

# Accord heralds new phase

SRI LANKAN Prime Minister Ranil Wickremasinghe and the leader of the Liberation Tigers of Tamil Eelam (LTTE) Velupillai Prabhakaran signed a ceasefire agreement on 22 February, improving the chances of peace negotiations and finding a lasting solution to the ethnic conflict that has ravaged the island for the past five decades.

The signed copies of the Memorandum of Understanding (MOU) were presented to Norway's ambassador Jon Westborg, who was a member of the Norwegian team that negotiated the truce. The other members of the team were Deputy Foreign minister Vidar Helgeson, Special Advisor Erik Solheim and Foreign Ministry officer Krjeste Tromsdal. LTTE's Advisor, Anton Balasingham, who lives in London, played an important role in the negotiations leading to the agreement.

The Norwegian Foreign minister Jan Petersen released the agreement to the public in Oslo on the same day and it became effective from 24 February, referred to as D-day. Either party is entitled to terminate the agreement by a 14-day notice to the Norwegian government. The Sri Lankan Parliament debated the agreement on 4 and 5 March.

The MOU prohibits offensive military operations such as armed raids, ambushes, assassinations, abductions, destruction of property, suicide missions, actions by deep penetration units, aerial bombardment and naval action. In the north-east, a demilitarized zone extending 600 metres will be established between the forward defence lines of the Sri Lankan military and the LTTE forces. In this zone, each party has right of movement within 100 metres from its own defence line, keeping a minimum of 400 metres between both sides. The parties are prohibited from moving munitions and military equipment into areas controlled by the other party.

The pact provides for the disarming of other Tamil paramilitary groups within 30 days of D-day. The government will offer to integrate these groups under the command and control of Sri Lankan armed forces, but they will not be deployed in the North-East Province. Reports say that on 26 February, the Sri Lankan Army issued a 48-hour notice on four groups in Batticaloa District to disarm. The four groups are People's Liberation Organisation of Tamil Eelam (PLOTE), Eelam People's Revolutionary Liberation Front (EPRLF), Tamil Eelam Liberation Organisation (TELO) and Eelam People's Democratic Party (EPDP).

After 60 days from D-day, unarmed Sri Lankan troops will be permitted access to the Vavuniya-Jaffna road, which runs through LTTE-controlled Vanni region. Unarmed individual combatants without uniforms may visit family and friends in areas under the control of the other party. Such visits must have the recommendation of the area commander and will be limited to six days every second month. The two-month restriction will not apply in case of visits to immediate family (spouses, children, grandparents and siblings) in connection with weddings or funerals.

After 30 days from D-day, 50 unarmed LTTE cadre will be permitted into Army-controlled areas in the north-east for political work. Another 100 will be allowed after 60 days. At the end of 90 days from D-day, all LTTE cadre will be able to visit Army-held territory.

Both parties have agreed to abide by international law and refrain from committing hostile acts against the civilian population, including torture, intimidation, abduction, extortion and harassment. Places of worship, used for military purposes, will be vacated within 30 days of D-day. All school buildings, currently occupied by the Army or the LTTE must be handed over to school authorities within 160 days. The pre-



sent system of security measures and checkpoints in populated areas will be reviewed in order to prevent harassment of civilians.

There will be unimpeded flow of non-military goods to and from LTTE-held areas. Both parties have agreed to establish checkpoints in 17 locations in the north-east to facilitate the flow of goods and movement of civilians. After 10 days from D-day, the Trincomalee-Habarana road in the east will be opened throughout the day for passenger traffic. The Vavuniya-Jaffna road will also be opened within 30 days for use by civilians.

All restrictions on night and day fishing will be removed within 90 days from D-day. But fishing will not be permitted within one nautical mile (1 nautical mile = 1,852 metres) from either side along the coast and two nautical miles seaward from security force camps on the coast. Fishing will also not be allowed in harbours and approaches to harbours, bays and estuaries along the coast.

The MOU provides that there will be no search operations and arrests under the draconian Prevention of Terrorism Act (PTA). Arrests will be under the Code of Criminal Procedure (CCP). The CCP provides that an arrested person must be produced before a court within 24 hours, whereas under the PTA a person can be detained by the Minister for 18 months. Access to detainees will be provided within 30 days of the agreement. Other than this, the agreement is silent on the fate of 1,700 Tamils detained under the PTA. Government ministers have indicated that the PTA will not be repealed.

Under the agreement, an international team, known as the Sri Lanka Monitoring Mission (SLMM), composed of members from Nordic countries, will monitor the ceasefire. The Norwegian government has appointed retired army officer Maj. Gen. Trond Furuhoide as the head of SLMM. The SLMM will maintain a presence in Jaffna, Mannar and Vavuniya districts in the north, and Trincomalee, Batticaloa and Amparai districts in the east.

A local five-member committee, comprising two nominees of the government and two nominees of the LTTE, will be formed in each of the six districts. An international monitor appointed by the SLMM will be chairperson of the committee. The committee will discuss

issues relating to the implementation of the ceasefire agreement and advise the SLMM.

Even before the agreement was signed, a number of measures were implemented by both the LTTE and the Sri Lankan government. Both separately announced a cessation of hostilities from 24 December. All military checkpoints in Colombo have been removed. The Vavuniya-Jaffna road is now open and the government has also taken action to ease the economic blockade of the north-east.

India, the US, Britain and Japan are among the countries that have welcomed the agreement. The Commonwealth and the European Union have also expressed support. On 25 February, UN Secretary General Kofi Annan hailed the peace deal. There is cautious welcome among the people of Sri Lanka who have witnessed the collapse of three previous ceasefires.

A ceasefire between the Eelam National Liberation Front (ENLF), composed of four Tamil militant groups including the LTTE, and the Sri Lankan government headed by President JR Jayewardene, was agreed from 18 June 1985. This agreement was brokered by India. Peace negotiations commenced in Thimpu, Bhutan on 8 July. As talks continued, there were a number of ceasefire violations by both sides. The Sri Lankan Army massacred Tamil civilians in Vavuniya on 16 August and the ceasefire and the talks collapsed two days later.

In early 1989, while fighting between the LTTE and the Indian Peace Keeping Force (IPKF) continued in the north-east, the Tigers agreed to hold talks with President R Premadasa's government. Ranil Wickremasinghe, who was then Industries minister, announced a ceasefire on 27 June 1989 between the LTTE and the Sri Lankan troops. The IPKF was withdrawn in March 1990 and a growing trial of strength between the Sri Lankan military and the Tigers culminated in clashes. The LTTE overran 17 police stations in Batticaloa and Amparai districts on 11 June 1990 and the ceasefire came to an end, beginning *Eelam War II*.

Following a visit by a government team to Jaffna on 3 January 1995, the newly elected President Chandrika Kumaratunge, announced a cessation of hostilities, effective



from 6 January 1995. The government and the LTTE also agreed to set-up six district-based committees to monitor the ceasefire, headed by foreign observers from Canada, Norway and the Netherlands. Preliminary talks commenced on 13 October 1994, but after four rounds and a series of accusatory letters between the parties, progress towards peace became increasingly doubtful. After issuing two successive deadlines in late March, the LTTE began a series of attacks on 19 April 1995, ending the ceasefire and launching *Eelam War III*.

There is an important difference between these ceasefire agreements and the current accord. The earlier agreements were bilateral and without third party involvement, although in 1994/95 foreign ceasefire monitors were appointed. But elements of the earlier agreements and some aspects of the memorandum of understanding drafted by Norway in 2001 have been included in the present agreement.

After the ceasefire agreement was signed on 22 February 2002, the NGO-led National Peace Council (NPC) urged the government and the LTTE to explicitly link the interim period of ceasefire to a longer term process in which a political solution would be negotiated. President Chandrika has also raised the same concern. There are fears that delay in negotiations will give an opportunity to the parties to undermine the ceasefire and resume fighting. Delay would also strengthen the hands of the political and extremist groups that are opposed to the ceasefire and peace negotiations.

The NPC has pointed out that there have been reports of forcible recruitment and extortion by the LTTE in the north-east, while hundreds of detainees continue to be held in government prisons without trial as LTTE suspects. There is a need for the two parties to agree to strong human rights mechanisms that will eliminate such violations, NPC says. Other observers are also concerned that the ceasefire agreement talks very little about human rights. They say that the ceasefire monitors should be given the authority to set up offices where members of the public could complain about violations of their rights by both the security forces and the LTTE.

The Sri Lankan government faces a number of difficulties. The Tigers have demanded that the ban imposed on them under the PTA

should be lifted to enable them to participate with legitimacy in peace negotiations. The Sinhalese nationalist People Liberation Front (JVP) has vowed to fight the government if it dared to lift the ban on the LTTE. President Chandrika is also opposed to lifting the ban on the LTTE.

Nationalist organisation, Sihala Urumaya (Sinhalese Heritage) says that the agreement has no legal validity because it was concluded with a proscribed organisation. The LTTE was banned in Sri Lanka under Emergency regulations in January 1998. When Emergency lapsed in June 2001, President Chandrika re-imposed the ban under the PTA.

In a letter on 1 March to Prime Minister Wickremasinghe, the President also says that the manner in which she, the Head of State, was kept unaware of the contents of the agreement until it was signed by the parties unconstitutional. She criticized Mr Wickremasinghe for not discussing the agreement before hand, which she says is 'essential for the bi-partisan momentum that is required for the sustained implementation of an agreement'. According to Mr Wickremasinghe, he met her on 20 February and briefed her on the agreement. Cabinet approval was obtained on the same day.

The President declared that some articles could impinge on national security concerns and will have to be reviewed by the armed force commanders and the National Security Council. She says that the agreement should have contained a commitment from the LTTE to come to the negotiating table. She further argues that the agreement is inadequate on the rules of engagement at sea and naval powers regarding interdiction of illegal arms shipments.

Article 2.7 of the MOU says as follows: 'In order to facilitate the flow of goods and movement of civilians, the Parties agree to establish checkpoints on their line of control at such locations as are specified in Annex B.' The term 'Line of Control' is unacceptable to President Chandrika. She says that the expression is highly evocative in the region and also elsewhere in the world where lines of control and demarcation have created endless problems. She drew attention to the problems from the 'Line of Control' established in Kashmir which have severely strained relations between India and Pakistan and destabilized the region.



Article 1.6, which provides 'where there is contention regarding defence localities, the SLMM shall assist the parties in drawing up demarcation lines', has infuriated President Chandrika. She says that this is the first time in the history of Sri Lanka that a foreign government is being authorized to draw demarcation lines on the soil of Sri Lanka. The powers and functions vested by the agreement in the Norwegian government, go far beyond the role of a facilitator and it has been made a mediator or arbitrator in the resolution of disputes between the two parties. These and the role of the representatives from Nordic countries are incompatible with the sovereign status of Sri Lanka, the President asserts.

The President also criticized the agreement for excluding the LTTE-controlled Kilinochchi and Mullaitivu districts, in the establishment of monitoring committees. She raises the question whether the SLMM will be able to intervene if citizens of these two districts are subjected to human rights violations. She accused the LTTE of continuing to recruit children despite its commitment to the UN Special Representative on Children.

The President also points out that the agreement grants extensive freedom of movement to LTTE cadre for political work in government-controlled areas, but there is no provision for access to those in other zones for political work in LTTE-held territory. She notes that combatants have been given ample latitude to visit families and friends in areas controlled by the other party. But the agreement does not afford any right to the internally displaced people to visit their families.

The government has rejected the Presidents criticisms. LTTE Advisor Anton Balasingham described President Chandrika's remarks as injurious and ill-advised. He accused her of conspiring with former Foreign minister Lakshman Kadirgamar to sabotage the historic truce agreement.

He says that the concepts employed in the agreement, such as 'demarcation lines' and 'forward defence localities' reflect the actual ground situation and have been formulated

with the consent of the parties after careful scrutiny. Linking these to the Kashmir conflict is preposterous, Mr Balasingham says. The LTTE and the Army face each other in several locations. The monitors must map out the ground positions or draw lines of demarcation between the forces to set out the rules in order to supervise the violations.

The argument that the agreement compromises the island's sovereignty is untenable, according to the LTTE Advisor. He contends that sovereignty denotes the supreme power of the people and not an inalienable divine right of the a state. The positive element of the MOU is that it deals substantially with the issue of de-escalation by gradually easing the conditions of oppression imposed by the former government and to bring about normalisation of civilian life in the north-east. Mr Balasingham adds that President Kumaratunge has misread this objective and has criticized the truce agreement for having left out substantive political issues.

As days pass, further difficulties are emerging. According to press reports, the Sinhalese nationalist, National Joint Committee of Sri Lanka filed a petition in the Court of Appeal on 28 February to invalidate the ceasefire agreement. The petition accuses Prime Minister Wickremasinghe of usurping the powers of the President and violating the Sri Lankan Constitution. It alleges that the agreement was concluded in secrecy without public discussion, lacking transparency and accountability.

According to the Sri Lankan newspaper *Daily News*, a group of prominent human rights activists and academics, including Archbishop Desmond Tutu, say in an appeal to the Sri Lankan government and the LTTE, that the legitimacy of the peace process depends not only on the cessation of hostilities, but also on broader question of democratic accountability. They have urged the move towards demilitarization of political institutions, the democratization of political culture and the furtherance of human rights norms. The group has also called on both parties to ensure space for dissent and broader civil society participation which are crucial for sustainable peace.