would have been the ability of the U.S. to hear LTTE

perspectives and to get the measure of some LTTE leaders. The author believes that direct communication with the LTTE would have had concrete benefits, including the ability to deliver a clear U.S. message about possible delisting of the LTTE as an FTO. At a minimum, a one-time meeting, with the clear guidelines that further meetings would depend on progress on moving away from terrorism, would have been useful. Deputy Secretary Armitage told the author that he believes such a contact would have been worth trying--but emphasized the difficulty of doing so at that time.³⁶

- In addition to this general point, there are several related specific questions. Did the U.S. decision not to allow the LTTE to attend the April 2003 Washington Donor Conference play a major role in LTTE withdrawal from the political negotiations, or did it simply reinforce a developing trend? Was it simply used as an excuse for a decision that had been already made? Did the inability of the U.S. to conduct development projects in LTTE controlled areas have a significant negative impact on the peace process?

Some have argued, including one of the authors of another portion of the Strategic Conflict Analysis,³⁷ that "the LTTE withdrew from the negotiations 'because of their exclusion from' the Washington Conference." The opinion of most high-level participants, however, is that this was not the case. Most believe that the LTTE was at that point looking for an excuse to avoid going to Tokyo, in part because they feared the peace process was gaining so much momentum that the LTTE's maneuvering room would be drastically reduced. One official has noted that the LTTE had showed every sign that they intended to go to Tokyo. In fact, at the request

of the LTTE, the MDBs were completing a needs assessment for the North and East to be used at Tokyo. It was only when other events intervened--such as the collapse of the Subcommittee for Immediate Humanitarian and Rehabilitation Needs (SIRHN) and the realization that Tokyo would call for specific measures on human rights and democratization--that the LTTE decided not to attend the Tokyo talks.

In his review of the peace process, Anton Balasingham devotes considerable attention to the slight felt by the LTTE and Prabhakaran in not being invited to Washington.³⁸ The letter Balasingham wrote to Prime Minister Wickremesinghe on April 21, 2003 informing him of the LTTE suspension of the negotiations, mentions "the exclusion of the LTTE from critical aid conference in Washington," but goes on to list as reasons for the LTTE decision, "the non-implementation of the terms and conditions enunciated in the truce document, the continuous suffering and hardship experienced by...internally displaced Tamils, the aggressive Sinhala military occupation of Tamil cities,"³⁹ and other reasons. Balasingham also notes, with remarkable candor, that the Washington conference showed the LTTE leadership that "it faced a new phenomenon, the...excessive involvement of the 'international custodians of peace' in the negotiating process," and that as a result "the LTTE was compelled to act to free itself from the overpowering forces of containment."⁴⁰

Public LTTE complaints about exclusion from Washington may have been an example of protesting too much. Several Sri Lankan and foreign officials involved with the negotiations have stated that the LTTE, or at least Balasingham, understood clearly why they could

36. Interview with the author, Nov. 20, 2006

37. Sunil Bastian, *The Economic Agenda and the Peace process*, vol. 5 of the Sri Lanka Strategic Conflict Assessment, p. 23

38. Anton Balasingham, *War and Peace Armed Struggle and Peace Efforts of Liberation Tigers*, London 2004, pp 430-433

39. *ibid*, p. 439

40. *ibid*, p. 434

not go to Washington, and accepted it. According to one official at the Hakone session of the peace negotiations in March 2003, Balasingham had asked plaintively: "I probably won't be able to get a visa to the U.S. for the Washington conference, will I?" He did not however, imply that this was a major obstacle to continuation of the talks.

It appears, then, that the exclusion from the Washington conference certainly offended LTTE pride and their desire to have parity of treatment with the government, but that this was not a major factor in their decision not to attend the Tokyo talks and to suspend the negotiations.

The U.S. inability to carry out development projects in LTTE-controlled areas does not seem to have played any role in the breakdown of the peace process. Certainly in practical economic terms the impact was minimal. U.S. development funding of around \$20 million per year was small compared to that of major institutional and bilateral donors, some of whom planned large projects in LTTE-controlled areas. The portion that would have been available for use in LTTE areas would have been small in both relative and absolute terms. Nonetheless, such a project would have had symbolic significance, and would have sent a signal of U.S. willingness to engage. In the overall scheme of things, however, it is difficult to see how it would have made a difference.

- A related question involves the U.S. military relationship with Sri Lanka. Did the supportive U.S. military relationship with the Government of Sri Lanka have a positive effect by showing the LTTE that a return to armed conflict would be more costly? What effect did it have on the Government of Sri Lanka?

The answers to this question are not at all clear. The U.S. tried to be transparent in its approach, stating both publicly and privately that its military relationship was intended to prevent a return to war, not to incite one. The author of this study stated publicly in a speech to the American Chamber of Commerce in Sri Lanka in

January 2006 that, "Through our military training and assistance programs, including efforts to help with counterterrorism initiatives and block illegal financial transactions, we are helping to shape the ability of the Sri Lankan government to protect its people and defend its interests. Let me be clear, our military assistance is not given because we anticipate or hope for a return to hostilities. We want peace. We support peace. And we will stand with the people of Sri Lanka who desire peace. If the LTTE chooses to abandon peace, however, we want it to be clear, they will face a stronger, more capable and more determined Sri Lankan military. We want the cost of a return to war to be high."

From a practical perspective, the scale of the program, which was funded at comparatively low levels, meant that it would not have a determinative impact on the ability of the Sri Lankan military to wage war. The practical impact was not negligible, but the main impact was psychological.

Regardless of U.S. intentions, high-level officials who dealt with the LTTE have said that the LTTE was quite concerned about the U.S.-Sri Lanka military relationship. The LTTE specifically raised the issue of the supply of the ex-U.S. Coast Guard cutter "Courageous" with the Norwegian facilitators, for instance. One official commented that there was a "general perception" among the LTTE that the world was ganging up on them, and that the international community was against them. Several officials with close ties to the LTTE commented, however, that the LTTE was much more concerned about the Defense Cooperation Agreement which Sri Lanka was negotiating with India than they were about U.S.-Sri Lanka military cooperation.

On the other side, did government civilian and military officials understand the U.S. perspective? Or did any of them misunderstand it as uncritical support for the Sri Lankan military and a potential military solution to the ethnic conflict?

If they did understand the U.S. military relationship as support for a military solution, it could only have been by completely disregarding a clearly-expressed U.S. position. U.S. embassy officials, including the ambassador and the defense attache, made this point repeatedly and clearly to government officials. High-level visiting U.S. officials underlined it. Visiting U.S. military officers made the point repeatedly to their Sri Lankan counterparts. Most high-ranking Sri Lankan military officials stated that they understood and agreed. Some Sri Lankan civilian officials have made another point--by visibly supporting Sri Lanka, the U.S. gave confidence to the Wickremesinghe government that it could move forward and take risky decisions, and also allowed the government to show the Sinhala population that Sri Lanka had international support.

In sum, the U.S. military relationship with the GSL was intended to send two messages. The message to the GSL was that the U.S. would stand with the GSL if the LTTE resumed hostilities. The intent was to make the GSL feel strong enough to take risks for peace. The message to the LTTE was that a return to hostilities would be more, not less costly. The intent was to encourage the LTTE to seriously seek a negotiated political solution. There is always a potential disconnect between intent and actuality. This disconnect can also vary over time. As the peace process dragged on without progress, and as each side saw the other as increasingly violating the CFA, the perception of the message may have altered. The author's view is that in the early stages of the CFA--at least through the end of 2003 to mid-2004--the vast majority of GSL defense officials did not desire to resume hostilities and agreed that there was no military solution to the issue. As the opportunity presented by the Karuna faction breakaway became apparent, and as LTTE violations of the CFA continued, this perception probably shifted. At the same time it is clear that the LTTE thought that GSL willingness to enter into substantive talks was driven to a great extent

by LTTE military successes, and may have thought that the military balance was shifting.

- Another set of questions relates to the U.S. approach to the internal political situation in Sri Lanka. Did U.S. support for Prime Minister Wickremesinghe and his government encourage them to try to sideline President Kumaratunga? Should the U.S. (and other international players) have made greater efforts to encourage cooperation between the two, and would such efforts have been successful? Could the U.S. have done more to bring in outliers and spoilers like the JVP and JHU?

As indicated earlier, the U.S. developed a very close relationship with the new Wickremesinghe government based both on its perceived willingness to take risks for peace, and on its generally pro-West and pro-economic reform stances. But the U.S. also continually encouraged Prime Minister Wickremesinghe and his government to work with President Kumaratunga. The U.S. also gave strong public signals to this effect. As noted above, Deputy Secretary Armitage made this point explicitly in his February 2003 CSIS speech. Armitage repeated these points in other public remarks at various times.

The conclusion of almost all outside observers is that the U.S. and others could have urged these points more strongly, but that in the end it would probably not have altered the outcome. One senior Sri Lankan politician stated that in the battle for political survival, it should have been clear that once the new Parliament had passed the one year mark, President Kumaratunga would dissolve it at a time which seemed beneficial to her political prospects.⁴¹ By the end of 2003 the Wickremesinghe administration was becoming unpopular, in part because it was perceived as appeasing the LTTE, but more because of economic issues, he continued. U.S. influence, he said, was "not irrelevant but not decisive."

41. Under the Sri Lankan Constitution, the president can dissolve Parliament at will after one year has passed.

The U.S. did make efforts to reach out to potential spoilers such as the JVP and the JHU, but with little impact. Through its USAID programs, especially those run by the Office of Transition Initiatives, the U.S. also tried to build support for peace among the general populace. Some of these programs were enthusiastically received and seemed to have an impact at the local level. However, migrating attitudes at the local level to the national level is difficult in Sri Lanka's elite-driven political system, and the programs do not seem to have had a significant effect at national policy-making levels. Once again a longer period of time could perhaps have shown more significant results.

- Did U.S. support for Prime Minister Wickremesinghe's economic reform program encourage him to move in a direction that undermined his ability to move the peace process forward?

Here again there is little evidence that the U.S. could have changed the outcome. The enthusiasm of Prime Minister Wickremesinghe and his colleagues for a bold economic reform program was homegrown, not imposed from without. Moreover, it is important to remember the context in which these decisions were made. The U.S. and others who supported the economic reform program believed that this program would enhance, not detract from, the government's ability to make peace by providing an economic dividend to both North and South. They also believed that the Wickremesinghe government would have five years to carry out the program and to show results to the people.

On a related issue, it is now clear that the U.S., and almost all other international players, overestimated the usefulness of economic leverage on the peace process, particularly in inducing cooperation from the LTTE. While this seems apparent now, it was not so at the time. A considered judgment could be made that it was worth trying, even if it did not bear results.

8.3 PROJECTIONS FOR THE FUTURE

U.S. involvement in the Sri Lankan peace process has diminished, both in terms of personal involvement and in terms of resources committed. This should perhaps not come as a surprise. The substantial U.S. involvement in the early days of the peace process was unique, and far surpassed U.S. strategic interests in Sri Lanka. A certain degree of high-level U.S. interests remains, however, and we would not expect U.S. involvement to fade completely. The U.S. still has interests in Sri Lanka, which has a democratic government facing a terrorist threat. Other interests, such as economic/commercial ties, are small but measurable.

The U.S. faces a delicate balancing act as it attempts to act positively in support of Sri Lanka and the peace process. On the one hand, it recognizes that the Tamils of Sri Lanka have legitimate grievances which the government must address. The U.S. sees the LTTE as a terrorist organization, but one which must be engaged if there is to be movement toward peace. The government, by contrast, is seen as a democratically elected government which deserves support. The U.S. position was made clear as recently as the November 2006 co-chairs meeting, when Under Secretary Burns said: "I'd just say on behalf of the United States that we have faith in the government and faith in the president of Sri Lanka. They do want to make peace. We also believe that the Tamil Tigers, the LTTE, is a terrorist group responsible for massive bloodshed in the country and we hold the Tamil Tigers responsible for much of what has gone wrong in the country. We are not neutral in this respect. We support the government. We have a good relationship with the government. We believe the government has a right to try to protect the territorial integrity and sovereignty of the country. The government has a right to protect the stability and security in the country. We meet often with the government at the highest levels and consider the government to be a friend to our country."

Just as the rest of the international community, the U.S. must balance its differing perceptions of the two sides with the necessity to support some type of equality of status within the peace process. This is not an easy task, and the U.S. position in the lead of the "Global War on Terrorism" makes it more difficult. Some observers have commented that over the past few years the U.S. seemed ready to criticize the LTTE for terrorist acts and human rights abuses, but was not quite as quick to do the same for the government. A number of Tamils have noted, for instance, that the U.S. did not issue a public statement when Tamil Member of Parliament Joseph Pararajasingham was gunned down, allegedly by forces aligned with the government. By contrast, the U.S. was quick to issue statements, they say, when GSL officials such as Army Chief of Staff General Fonseka were attacked. This may, in fact, be a fair criticism. It appears the U.S. has been more willing to criticize publicly human rights violations seemingly carried out by the LTTE than those which appear connected to the government. At any rate, this impression seems widespread among Tamils both within Sri Lanka and in the Tamil diaspora. Certainly the U.S. would not want to create an impression that it takes violations connected to the government less seriously than those connected to the LTTE.

At the same time, the U.S. has increased its attention to fundraising and other activities by the LTTE and the Tamil diaspora. This was made clear in August 2006 when the FBI arrested eight persons in the U.S., charging them with conspiracy to provide material support and resources to a designated foreign terrorist

organization--the Liberation Tigers of Tamil Eelam.⁴² The defendants were accused of attempting to purchase surface-to-air missiles and other weapons, fundraising and money laundering, and attempting to bribe U.S. officials to have the LTTE removed from the list of Foreign Terrorist Organizations. These actions will no doubt have a drastic impact on LTTE fundraising in the U.S.

From the other side, U.S. involvement in the peace process and support for the Government of Sri Lanka is based in part on the perception that the government, while not perfect, is a representative institution which is trying to correct its faults, and that there are mechanisms in the broader society--the Human Rights Commission, a free press, in general an active civil society--which can help provide redress for abuses. This is in marked contrast to the situation in LTTE-controlled areas, where Tamils have no ability to speak out and no mechanisms to help protect them if they do. This U.S. support could diminish precipitously if the opposite impression gains ground, if it appears that the government is not trying to prevent abuses. Widespread abuses by the security forces would have legal and political repercussions which would make it difficult for the U.S. to continue to support the government to the degree that it has in the past.⁴³ In addition to preventing human rights abuses, the U.S. has made it clear that it expects the GSL to develop a political package that could realistically meet legitimate Tamil grievances. Moreover, members of the U.S. Congress have publicly expressed their concern about the developments in Sri Lanka and alleged abuses by the government.⁴⁴ These

42. Full details available at <http://www.usdoj.gov/usao/nye/pr/2006/2006Aug21.htm>

43. There are various legal restrictions on provision of military assistance and training if security forces are involved in human rights abuses, for instance.

44. On Sept. 18, 2006, Senator Patrick Leahy made a statement on the floor of the Senate, noting that, "there is also the issue of United States support to Sri Lankan government security forces, who have been responsible for violations of human rights. The Department of State needs to be doubly sure that the Leahy Amendment, which prohibits U.S. assistance to units of foreign security forces who violate human rights, is being strictly complied with." Representative Frank Pallone, who is a co-founder and co-chair of the Congressional Sri Lanka Caucus, said on the floor of the House on Sept. 28, 2006, that "the situation in Sri Lanka is certainly not getting any better. As we have seen over the past few months, international monitors are leaving the country, scared for their well-being. The United Nations has threatened to revoke its international aid. If this pattern of violence continues without pursuit of a political solution, the international community may completely rescind its support."

congressional attitudes will certainly play a role in shaping future U.S. policies.

For all that, the U.S. has a variety of interests in Sri Lanka and, as with most other countries, its policy is multi-directional. As this report is being finalized, in March 2007, we see a clear example of this in recent news from Sri Lanka. At the Development Forum meeting in Galle--as the GSL continued a military campaign against the LTTE--U.S. Ambassador Robert Blake made a strong public statement that the U.S. believed there was no military solution to the issue. Shortly thereafter, in the face of continuing reports about human rights abuses by the GSL and its Karuna allies, Principal Deputy Assistant Secretary for South and Central Asia visited Sri Lanka and, according to press reports, delivered a strong warning to the government. At the same time, however, it was announced that the U.S. and Sri Lanka had signed an Acquisition and Cross-Servicing Agreement (ACSA), under which the two countries' militaries could provide logistic support to each other. U.S. policy, guided by the differentiation between an elected government, however imperfect, and a terrorist organization; and by multiple U.S. interests; will almost certainly continue to be multi-faceted, rather than uni-directional.

In the long term, the challenge will be to sustain U.S. interest and commitment of resources to a peace process which seems to be going backwards. U.S. interest will be heightened to the extent that the issue is seen as related to global terrorism issues. U.S. interest will diminish if it appears that the process is deteriorating largely due to the inability of Sri Lankans to subordinate their personal and group interests to a larger goal. And, as noted above, if the Government of Sri Lanka appears to do nothing to prevent human rights abuses--or worse condones them--U.S. support for the government will face increasing legal and political obstacles.



Award winning photographs by Anuruddha Lokuhapuaracchi, Gemunu Amarasinghe, and Dominic Sansoni



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