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Promulgation of report Finabel Nr C.37.R

**CONTRACTOR SUPPORT TO MULTINATIONAL
FORCES ON DEPLOYED OPERATIONS.**

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BIBLIOGRAPHICAL PAPER C.37.R	
1. <u>References</u> : Work Group Charlie Meeting 2/2006	2. <u>Other references</u> : <ul style="list-style-type: none"> - AAP-6 (2007); - AJP 4 (B) Allied Joint Doctrine for Logistics, 2nd Study Draft – July 2006; - ALP 4.2 Land Forces Logistic Doctrine; - MC 319/2 NATO Principles and Policies for Logistics, November 2003; - NATO Policy on Contractor Support to Operations, January 2007; - Contractors on Deployed Operations (CONDO) – UK Policy, 3rd edition – 2007; - A.24.R Possibilities and Limitations of the operational co-operation with private “military” companies; - G.26.R Logistic Force Protection on a multinational operation; How to increase protection of logistic capabilities of Finabel nations deployed individually or collectively on operations (Draft 1).
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11. <u>Summary</u> : This study has been written to enable the use of contractors on deployed operations in order to help nations and multinational forces to meet increasing operational demands, especially in theatres which have become benign, despite the conflicting demands of an ever tighter resource and manpower pool.	

There is a need to develop an agreed set of general principles and guidelines to provide a baseline from which contractor support concepts for coalition operations can be developed. Beyond the principles and the guidelines, it is also mentioned in the study the advantages and disadvantages of using contractor support. This solution is totally accepted in the operations integrated or controlled by Finabel countries. It may improve the existing resources in order to get better results and consequently reach the success of the mission.

The document gives special relevance to some points, such as :

- Command and Control – it is considered that contractors can integrate the logistic chain of the force. On one hand it allows more efficient supervision of contractors activity, on the other an easier way to access to some supports by contractors.
- Integration of contractors in the planning process – it could be very important for both parties, as they would be involved on the search of the best solutions. It allows, in the perspective of the force, a better coordination of supporting activities, the possibility to share information and the capacity to evaluate the performance of the contractor. For the contractor it ensures enough time to develop planning, preparation and training activities.
- Contractors protection – the use of forces to ensure a close protection to the civilians must be analysed case by case. In general the protection of civilians must be guaranteed by the force through the implementation of an area security concept.
- Possession of weapons – contractors must not be in possession of weapons, military uniforms or any kind of military symbols, as it could compromise the personal statute of civilians, putting in risk the possibility of being under certain international agreements and the accomplishment of the contracts.
- Quality assurance – the efficiency of the contractor depends in a large way on the selection process. It must be very rigorous and must include a deep analysis to the company capabilities, to its administrative and economic situation and criminal record. This procedure will minimize the risk of the non-accomplishment of contracts.
- Multi-purpose contract – the use of multipurpose contractors has important advantages, such as the possibility to be responsible for most of the contracted services, or even for all of them, enabling a better control over the contractor.
- Risk management – it is considered the existence of two levels of risk. Security risk, inherent to military operations, and contract reliability risk related to the possibility of non-accomplishment of contracts. On the first case, risk must be accepted by both parties to allow the effectiveness of the contract. The second one is related to the contractor's capability to ensure the contracted service. However it is important for the commander to maintain the sufficient military capability to take over the logistic support task.
- Reversibility – it's a very important contracting principle which defines, in case of non-accomplishment of contracts, that the Commandment of a force should maintain the adequate military capability to take over the logistic support task.
- Multinational cooperation and transparency – nations have the possibility to share some information related to the contractors that will help them to choose the most efficient companies. This share of information may also give access to other logistic support solutions.

1. INTRODUCTION

1.1. Purpose of the study

- 1.1.1. This report has been written to enable the use of contractors on deployed operations in order to help nations and multinational forces to meet increasing operational demands, especially in theatres which have become benign, despite the conflicting demands of an ever tighter resource and manpower pool.
- 1.1.2. The characteristics of contractors are different from military force elements. The lack of a self-defence capability, the possible reduced flexibility of employment and questions over their reliability and responsiveness are the key differences. These characteristics lead to factors involving time, space, function and operational risk management. In particular, there are accumulated risks where multiple contractor logistic support solutions are developed.
- 1.1.3. Therefore there is a need to develop an agreed set of general principles and guidelines to provide a baseline from which contractor support concepts for coalition operations can be developed.

1.2. Aim

The aim of the study is to analyse the issues considered in the employment of contractors on deployed operations and to develop a set of principles and guidelines from which future support arrangements can be planned.

1.3. Applicability

The principles and guidelines stated in this document apply to deployed operations led by Finabel countries.

1.4. Reference Documentation

- AAP-6 (2007);
- AJP 4 (B) Allied Joint Doctrine for Logistics, 2nd Study Draft – July 2006;
- ALP 4.2 Land Forces Logistic Doctrine;
- MC 319/2 NATO Principles and Policies for Logistics, November 2003;
- NATO Policy on Contractor Support to Operations, January 2007;
- Contractors on Deployed Operations (CONDO) – UK Policy, 3rd edition – 2007;
- A.24.R Possibilities and Limitations of the operational co-operation with private “military” companies;
- G.26.R Logistic Force Protection on a multinational operation; How to increase protection of logistic capabilities of Finabel nations deployed individually or collectively on operations (Draft 1).

1.5. Terms and Definitions

Contracting

It is the act of purchasing, renting, leasing or otherwise obtaining supplies or services from commercial or governmental sources through a legally binding contract. Contracting includes the description of supplies and services required selection and solicitation of sources, preparation and award of contracts, and all phases of contract management.

Contractor

The commercial entity or organisation that undertakes to supply resources performs services or both for the authority as it is required by the contract.

Dormant Contract

A contract stipulating all terms and conditions, including prices, for defined supplies and/or services, valid for an agreed period of time, that the contract is required to deliver in case and at the time of order by the customer.

Host Nation

A nation which, by agreement:

- Receives forces and materiel of Finabel countries or other nations operating on/from or transiting through its territory;
- Allows material to be located on its territory;
- Provides support for these purposes.

Host Nation Support (HNS)

Civil and military assistance rendered in peace, crises or war by a host nation to a Finabel force which are located on, operating on/from or in transit through the host nation's territory.

Logistics

The science of planning and carrying out the movement and maintenance of forces. In its most comprehensive sense, those aspects of military operations which deal with :

- Design and development, acquisition, storage, movement, distribution, maintenance, evacuation and disposal of material;
- Transport of personnel;
- Acquisition or construction, maintenance, operation, and disposition of facilities;
- Acquisition or furnishing of services; and
- Medical and health services support.

Logistic Lead Nation (LLN)

One nation assumes overall responsibility for organising and co-ordinating and agreed broad spectrum of logistic support for all or part of multinational force, including headquarters, within a defined geographical area for a defined period. This LLN can also provide capabilities as LRSN at the same time.

Logistic Role Specialisation Nation (LRSN)

One nation assumes the responsibility for providing or procuring a specific logistic capability and/or service for all or part of the multinational force within a defined geographical area for a defined period. Compensation and/or reimbursement will then be subject to agreement between the parties involved.

2. GENERAL POLICY

2.1. Principles for contracting

Primacy of Operational Requirements

Contractor support should be focused to satisfy the operational requirements necessary to guarantee the success of the mission.

Visibility and Transparency

Visibility and transparency of contractor support capabilities among the nations are essential for effective support of operations.

Cooperation

Although nations are autonomous in their decisions to outsource logistic support, cooperation amongst the nations, and where applicable other organisations operating in the JOA, will contribute to the best use of contractor resources. It will minimise competition among Troop Contributing Nations and thereby encourage competition between the providers.

Legality

The use of contractors in support of operations must be in accordance with all applicable national, including host nation, and international law. Contractors will not be employed to take a direct part in hostilities.

Reversibility

The Commander of the force should maintain sufficient military capability to take over essential contracted logistic support tasks, if necessary.

2.2. Advantages and Disadvantages

Contractor Support provides an additional solution to the challenge of enabling success on military operations. There are a number of advantages and disadvantages associated with the use of Contractor Support :

2.2.1. Advantages of using contractors

- Military manpower can be dedicated to key operational tasks. This will reduce the military logistic footprint.
- Better access to scarce logistic support in specific or specialist areas.
- The flexibility to select contractors according to the priorities and the needs of the force.

2.2.2. Disadvantages of using contractors

- Limitations on high intensity and high risk operations with low security levels.
- There is an increased requirement for liaison, coordination and forward planning.
- During a mission the reliability of the contractor is not guaranteed.
- Limitations on the use of contractors due to operational security issues.
- Possible loss of military expertise.

2.3. Selection of Contractors

- 2.3.1. The selection of contractors must be very rigorous and must include a deep analysis of their capabilities, their administrative and economic situation, and their previous experience. This procedure will minimize the risk of contract failure.
- 2.3.2. If any problem occurs, the commander of the force must retain the necessary flexibility to find an alternative solution, either with a military capability or using other arrangements.
- 2.3.3. Budget is one of the criteria that has to be taken into account when contracting but it should never be the main criteria.

2.4. Effective use of contractors

- 2.4.1. In principle, the use of contractors may occur whenever a force is employed. However, an appropriate security condition must exist, in order to enable the contractor to develop efficiently their activities, in order to ensure continuous support.
- 2.4.2. When establishing support, nations have the choice of using existing long-term contracts or case-by-case contracting. In both cases the best moment for contracting (or activating the existing contract) is immediately after the decision to participate in an operation, and following the definition of the need for logistic support.

2.5. What to be contracted

There are several areas or logistic functions available for contracting, covering the full spectrum of logistic support. Possibilities include: strategic lift, building of infrastructure, maintenance, laundry services, water purification, supply of power, water, fuel, accommodation, meals. In fact, all logistic support tasks can be contracted, taking into account the following restrictions:

- Tasks directly related with combat or involving the use of weapons.
- Direct support to engaged forces and their weapon systems.

2.6. Type of operations

Contracting activities may be allowed in all types of military operations, provided appropriate security conditions exist. The same applies to their development in the different phases of an operation. It is in the initial phase that there is greatest risk because the security conditions are not yet well defined. It will be a contractor's decision as to whether he is willing to accept a given level of risk.

3. PLANNING PROCESS

3.1. Contractors in the planning process

- 3.1.1. The participation of contractors in the planning process is pertinent and important for several reasons. From the perspective of the contractor, it ensures enough time to develop planning, preparation and training activities. From the perspective of the force, it enables a better coordination of supporting activities, to give the necessary information, and evaluate the performance of the contractor.
- 3.1.2. In the planning process, logistics requirement must be correctly evaluated so that the solutions found are the most adequate.
- 3.1.3. The planning process may involve classified information. For this reason, it is understandable that some doubts may exist concerning the participation of contractors in this phase. It will be up to the entity responsible for establishing the contract to decide how, and in what phase of the planning process, contractors may be admitted.

3.2. Type of contracts

- 3.2.1. Contracting is a generalised and supported process. Nations have a high level of autonomy to select the way to do it and there are a number of different types of contracts :
 - Multinational contracts, when the initiative is taken by a multinational force;
 - National contracts, when derived from the individual initiative of a nation;
 - Contracts that permit support to other contingents.
- 3.2.2. In addition to the above, Nations may have long term contracts which can be activated whenever necessary.

3.3. Managing risk

3.3.1. Security Risks

Security risk management must be carried out separately by the commander and then the contractor. Only when both parties are willing to accept the risk involved will it be possible to execute the contract :

- **Commander**

Risk is inherent in all military operations. It may vary according to factors such as the type of conflict and the operational environment. Risk assessment is an activity developed during the planning phase and it is an essential element of the decision making process. The limit between acceptable and unacceptable risk is difficult to define and will largely be based on the opinion of the commander following an evaluation of the situation.

- **Contractor**

The contractor will decide whether or not to accept the evaluated risk. Different contractors will inevitably have different risk thresholds (often influenced by price) and this may be a factor when deciding which contractor to select.

3.3.2. Contract Reliability Risks

Contracting is a course of action available to a commander to deliver logistic support. If contracting is used then there must be a mechanism to guarantee sufficient reliability to maintain operational capability. The first guarantee is a financial penalty but this may be insufficient. The only 100% guarantee is the principle of reversibility where a commander maintains sufficient military capability to take over the essential logistic support tasks.

4. CONTRACTOR SUPPORT ON DEPLOYED OPERATIONS

4.1. Who can be contracted

4.1.1. Contracting is subject to (European) competition laws. In general, this fact should benefit the contracting entity, decreasing the prices and improving the quality of the services. The wide range of solutions offers Nations the possibility of selecting between national and foreign contractors.

In most cases, there is no limitation on contracting foreign contractors. In fact, this is a solution frequently adopted in several situations particularly when support is the responsibility of a Logistic Role Specialisation Nation (LRSN) or a Logistic Lead Nation (LLN).

4.1.2. The use of a limited number of contractors, or one multipurpose contractor that will be responsible for most of the contracted services, or even for all of them, is a solution that may be used whenever it is convenient. It has the following advantages :

- It enables better control over the contracted services;
- And the reduced number of contacts and relationships will make the process easier.

- 4.1.3. No specific restrictions limit the use of local contractors. The employment of local workers should be considered on a case-by-case basis, because it depends on the operational framework, legal questions, the security situation, and the cultural/socio-economical situation of the population. However, in most cases it is a solution with advantages for those who apply it, improving the good relationship with the population and promoting the development of local economy.
- 4.1.4. The main difference between the concepts of HNS and Contracting is the commercial nature on which the latter is based, while the former is a formal agreement established among the nations or between the international organization and the HN. HNS should not interfere in the contracting activities. However, it may have an advisory and supporting role between the different contingents, and in their relationship with the local companies available to supply their services.

4.2. Force's support to the contractors

The needs of contractors vary from company to company and they depend, among other factors, on the type of operation, on the evaluation of the risk level, and on the means and resources available in the JOA. The support to be given to contractors must be analysed during the negotiation process. The entity responsible for establishing the contract must guarantee that the needs will be satisfied, according to the agreement. Any support to be given by the force to contractors must not compromise the mission or the security of the force.

4.3. Protection and security

- 4.3.1. The force is responsible for providing local area security to ensure the safety of civilians in the local area. Contractors must be included in this protection. The possibility of close protection may be considered in very specific cases.
- 4.3.2. Logistic contractors must not be in possession of weapons, military uniforms or any kind of military symbols. However, they may possess equipment to give them a higher level of protection.
- 4.3.3. In general, there is no need to establishing geographic boundaries where contracting activities will not be permitted. However, such boundaries might be considered for security reasons.
- 4.3.4. There will always be security risks associated with the use of contractors. These risks can, however, be minimised by a rigorous selection process, through the imposition of penalty clauses, and through the close supervision of contractors' activities. The supervision may include cooperation with other military forces, local authorities and the police.

4.4. Command and Control

- 4.4.1. In general contractors should not be integrated in the operational command chain of the force, but should be integrated in the logistic chain of command. The link between the parties must be of a contractual nature, defined by clear rules, previously agreed between the parties and expressed in the contract.

- 4.4.2. There may be some scope to provide life support (food, laundry, accommodation) to contractors. This clearly has benefits for the contractor and will also allow closer supervision of his activities. However, this solution must be analysed on a case-by-case basis, clearly expressed in the contract.

5. MULTINATIONAL ISSUES

5.1. Level of authority and responsibilities

- 5.1.1. The responsibilities of all parties must be defined in the text of the contract. The level of authority given to a commander of a multinational force should be the same, regardless of who is providing the logistic support.
- 5.1.2. The contractors primary responsibility is to support their contract partner according to the terms written in the document. This partner is either a national contingent or a multinational force. Additionally third parties may benefit from the services of a contractor; this support would be easier if it was foreseen in the contract.

5.2. Sharing information

Under the principle of visibility and transparency, nations agree to transmit to their allies information related to the contractors. This sharing of information may occur by direct request from allies or during multilateral meetings.

5.3. Funding

- 5.3.1. Costs are covered by the contracting agency responsible for the contract. In case other nation(s) benefit from the contracted services, costs can be reimbursed either directly to the contractors or the contracting agency, as appropriate and to be agreed with the latter.
- 5.3.2. Contracted services may be common funded. The decision to fund contracts lies with the nations involved.

6. LEGAL ISSUES

No contract should be let without Legal advice. The legal status of the contractor should be specified in the contract.

7. CONCLUSIONS

- 7.1. Contracting is an alternative course of action, which contributes to the adequate logistic support of deployed operations. Thereby it complements the existing resources in order to get better results and consequently contributes to the successful sustainment of the mission.

7.2. In the use of contractors on deployed operations special attention should be given to :

- Command and Control
- Integration of contractors in the planning process
- Security issues related to the use of contractors
- The advantages of the multi-purpose contractors
- Risk management and reversibility
- Multinational cooperation and transparency
- Quality assurance