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29 March, 2007

The Committee Secretary
Senate Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Sir,

Thank you for the opportunity to provide a submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry on Peacekeeping.

A submission is attached and Australian Red Cross is available and willing to attend the inquiry and speak to this submission if requested. Please contact:

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Yours sincerely

Robert Tickner
Chief Executive Officer

Encls.



Australian Red Cross would like to thank the Senate Standing Committee on Foreign Affairs, Defence and Trade for the opportunity to make a submission to the Inquiry into Peacekeeping. The issues associated with the Inquiry are of particular importance to the Australian Red Cross given the Red Cross Red Crescent Movement's role in providing humanitarian assistance in times of conflict and natural disaster, and the expansion of the Australian Defence Force and other agencies involvement in peace operations.

1. Introduction

Since the completion of the Parliament's last inquiry into Australia's Participation in Peacekeeping, the scope of these activities and the role of Australian personnel have broadened dramatically. Peace operations are no longer just 'peacekeeping' but encompass a broader range of activities that may involve policing, election monitoring and verification, the re-establishment of essential civil society structure and the provision of essential humanitarian relief. As the role has broadened, so too have the personnel involved. No longer the preserve of the military, peace operations involve an increasingly diverse group of actors including law enforcement officers, electoral and related personnel and other government officers.

As is mentioned in the Inquiry's background material, Australian peacekeeping requires a 'whole-of-government' response involving the Department of Prime Minister and Cabinet, the Department of Foreign Affairs and Trade, AusAID, the Department of Defence, the Australian Federal Police and the Department of Health and Ageing, among other agencies. Similarly, the terms of reference noted the need to consider *"(c) the coordination of Australia's contribution to a peacekeeping operation among Australian agencies and also with the United Nations and other relevant countries"*.

It is on the issue of coordination and on the issue of training that Australian Red Cross would like to make comment.

2. Coordination of operations

As mentioned, the terms of reference for the Inquiry recognise the increasing complexity of peacekeeping, the requirement for a whole-of-government approach, and the need to engage even more widely with the United Nations and relevant countries.

The need for peace operations - involving peace keeping, peace enforcement and peace building - arise for a multitude of reasons. In many cases, the need follows conflict, while in other cases, the need arises as a result of the destabilisation of the State, perhaps following a general breakdown in civil society as a result of ethnic tensions, perhaps as a result of a natural or man-made disaster such as a prolonged famine or drought.

In many cases, States are unable to move quickly to respond to the humanitarian crises that inevitably follow such events. As actors in the international community, States are in many cases rightly cautious in mobilising military and other government forces to operate in another sovereign State.

Humanitarian organisations however are not so restricted. Motivated only by the objective to reduce human suffering, these organisations are often engaged in a peacekeeper's 'area of operation' long before military forces arrive, and often remain long after military and other government forces retire. They are able to undertake their operations, in most cases free from the need for military or other protection, on the basis that they act in a neutral and impartial manner, and provide their aid on the basis of need alone.

As a result, any discussion about the coordination of operations in such situations must factor in the need to communicate with and understand those humanitarian operations and to respect the unique role that such humanitarian organisations play. For the Red Cross and Red Crescent Movement this is particularly important since it will be involved in such operations and has a mandate and role to play in conflict or disaster response situations. In addition, the Red Cross Red Crescent Movement has well developed practices and procedures which circumscribe the way in which it can engage with military and other actors.

It is therefore important to the military and other agencies to be aware not only of the humanitarian actors in their area of operation, but also their mandates, methods and modes of operation and activities in the country.

In this regard, the concept of 'Civil Military Cooperation' or CIMIC or CMCoord as it is variously known, recognises the role of humanitarian actors and the growing interaction between the humanitarian sector and the military. The UN Guidelines on the Use of Military and Civil Defence Assets is part of UN doctrine and clearly recognises the concept of the *Humanitarian Operating Environment* and the need for both parties to recognise and distinguish between their respective roles¹.

¹ *Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies, March 2003.*

Definitions - Humanitarian Operating Environment @ para 3:

A key element for humanitarian agencies and organizations when they deploy, consists of establishing and maintaining a conducive humanitarian operating environment (this is sometimes referred to as "humanitarian space"). The perception of adherence to the key operating principles of neutrality and impartiality in humanitarian operations represents the critical means by which the prime objective of ensuring that suffering must be met wherever it is found, can be achieved. Consequently, maintaining a clear distinction between the role and function of humanitarian actors from that of the military

This can only be done through greater engagement and coordination, and respect for each others mandates and roles² (UN Guidelines at Attachment A).

While emphasising that humanitarian actors must operate neutrally and impartially, this is not to say that they cannot engage with the military and government agencies to provide invaluable information on the immediate humanitarian needs of the civilian population. What must be understood however is that to ensure their neutrality (and their protection) one must distinguish between information about the humanitarian situation on the ground, and information about military/security issues in their area of operation. To provide the former can assist in the provision of humanitarian assistance and decrease tension, whereas to provide or be perceived as providing military/security information may increase tensions and hamper access and security for humanitarian agencies.

Both prior to and during operations, humanitarian organisations can provide a wealth of information and assistance that can impact on the success or failure of peace operations. In any attempt to better plan and coordinate those elements of an operation that have an impact on the provision of humanitarian relief and longer term reconstruction/development, they should be consulted.

3. Training

Australian Red Cross notes that the Australian Defence Force and the Australian Federal Police both run specific training programs for their respective personnel engaging in peace and policing operations overseas.

The International Peace Operations (IPOS) program run by the ADF Peacekeeping Centre (ADFPKO) provides detailed training for Australian and

is the determining factor in creating an operating environment in which humanitarian organisations can discharge their responsibilities both effectively and safely. Sustained humanitarian access to the affected population is ensured when the receipt of humanitarian assistance is not conditional upon the allegiance to or support to parties involved in a conflict but is a right.

² *Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies, March 2003.*

Key Concepts For Use Of Military / Civil Defence Resources @ para 26:

i.

ii. MCDA should be employed by humanitarian agencies as a last resort, i.e. only in the absence of any other available civilian alternative to support urgent humanitarian needs in the time required.

iii. A humanitarian operation using military assets must retain its civilian nature and character. While military assets will remain under military control, the operation as a whole must remain under the overall authority and control of the responsible humanitarian organization. This does not infer any civilian command and control status over military assets.

iv. Humanitarian work should be performed by humanitarian organizations. Insofar as military organizations have a role to play in supporting humanitarian work, it should, to the extent possible, not encompass direct assistance, in order to retain a clear distinction between the normal functions and roles of humanitarian and military stakeholders.

v. Any use of MCDA should be, at its onset, clearly limited in time and scale and present an exit strategy element that defines clearly how the function it undertakes could, in the future, be undertaken by civilian personnel.

vi. Countries providing military personnel to support humanitarian operations should ensure that they respect the UN Codes of Conduct and the humanitarian principles.

Foreign Defence Officers likely to be involved in such operations. In structuring that training, the ADF recognised the need and has supported the inclusion of presentations by international organisations like the Red Cross, and non-governmental organisations. In allowing the Red Cross and others to present and attend that training, they are able to introduce their trainees to the broader group of stakeholders in peace operations, and their respective mandates and modes of operation. Similar opportunities are made available at relevant ADF training programs such as the Civil Military Cooperation (CIMIC) courses.

The International Deployment Group training run by the Australian Federal Police also provides an opportunity for the Red Cross and non-governmental organisations to present at their training program in order to ensure those deployed are aware of the roles and mandates of these organisations.

Australian Red Cross is unaware of any other training programs that target government and other agencies that might be involved in, or support peace operations, though it notes that some personnel from government agencies attend the ADF's IPOS training.

The provision of such training to all those involved in peace operations is invaluable if those deployed are to fully understand the environment in which they will be asked to operate and the legitimate roles of humanitarian actors they will encounter.

However, with the exception of the AFP's IDG course, which all deploying AFP personnel must attend, other training programs target only a limited number of Defence and other government personnel who may be deployed. The vast majority of a peacekeeping contingent is therefore unlikely to have a clear understanding of the humanitarian organisations and their legitimate roles in the area of operation. This raises squarely the need for more uniform training of *all* Australian personnel deploying on peace operations. Such training must include a detailed explanation of the legal framework within which the operations are undertaken and therefore needs to include, as a minimum, the relevant UN or bilateral agreements permitting and circumscribing operations and the underlying international legal framework, in particular international humanitarian law and international human rights law. Similarly, such training should include clear guidance as to the application of Australian domestic law, including criminal law.

As was suggested in the Parliament's 1994 peace keeping report (Recommendation 44), humanitarian and other organisations should be involved in general and pre-deployment training. While this occurs on occasion, there does not appear to be a uniform practice in this regard.

4. Concluding comments

Australian Red Cross would like to stress the importance of consulting with humanitarian organisations that have, and can provide, a wealth of information and assistance in considering the broad range of issues that impact on the success or failure of peace operations. Though their focus may be on the humanitarian imperative, their input can assist in better planning and coordinating an operation that will invariably have an impact on, but will always benefit from the uninterrupted provision of humanitarian assistance.

Australian Red Cross would like to acknowledge the valuable role played by the IPOS and IDG training programs run respectively by the Australian Defence Force and the Australian Federal Police. Australian Red Cross would also like to express its appreciation for the opportunity to present and participate in these programs.

Having said that, the broader scope of peace operations and the agencies involved raises concerns about the capacity of these programs to provide the essential training for all agency personnel that might be deployed. Australian Red Cross would support a review of the scope and effectiveness of training available to all agencies and personnel deployed on peace operations and would highlight the need for the involvement of Red Cross in that training and in pre-deployment briefings, consistent with Parliament's 1994 report.

Australian Red Cross is available and willing to attend the inquiry and speak to this submission, and to provide any additional evidence that may assist the Committee.

Australian Red Cross

Guidelines On

The Use of Military and Civil Defence Assets To Support United Nations Humanitarian Activities in Complex Emergencies

March 2003

This document has been developed with the collaboration of a broad representation of the international humanitarian community, through a *Drafting Committee* consisting of representatives of Austria, Czech Republic, France, Germany, Italy, Sudan, Switzerland, UK, USA, DPKO, SCHR, UNHCR, UNICEF and WFP, as well as a *Review Committee* consisting of representatives of Australia, Canada, China, Costa Rica, Denmark, Ecuador, Egypt, Estonia, Finland, Ghana, Greece, India, Japan, Libyan Arab Jamahiriya, Madagascar, Mauritius, Mexico, Netherlands, Norway, Poland, Russian Federation, Sweden, Turkey, Yugoslavia, COE, ECHO, EC, EUMS, ICDO, ICRC, ICVA, INTERACTION, IOM, NATO, OCHA, THW and WHO.

Table of Contents

	Page
<u><i>Introduction</i></u>	
Key Terms and Definitions	3
Aim	5
Scope	5
Status	6
Organization	7
Comments, Recommendations and Future Changes	7
<u><i>Principles and Concepts</i></u>	
Core Principles	8
Key Concepts For Use Of Military / Civil Defence Resources	8
Avoiding Reliance on Military Resources	9
When to Use Military and Civil Defence Resources to Support Humanitarian Activities	10
Operational Standards for the Use of UN MCDA	12
Operational Standards for the Use of Other Deployed Forces	13
United Nations Humanitarian Civil Military Coordination (CMCoord) in Complex Emergencies	14
<u><i>Tasks and Responsibilities</i></u>	
Affected State and Transit States	16
Humanitarian/Resident Coordinator	17
UN Humanitarian Agencies	19
Office for the Coordination of Humanitarian Affairs (OCHA)	20
Assisting State and International Military or Civil Defence Commanders	21

Introduction

Key Terms and Definitions:

The following terms are essential for establishing a common understanding of the terminology used by the guidelines as set out in this document.

1. **Complex Emergency:** A complex emergency, as defined by the Inter-Agency Standing Committee (IASC), is “a humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single and/or ongoing UN country programme.”

2. **Humanitarian Assistance:** Humanitarian assistance is aid to an affected population that seeks, as its primary purpose, to save lives and alleviate suffering of a crisis-affected population. Humanitarian assistance must be provided in accordance with the basic humanitarian principles of humanity, impartiality and neutrality. For the purposes of these guidelines, assistance can be divided into three categories based on the degree of contact with the affected population. These categories are important because they help define which types of humanitarian activities might be appropriate to support with international military resources under different conditions, given that ample consultation has been conducted with all concerned parties to explain the nature and necessity of the assistance.

Direct Assistance is the face-to-face distribution of goods and services.

Indirect Assistance is at least one step removed from the population and involves such activities as transporting relief goods or relief personnel.

Infrastructure Support involves providing general services, such as road repair, airspace management and power generation that facilitate relief, but are not necessarily visible to or solely for the benefit of the affected population.

3. **The Humanitarian Operating Environment:** A key element for humanitarian agencies and organizations when they deploy, consists of establishing and maintaining a conducive humanitarian operating environment (this is sometimes referred to as "humanitarian space"). The perception of adherence to the key operating principles of neutrality and impartiality in humanitarian operations represents the critical means by which the prime objective of ensuring that suffering must be met wherever it is found, can be achieved. Consequently, maintaining a clear distinction between the role and function of humanitarian actors from that of the military is the determining factor in creating an operating environment in which humanitarian organisations can discharge their responsibilities both effectively and safely. Sustained humanitarian access to the affected population is ensured when the receipt of humanitarian assistance is not conditional upon the allegiance to or support to parties involved in a conflict but is a right

independent of military and political action.

4. **Military and Civil Defence Assets:** MCDA, as defined in the 1994 “Oslo Guidelines”, “comprises relief personnel, equipment, supplies and services provided by foreign military and civil defence organizations for international humanitarian assistance. Furthermore, civil defence organization means any organization that, under the control of a Government, performs the functions enumerated in Article 61, paragraph (1), of Additional Protocol I to the Geneva Conventions of 1949”. When these assets are under UN control they are referred to as UN MCDA.

5. **Other Deployed Forces:** These are all military and civil defence forces deployed in the region other than UN MCDA. For the purposes of these guidelines these forces are divided into four categories based on their missions. These missions are peacetime, UN commanded peacekeeping operations, other peace operation/peace support, and combat. The mission of a force is the primary factor that determines a military unit’s availability and appropriateness to humanitarian tasks, as it impacts on whether or not it will be perceived by others as neutral and impartial.

Peacetime missions include training and exercises in the region with no hostile intent.

UN commanded peacekeeping operations include missions under the auspices of Chapter VI or VII of the UN Charter.

Other peace operation / peace support missions include a range of tasks undertaken by military forces that are not under UN command, including peacekeeping, peace enforcement, peace building and other so-called peace support operations where forces are deployed under operational parameters that dictate a minimum necessary use of force.

Combat missions are those where the primary purpose of the operation is the defeat of a designated enemy.

6. **Civilian Control:** A humanitarian operation using military assets must retain its civilian nature and character. While military assets will remain under military control, the operation as a whole must remain under the overall authority and control of the responsible humanitarian organization. This does not infer any civilian command and control status over military assets.

7. **Last Resort:** Military assets should be requested only where there is no comparable civilian alternative and only the use of military assets can meet a critical humanitarian need. The military asset must therefore be unique in capability and availability.

8. **Resident Coordinator and Humanitarian Coordinator:** The Resident Coordinator (RC) is the head of the UN Country Team. In a complex emergency, the

Resident Coordinator or another competent UN official may be designated as the Humanitarian Coordinator (HC). In large-scale complex emergencies, a separate Humanitarian Coordinator is often appointed. If the emergency affects more than one country, a Regional Humanitarian Coordinator may be appointed. In countries where large multi-disciplinary UN field operations are in place the Secretary-General might appoint a Special Representative (SRSG). The relationship between the SRSG and the RC/HC is defined in a note issued by the Secretary-General on 11 December 2000 (Note of Guidance on Relations Between Representatives of the Secretary-General, Resident Coordinators and Humanitarian Coordinators, dated 30 October 2000).

9. **Emergency Relief Coordinator and Inter-Agency Standing Committee:** The Emergency Relief Coordinator (ERC) is the Under-Secretary-General for Humanitarian Affairs and coordinates the international response to humanitarian emergencies and disasters. The Inter-Agency Standing Committee (IASC) is chaired by the ERC and has the membership of all UN operational humanitarian agencies, with standing invitation to ICRC, IFRC, IOM, UNHCHR, the Representative of the Secretary-General on IDPs, the World Bank and the three NGO consortia (ICVA, InterAction and SCHR). It is important to note that the decision whether to and who to appoint as Humanitarian Coordinator is made by the Emergency Relief Coordinator (ERC), in consultation with the Inter-Agency Standing Committee.

10. **UN Humanitarian Civil Military Coordination (CMCoord):** The essential dialogue and interaction between civilian and military actors in humanitarian emergencies that is necessary to protect and promote humanitarian principles, avoid competition, minimize inconsistency, and when appropriate pursue common goals. Basic strategies range from coexistence to cooperation. Coordination is a shared responsibility facilitated by liaison and common training.

Aim:

11. This document provides guidelines for the use of international military and civil defence personnel, equipment, supplies and services in support of the United Nations (UN) in pursuit of humanitarian objectives in complex emergencies. It provides guidance on when these resources can be used, how they should be employed, and how UN agencies should interface, organize, and coordinate with international military forces with regard to the use of military and civil defence assets. The document may also be of value in other large-scale emergencies.

Scope:

12. These guidelines cover the use of United Nations Military and Civil Defence Assets (UN MCDA) -- military and civil defence resources requested by the UN humanitarian agencies and deployed under UN control specifically to support humanitarian activities -- and military and civil defence resources that might be available. These other forces on other missions are referred to as other deployed forces.

13. Principles, concepts, and procedures are provided for requesting and coordinating military and civil defence resources when these resources are deemed necessary and appropriate, and for interfacing with international military forces who are conducting activities which impact on UN humanitarian activities.

14. These guidelines are primarily intended for use by UN humanitarian agencies and their implementing and operational partners, Resident and Humanitarian Coordinators, UN MCDA commanders and commanders of other deployed forces performing missions in support of the UN humanitarian agencies and liaison officers coordinating UN humanitarian activities with international military forces. All humanitarian actors should also be familiar with the principles, concepts and procedures set out herein and encouraged to adhere to them, as appropriate.

15. They could also be used by decision-makers in Member States and regional organizations when considering the use of military and civil defence resources to provide assistance to civilian populations. They may also be of value to international military or civil defence commanders, including peacekeeping forces, in the pursuit of their missions.

16. This document focuses on the use of military and civil defence assets in complex emergencies. The foundation for effective coordination of military and civilian assistance during reconstruction and rehabilitation of a disaster or post-conflict society is often established during relief operations, however reconstruction and rehabilitation activities are beyond the scope of this document.

17. Guidelines for the use of international military resources in natural disasters and peacetime technological or environmental emergencies are provided in a separate document entitled: "Guidelines on the Use of Military and Civil Defence Assets in Disaster Relief" (May 1994), also known as the "Oslo Guidelines".

Status:

18. The UN Inter-Agency Standing Committee (IASC) and the UN humanitarian agencies have agreed to these guidelines. Implementing and operational partners are encouraged to follow this guidance. Member States and regional organizations engaged in relief or military operations in complex emergencies are also encouraged to use the principles and procedures provided herein. While a significant number of Member States have participated in the development of the guidelines and endorsed their use, they are not binding on Member States. The guidelines are considered a living document and may be reviewed as appropriate in the future.

19. These guidelines will not, in any way, affect the rights, obligations or responsibilities of States and individuals under international humanitarian law. This includes, but is not limited to, the obligation to allow and facilitate rapid and unimpeded delivery of relief consignments, equipment and personnel, protect such consignments, and facilitate their rapid distribution. Nor will these guidelines affect the obligations of States that are parties to the United Nations Conventions on the Safety and Security of

United Nations Personnel, the Geneva Conventions of 1949 and their Additional Protocols of 1977, or the United Nations Charter.

Organization:

20. The remainder of the document is divided into two parts. The first contains principles that guide the use of international military and civil defence resources by UN humanitarian agencies in complex emergencies and their coordination with international military forces. The second section describes the tasks and responsibilities of key actors in situations where UN MCDA are used and in situations when other deployed forces are requested by the United Nations to support humanitarian activities.

Comments, Recommendations and Future Changes:

21. This document was prepared under the auspices of the UN MCDA Project. It complements the existing “Guidelines on the Use of Military and Civil Defence Assets in Disaster Relief” (May 1994) also known as the “Oslo Guidelines”. The Military and Civil Defence Unit (MCDU) of the UN Office for the Coordination of Humanitarian Affairs (OCHA) provides the Secretariat for the UN MCDA Project and is responsible for maintaining these guidelines. Comments should be directed to the Chief, MCDU, Emergency Services Branch, OCHA (Geneva), Palais des Nations, CH-1211 Geneva 10, Switzerland, or mcdu@un.org. Proposed changes will be incorporated annually in the Consultative Group On The Use Of MCDA in consultation with the Advisory Panel to MCDU, and when necessary referred to the ERC and IASC.

Principles and Concepts

Core Principles:

22. As per UN General Assembly Resolution 46/182 humanitarian assistance must be provided in accordance with the principles of humanity, neutrality and impartiality.

Humanity: Human suffering must be addressed wherever it is found, with particular attention to the most vulnerable in the population, such as children, women and the elderly. The dignity and rights of all victims must be respected and protected.

Neutrality: Humanitarian assistance must be provided without engaging in hostilities or taking sides in controversies of a political, religious or ideological nature.

Impartiality: Humanitarian assistance must be provided without discriminating as to ethnic origin, gender, nationality, political opinions, race or religion. Relief of the suffering must be guided solely by needs and priority must be given to the most urgent cases of distress.

23. In addition to these three humanitarian principles, the United Nations seeks to provide humanitarian assistance with full respect for the sovereignty of States. As also stated in General Assembly Resolution 46/182:

“The sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations. In this context, humanitarian assistance should be provided with the consent of the affected country and in principle on the basis of an appeal by the affected country.”

24. The United Nations humanitarian agencies involved in humanitarian activities subscribe to these principles and have incorporated these concepts in their respective mandates and operational guidelines.

25. As a matter of principle, the military and civil defence assets of belligerent forces or of units that find themselves actively engaged in combat shall not be used to support humanitarian activities.

Key Concepts For Use Of Military / Civil Defence Resources:

26. In addition and in the framework of the above-mentioned principles, the use of MCDA shall be guided by the six following standards:

- i. Requests for military assets must be made by the Humanitarian/Resident Coordinator on the ground, not political authorities, and based solely on humanitarian criteria.
- ii. MCDA should be employed by humanitarian agencies as a last resort, i.e. only in the absence of any other available civilian alternative to support urgent humanitarian needs in the time required.
- iii. A humanitarian operation using military assets must retain its civilian nature and character. While military assets will remain under military control, the operation as a whole must remain under the overall authority and control of the responsible humanitarian organization. This does not infer any civilian command and control status over military assets.
- iv. Humanitarian work should be performed by humanitarian organizations. Insofar as military organizations have a role to play in supporting humanitarian work, it should, to the extent possible, not encompass direct assistance, in order to retain a clear distinction between the normal functions and roles of humanitarian and military stakeholders.
- v. Any use of MCDA should be, at its onset, clearly limited in time and scale and present an exit strategy element that defines clearly how the function it undertakes could, in the future, be undertaken by civilian personnel.
- vi. Countries providing military personnel to support humanitarian operations should ensure that they respect the UN Codes of Conduct and the humanitarian principles.

27. Implementing and operational partners and members of international civil society, are expected to adhere to these core principles and have been encouraged to adopt the "Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief".

Avoiding Reliance on Military Resources:

28. The UN humanitarian agencies and their implementing and operational partners rely upon States to guarantee their security and to respect the principle of full and unimpeded access to the affected population. When security cannot be assured by the host government (e.g. when areas are controlled by non state actors), and/or when there are difficulties accessing the affected people, the UN humanitarian agencies and their implementing and operational partners must rely upon their neutrality for security and use negotiation as the primary means of gaining access to the affected population. Therefore, the use of military and civil defence resources should under no circumstances undermine the perceived neutrality or impartiality of the humanitarian actors, nor jeopardize current or future access to affected populations.

29. Furthermore, most military forces provided by Member States explicitly for UN MCDA or resources diverted from other missions by international military forces to

support humanitarian assistance, are only temporarily available. When higher priority military missions emerge these forces are often recalled by the Member States or regional organizations. Therefore, as a general principle, UN humanitarian agencies must avoid becoming dependent on military resources and Member States are encouraged to invest in increased civilian capacity instead of the *ad hoc* use of military forces to support humanitarian actors.

30. However, there are circumstances when most requirements or security conditions are such that military resources provide the means of last resort for addressing the needs in a timely, effective way. In such cases, military resources, when available, may be appropriate for use. In general these resources can be divided into two categories: United Nations Military and Civil Defence Assets (UN MCDA) and resources from other deployed forces.

31. The principal distinctions between these two types of resources are that UN MCDA have been placed under the control of the UN humanitarian agencies and deployed on a full-time basis specifically to support UN humanitarian activities. Only a limited number of these resources are normally available for most emergencies. Other deployed forces are under the direction, and/or support of other entities, normally have security related missions, and may or may not be readily available. However, there may be occasions when support to humanitarian activities forms a specific part of the mandate.

When to Use Military and Civil Defence Resources to Support Humanitarian Activities:

32. The decision of whether or not to use military and civil defence resources in a complex emergency is one that must be taken with extreme care. The expedient and inappropriate use of military and civil defence resources can compromise neutrality, impartiality and other humanitarian principles of all humanitarian actors responding to the emergency. This loss of neutrality can result in relief workers becoming direct targets of the belligerents and being denied access to the affected population, not only in the current emergency, but also in future humanitarian crises. In addition, the loss of neutrality can result in the affected population becoming direct targets of the belligerents. Ultimately, decision-makers must weigh the risk to relief workers and their ability to operate effectively at the moment, and in the future, against the immediacy of the needs of the affected population and the need for the use of military and civil defence assets.

33. The Emergency Relief Coordinator (ERC), in consultation with the Inter-Agency Standing Committee, provides the overall guidance for a particular complex emergency including parameters for the use of UN MCDA and other military and civil defence resources to support UN humanitarian activities. The UN Resident Coordinator or Humanitarian Coordinator or the Special Representative of the Secretary-General will initiate the request for the use of military and civil defence resources in the field, within these parameters. Within the framework of the key principles listed in Paragraph 25 above, the following questions are provided to help guide these decisions:

- Are they the option of last resort, indispensable and appropriate?
- Are the countries offering MCDA also parties to the conflict?
- Based on the need, is a military or civil defence unit capable of the task?
- How long will they be needed?
- Can they be deployed without weapons or additional security forces?
- How will this association impact the security of UN personnel and other humanitarian workers?
- How will this impact the perceptions of UN neutrality and/or impartiality?
- What control and coordination arrangements are necessary?
- How and when will transition back to civilian responsibility be achieved?
- What are the consequences for the beneficiaries, other humanitarian actors, and humanitarian operations in the mid to long term?

34. The start and duration of any support to UN humanitarian activities by UN MCDA should be determined by the Humanitarian Coordinator upon the request or consent by the affected sovereign State. Where such a request or consent can not be obtained, subject to the exceptional circumstances caused by the emergency situation, the decision to that effect must be taken by the Humanitarian Coordinator in strict conformity with the UN Charter and corresponding decisions by the UN Security Council.

35. The use of other deployed forces to support UN humanitarian activities is more problematic. Many international military forces provide assistance to the civilian population in their areas of responsibility. While motivation for this can be purely humanitarian and needs based, assistance can also be motivated by a desire to legitimize missions, gain intelligence, and/or enhance protection of forces. Unilateral support of this nature can be inappropriate, lack longevity, and can disrupt assistance that forms part of a coherent immediate and long term programme. While there is a need for humanitarian activities to be divorced from political and military agendas, this must be balanced with a clear need for a level of consultation and coordination that ensures assistance provided by international military forces does not undermine the legitimacy and credibility of humanitarian efforts.

36. Nonetheless, other deployed forces often have resources that might be extremely useful in an emergency and, bearing in mind paragraph 24 above, should not be ignored. The primary considerations, which should be evaluated on a case-by-case basis, will be the immediacy of the need, ability to fulfill needs with civilian assets, and the impact on the perceived neutrality and impartiality of the assistance effort. It must be also recognized that the availability of these resources is often depending on the mission, capability and discretion of the commander.

Operational Standards for the Use of UN MCDA:

37. The following operational standards, in addition to the Guidelines Key Principles, are provided to ensure that when UN MCDA are used they are in concert with the core humanitarian and UN principles as well as international humanitarian law.

Civilian Control: Safety of UN MCDA is the responsibility of the designated military or civil defence commander. However, to be effective, direction and coordination of an overall humanitarian effort is a function requiring professional humanitarian staff. As such, UN MCDA should always remain under civilian control. Nevertheless, the degree of UN control of UN MCDA will be different than the UN direction of other deployed forces performing *ad hoc* support tasks. In the case of UN MCDA they will normally be in “direct support” of a UN humanitarian agency. The missions within the agreed Terms of Reference will be assigned by the Humanitarian Coordinator in consultation with the Emergency Relief Coordinator (ERC) and the Inter-Agency Standing Committee (IASC).

At No Cost: UN MCDA, like all UN humanitarian assistance, is to be provided at no cost to the affected State or receiving agency. This should not result in assisting States’ cutting or reducing other planned and programmed assistance, such as development aid resources, to recover the cost of UN MCDA or other relief support.

38. In principle, unarmed UN MCDA, accepted as neutral and impartial, and clearly distinguished from other military units, can be used to support the full range of humanitarian activities. However, their involvement in direct assistance should be weighed on a case-by-case basis and only if it satisfies the criteria of last resort. Their activities should focus on indirect assistance and infrastructure support missions.

39. Military and civil defence personnel employed exclusively in the support of UN humanitarian activities should be clearly distinguished from those forces engaged in other military missions, including the military component of peacekeeping missions, peace operations and peace support, and accorded the appropriate protection by the affected State and any combatants.

40. Acceptable means for distinguishing UN MCDA from security and forces engaged in military operations are the markings of the supported UN humanitarian agency or the use of civil defence markings accorded protection under the Geneva Conventions. When UN MCDA are from military organizations the appropriate white markings and UN symbols may be used. When civil defence assets are employed they should be marked in accordance with the Geneva Conventions. Military forces cannot be marked as civil defence forces. In all cases, movement of UN MCDA, including entry to the UN peacekeeping mission area, must be cleared by the UN peacekeeping mission headquarters.

41. Military personnel providing direct assistance should not be armed and should rely on the security measures of the supported humanitarian agency. Guidelines for the security of UN personnel are set by the UN Security Coordinator. However, if military

forces providing indirect assistance or infrastructure support missions must be armed, for their security and/or the safeguarding of their equipment, they will operate under strict rules of engagement based on the Law of Armed Conflict and should take account of advice and guidance by the Humanitarian Coordinator, Special Representative, or other appropriate UN official, in consultation with the Inter-Agency Standing Committee.

42. Under no circumstance will the request for UN MCDA be construed as an endorsement of any military operations or be used as a justification for undertaking combat operations, resorting to the use of force, or the violation of State sovereignty.

43. Under no circumstance will UN MCDA be used to provide security for UN humanitarian activities. A separate security force may, however, be used to ensure security in areas where humanitarian personnel may be attacked while delivering humanitarian assistance. Such assistance, however, is not addressed in this document. Further reference can be found in the Non-Binding Guidelines on The Use of Military and Armed Escorts for Humanitarian Convoys (text of 14 September 2001 approved by the IASC Working Group).

Operational Standards for the Use of Other Deployed Forces:

44. Bearing in mind paragraph 25, as well as paragraph 37 with regard to civilian control, in the case of other deployed forces, the Humanitarian Coordinator will determine what humanitarian tasks need to be done, what modalities must be respected, and request appropriate support. The supporting military or civil defence commander will determine whether he/she can complete the task within his/her means and capabilities given his/her primary mission requirements. Provided that the means indicated by the military or civil defence commander respect the principles of these guidelines, the Humanitarian Coordinator will then, or not, authorise the tasks to be undertaken by the designated unit.

45. Under the Hague Conventions, the Geneva Conventions and their Additional Protocols, States have obligations under International Humanitarian Law. These include an obligation not to impede humanitarian activities as well as responsibilities to grant access to the affected populations and the safeguarding of relief personnel.

46. Military forces deployed by Member States or regional organizations whose primary missions are other than humanitarian support may also provide support to UN humanitarian agencies when requested by the UN Humanitarian Coordinator or other designated officials. When these forces undertake activities in support of UN humanitarian agencies or their implementing and operational partners, this support will be on a case-by-case basis, subject to a request. The military resources will remain under the control of the military force commander.

47. Military or civil defence forces undertaking missions to support UN humanitarian activities should reconcile their *modus operandi* with the circumstances of the operating environment. Under these conditions only, and provided the *modus operandi* in question respects all appropriate humanitarian principles, should the Humanitarian Coordinator, or other responsible UN authority, authorise the mission.

48. Military forces, other than UN MCDA, performing assistance missions are in principle not granted any special protection nor are they authorized to display the emblems of the supported UN humanitarian agencies.

49. When other deployed forces are UN peacekeeping forces operating under the auspices of a UN Security Council mandate, the degree to which these forces can be used to support humanitarian activity will be determined by the head of the UN mission, based on the mandate and capabilities of the peacekeeping force. The mechanisms for coordination between the UN humanitarian agencies and the peacekeeping force will also be established by this authority, with careful attention to the coherence of the mission. In all cases, movement of military and civil defence resources supporting humanitarian activities, including entry to the UN peacekeeping mission area, must be cleared by the UN peacekeeping mission headquarters. Further details are to be found in the DPKO Policy on Civil-Military Coordination of 9 September 2002, as well as the Note of Guidance on Relations Between Representatives of the Secretary-General, Resident Coordinators and Humanitarian Coordinators, issued by the Secretary-General on 11 December 2000.

United Nations Humanitarian Civil Military Coordination (CMCoord) in Complex Emergencies:

50. International civilian organizations providing humanitarian assistance to the affected population and international military forces, regardless of their missions, should maintain some level of interface to ensure that the civilian population does not suffer unnecessarily, that those in need receive the necessary assistance, and that relief personnel are safeguarded to the maximum extent possible.

51. Liaison in the midst of perceived or actual offensive military activity should nonetheless take place even when a cooperative arrangement cannot be reached with military forces. Even in the worst of situations a minimum amount of liaison is required in order to protect personnel and assets from unintended harm, limit competition for resources and avoid conflict.

52. In all cases, regardless of the mission or status of the military force, there will be a requirement for the sharing of information. Considerable humanitarian information can be gleaned by military forces going about their military business (e.g. state of the affected population, availability of key services and critical infrastructure). Operational security notwithstanding, military forces should endeavour not to classify this type of information and should make it readily available to appropriate UN humanitarian agencies through the civil-military coordination structure. Conversely, UN humanitarian agencies should provide necessary information regarding their activities in order that any military operations can be reconciled with those of humanitarian actors. Even this basic level of information exchange will help to avoid inadvertent damage, disruption and destruction of relief assets and preclude unnecessary risks to humanitarian personnel and the civilian population.

53. Military forces providing assistance to the affected population, for whatever reason, should in normal circumstances coordinate such action with the UN Humanitarian Coordinator. Military forces deployed as part of a UN commanded peace operation should coordinate all humanitarian assistance with the UN Humanitarian Coordinator through the missions' civil-military coordination structure. Timely coordination of such actions will avert inappropriate action, allow, where necessary, appropriate military-humanitarian delineation and promote an increased impact for the affected population.

54. Critical areas for coordination include security, logistics, medical, transportation, and communications. In these areas the steady flow of timely information is essential for the success of humanitarian missions. Within these areas there will often be opportunities for task division and planning at both senior levels of the UN and the military and at the field level.

55. One of the effective ways to share information, and when appropriate share tasks and participate in planning, is through the exchange of liaison personnel from the appropriate UN humanitarian agencies and the military at the necessary levels. The United Nations Office for Coordination of Humanitarian Affairs, Military and Civil Defence Unit (MCDU) offers training to military and civilian actors in civil military coordination and liaison in a complex emergency. Several UN humanitarian agencies have built up cadres of personnel experienced in liaising with military personnel. Trained liaison personnel are also available through the MCDU to UN humanitarian agencies and other actors responding to complex emergencies.

Tasks and Responsibilities

Affected State and Transit States:

56. The affected State has primary responsibility for providing humanitarian assistance to persons within its borders. Even though UN humanitarian agencies have been requested by the affected State or the UN Secretary General to provide additional assistance, the affected State has the right to decline the use of UN MCDA or the use of other military and civil defence resources by UN humanitarian agencies on a case-by-case basis.

57. States adopting a specific policy on the use of foreign UN MCDA within its borders may consider making this position known to the UN Resident Coordinator and/or UN Humanitarian Coordinator (if present), and the UN Office for the Coordination of Humanitarian Affairs (OCHA).

58. States that permit UN humanitarian agencies to call on external forces or forces already deployed by other nations within their borders should make any restrictions on the use of these forces known to OCHA and should include these restrictions in the Status of Forces Agreements (SOFA) established between their governments and the governments or responsible alliance/coalition which have forces stationed in their country. This does not preclude States from imposing restrictions on the use of military forces deployed within its borders on a case-by-case basis.

59. Affected States should provide security for UN MCDA operating in support of UN humanitarian activities in the same manner that they would provide security for other UN humanitarian personnel and resources. UN MCDA shall have at least the same freedom of movement, immunities, privileges, and exemptions afforded the UN humanitarian agencies when working in support of these activities, including when en route and returning to their units or stations.

60. Transit States are those States whose national borders, territorial waters, and airspace are crossed by UN MCDA moving to and from and conducting operations in the affected State. Transit States, especially those bordering the affected State, will facilitate the movement of requested UN MCDA in the same manner that they facilitate the movement of UN relief goods and personnel.

Humanitarian/Resident Coordinator:

61. When a Humanitarian Coordinator has been designated, he or she is responsible for initiating requests for UN MCDA or approving the use of other military and civil defence resources. If a Humanitarian Coordinator has not been appointed, the decision to request UN MCDA or use other military and civil defence resources rests with the Resident Coordinator, after consultation with the UN Country Team. The individual charged with coordinating the UN effort will ensure that affected State clearance is obtained prior to processing the request at the country level.

62. Before requesting these assets the Humanitarian Coordinator/Resident Coordinator will consult with the appropriate authorities of the affected State, the ERC, the Special Representative of the UN Secretary-General (SRSG) and the Resident Representative, as appropriate. If the affected State is capable of and willing to provide the coordination structure for a complex emergency, this arrangement should be used.

63. In the absence of a Humanitarian Coordinator, Resident Coordinator, or SRSG the decision on whether or not to use UN MCDA to support UN humanitarian activities, will be made by the Emergency Relief Coordinator (ERC), in consultation with the Inter-Agency Standing Committee.

64. The HC, RC or SRSG will ensure that the coordination mechanisms and specific guidelines are in place to effectively employ these by the UN humanitarian agencies responding to the complex emergency, to include means for the sharing of information and, where appropriate, the exchange of liaison personnel.

65. The Humanitarian Coordinator/Resident Coordinator will plan for the earliest possible release of UN MCDA and ensure that UN humanitarian activities do not become dependent on these or any other military and civil defence resources, once the complex emergency has passed.

66. In circumstances where there is likely to be a protracted complex emergency, or complex emergency conditions are likely to re-emerge, the supported UN humanitarian agencies will make arrangements for these needs to be met with resources available from the affected State or other civilian sources.

67. When MCDA are made available to UN humanitarian agencies or their implementing and operational partners, following a request from the cognizant decision-making authority, the Humanitarian Coordinator/Resident Coordinator will ensure that an appropriate system, consistent with these Guidelines and UN policies and regulations, is put in place to control the use of UN MCDA.

68. When other deployed forces are providing support on a case-by-case basis to UN humanitarian agencies and their implementing and operational partners, the Humanitarian Coordinator/Resident Coordinator will ensure that the provision of humanitarian assistance by military forces does not compromise the humanitarian actors and that the military forces performing these missions understand the importance and humanitarian purpose of such missions. The Humanitarian Coordinator/Resident

Coordinator will also seek to ensure that assistance activities carried out by other deployed forces on their own behalf do not compromise UN humanitarian efforts.

69. The Humanitarian Coordinator or Resident Coordinator or the designated UN authority requesting the military and civil defence resources, should review regularly, with MCDA and military or civil defence commanders, the *modus operandi* of supporting forces and offer appropriate advice and guidance. This review should include such considerations as: the types of task that can be performed, how the unit is armed and its rules of engagement, types of uniforms and equipment, the chain of command, use of liaison officers, exit criteria for the mission or task, status of the forces to include privileges or immunities, claims and insurance matters such as damage compensation.

UN Humanitarian Agencies:

70. UN humanitarian agencies will request the use of UN MCDA through the Humanitarian Coordinator or Resident Coordinator that has coordination responsibilities for the complex emergency.

71. Except in situations where there is imminent loss of life or acute suffering, UN humanitarian agencies will avoid *ad hoc* local requests for UN MCDA and the uncoordinated use of other military and civil defence resources. If in exceptional situations UN MCDA or other military and civil defence resources are used, UN humanitarian agencies will report this use to the responsible coordinator, including when they expect the assets to be released and how they intend to minimize their use in the future.

72. UN humanitarian agencies supported by UN MCDA will respect the integrity and chains of command of the supporting units. They will clearly state what they want the unit to accomplish and leave the unit commander as much latitude as possible in determining how he or she will accomplish the desired outcome, provided that core humanitarian principles are fully respected.

73. UN MCDA supporting UN humanitarian activities will normally not be used in the direct delivery of assistance. When possible the supported UN humanitarian agencies will try to use UN MCDA in a manner that limits their visibility and focus on tasks that do not call into question the neutrality or impartiality of the agency, implementing and operational partners or other humanitarian actors.

74. UN humanitarian agencies should acknowledge the UN MCDA support being provided, but avoid making any public statements on behalf of the UN MCDA units.

75. UN humanitarian agencies making use of UN MCDA will report the arrival, departure and status of these assets to the Military and Civil Defence Unit of OCHA, through the Humanitarian Coordinator / Resident Coordinator, to ensure that the resources are properly tracked and the contribution is recorded and acknowledged by the United Nations.

Office for the Coordination of Humanitarian Affairs (OCHA):

76. Within the Office for the Coordination of Humanitarian Affairs, Geneva, the Military and Civil Defence Unit (MCDU) has the primary responsibility for the mobilization of UN MCDA and civil-military coordination in a complex emergency.

77. MCDU will process the request for UN MCDA, make the necessary arrangements with the Member States, and track the use of these resources by the UN humanitarian agencies.

78. MCDU, with donor support, will maintain a training programme for those involved in the use of military and civil defence resources to support UN humanitarian activities, with special attention to the training of liaison personnel and the procedures and methods for Civil-Military Coordination (UN CMCoord) in complex emergencies.

79. On behalf of the Member States, and in accordance with the UN MCDA Project, MCDU will maintain a roster of UN CMCoord trained liaison personnel and assist in mobilizing these personnel to support the Humanitarian Coordinator/Resident Coordinator and the UN humanitarian agencies.

80. If a UN Joint Logistics Centre (UNJLC) is established, MCDU will coordinate the UN MCDA used to support logistics with the UNJLC. Likewise, MCDU will assist OCHA Humanitarian Information Centres (HIC) in obtaining relevant information from the military where a HIC or similar information-sharing activity has been established.

81. MCDU will maintain the necessary tools to facilitate and support civil-military coordination and the mobilization of UN MCDA in complex emergencies, to include database and communications capacity.

Assisting State and International Military or Civil Defence Commanders:

82. States or regional organizations and peacekeeping forces involved in complex emergencies or other military operations beyond their borders should include in the guidance or orders issued to force or contingent commanders the parameters for the use of their resources to support UN humanitarian activities in a complex emergency. Commanders should establish their force *modus operandi* taking into account the operational circumstances, International Humanitarian Law, and core Humanitarian Principles and consult with the host nation, ERC and Humanitarian Coordinator or cognizant humanitarian authority, including the OCHA Military and Civil Defence Unit (MCDU) for further technical advice, before deploying into the crisis area.

83. In a complex emergency, prospective assisting States with military resources deployed in the affected area, or in reasonable proximity, should facilitate coordination. This could include information on any assets available to support essential humanitarian functions including the transport of relief goods, the movement of persons at risk, and the reestablishment of basic human services, including medical care.

84. The commanders of UN MCDA assigned specifically to support UN humanitarian activities, and other deployed forces performing humanitarian support missions at the request of the UN, will avoid compromising the neutrality and impartiality of these agencies, their implementing and operational partners and other humanitarian actors responding to complex emergencies. Likewise, all supporting activities will be conducted in a manner that respects the dignity, culture, religions, and laws of the affected population.

85. Military or civil defence organizations dispatched to support complex emergency activities should be self-supporting for the duration of their mission in terms of transport, fuel, food rations, water and sanitation, maintenance and communications, in order to avoid placing additional stress on overburdened local authorities or the supported humanitarian actors.

86. Unless specifically exempted, UN MCDA will abide by the security and movements procedures set by the UN Security Coordinator to ensure the safety of UN personnel and be prepared to provide non-security related assistance in the relocation or evacuation of UN personnel should the need arise.

87. The States providing UN MCDA will not exploit these missions for the purpose of intelligence collection, propaganda, or psychological operations.

88. When military forces have assumed responsibility for vital civilian functions, such as delivery of water, provision of power, or the safe operation of an airfield, regardless of how this responsibility was acquired, they will facilitate a smooth transfer of these functions to the appropriate civilian authority, in coordination with the UN Humanitarian Coordinator or Resident Coordinator as soon as possible. This will be done in a timely manner, well prior to terminating this support, to ensure that any disruption of services will not have an adverse impact on relief and recovery activities.