

BY COURIER

4th October 2007

Mr. David B. Smith
Chief of Party
Sri Lanka Anti-Corruption Program
410/115, Bauddhaloka Mawatha
Colombo 7.

Dear David,

Sri Lanka Anti-Corruption Program

I thank you for your Letter dated 20.9.2007, forwarding me the following 4 'White Paper' publications, pertaining to the subject of 'Corruption':

- i) Defeating the Dragon; Weapons for Fighting Corruption – *Authored by Justice Mark Fernando*
- ii) Bribery and Corruption in Sri Lanka; Strengthening the Institutional Framework – *Authored by Mr. Mario Gomez, Mr. Neshan Gunasekera and Mr. Dinesha Samararatne of Weeramantry International Centre for Peace Education and Research*
- iii) The Impact of Corruption on Poverty and Economic Growth – *Authored by Prof. A.D.V. de S. Indraratne, Mr. Lloyd F. Yapa, Mr. R.M.B. Senanayake and Mr. Lionel Perera of the Sri Lanka Economic Association*
- iv) Synopsis of Anti-corruption and Related Laws – *Authored by Mr. Anton Fernando and Mr. R.M.B. Senanayake*

I also thank you for your Letter dated 3.9.2007, forwarding me a copy of the 'National Anti-Corruption Action Plan'. As intimated, the belated acknowledgement was due to pressure of work.

As I intimated, I have been quite busy endeavouring to launch a Web Site to shed light on, through true to life real case studies and experiences, socio-political realities in this third world developing country, amidst pressures and obstructions from socio-politically powerful and influential upper echelons of society, and also from the very international community, who ironically advocate causes of good governance, the enforcement of the rule of law and the combating of fraud and corruption; and the alleviation of poverty. The Web Site just launched is www.consultants21.com.

This Web Site provides, in the public interest and for the public good, information, documents and data, for the use of persons accessing for research and studies in the pursuit of promoting good governance, enforcement of the Rule of Law, the combat of fraud and corruption, and the protection of the rights of the poor and helpless, and the emancipation of the exploited poor down-trodden masses of our country, and reveals the socio-political realities prevalent in our country at all levels of political office, public service, corporate entities and law enforcement authorities !

I have committed much time, efforts and resources in taking positive action to combat fraud and corruption in our country since 1990 ! I have had very little support in that mission, though there is much pontification on the subject of espousing the cause to combat fraud and corruption ! On the contrary, ironically, I have experienced and faced resistance, ridicule, embarrassment and pressures, from the most unexpected quarters !

In view of my interest in the subject, I am well exposed to and quite conversant with the manner of enforcement of the rule of law in other countries *vis-à-vis* combating fraud and corruption. Tragically, such enforcement of the rule of law is absent in our country, due to socio-political influences and pressures, ironically from the very persons, who pontificatingly publicly espouse the cause to combat fraud and corruption !

In Sri Lanka, though much has been spoken, now for nearly 2 decades, against fraud and corruption on many a platform and fora, my experience is that no real action is taken by law enforcement authorities, due to socio-political influences and pressures; and also because of sheer indifference and inaction by those, who merely pontificate on platforms and podiums, advocating the very combating of fraud and corruption, sometimes perhaps to shroud their true and real personalities ! The political arena is full of such examples, both here and abroad !

The then Minister of Justice & Constitutional Affairs, G.L. Peiris, in presenting in Parliament in October 1994 the Bills to introduce the offence of 'corruption' into the Bribery Act and to establish the 'Commission to Investigate Allegations of Bribery or Corruption', *inter-alia*, stated thus:

"Hon. Deputy Speaker, you are aware that there is a great resentment and hatred in our country concerning bribery and corruption. Therefore, it is the duty of the government to formulate laws in conformity with public opinion. Apart from the financial implications, there is also the question of an overweening sense of cynicism discerning discriminating thinking people in our country have expressed profound dissatisfaction with the extent to which corruption and bribery have taken root in our country. If this spirit of cynicism is not addressed there is a definite danger to the stability and tranquility of political and social institution in our country. That is why the government was convinced that there should be a vigorous response to the issues of bribery and corruption"

In his response, the then Leader of the Opposition, Ranil Wickremesinghe, prefaced his statement, thus:

"In fact, the whole question of bribery and corruption raises many fundamental questions in a democratic society. We have all got to recognize that corruption is a cancer of democracy, as one of the biggest problems that we faced, when elected representatives and officials of the Government who are also public servants - when their decisions are effected not by matters of political consideration but by pecuniary gains and financial gains"

Governments have come into power espousing the cause to combat fraud and corruption, but once in power get 'bogged down' in the very quagmire of fraud and corruption, and when out of office, whilst in opposition, again there is an 'outcry' on condemning and castigating fraud and corruption ! This 'comedy' goes on !! The resources of the poor are pillaged and plundered, and ironically replaced through poverty reduction and poverty alleviation programs, thereby in actual effect funding fraud and corruption !

Having perused the above publications, my initial comments are as follows:

1. There does not appear to be cognisance taken of two publications of the Marga Institute, *vis-à-vis* the 'judicial system' of the country, which is the last refuge for the enforcement of the rule of law and justice, vital to the subject of combating fraud and corruption, and an integral component of the sovereignty of the people. The publications are:
 - i) An Inquiry into the Judicial System of Sri Lanka – September 2002
 - ii) Social Image of the Judicial System of Sri Lanka – November 2004

The revelations in these publications are indeed appalling and warrants stringent remedial actions.

2. A very potent statute *viz* - 'The Offences Against Public Property Act No. 12 of 1982, as amended by Act No. 28 of 1999', whereby any person, whether public servant or otherwise, is liable for the following Offences:
 1. Mischief to public property.
 2. Theft of public property
 3. Robbery of public property
 4. Misappropriation or criminal breach of trust of public property
 5. Cheating, forgery or falsification of accounts in relation to public property
 6. Attempting to commit any one of the above offences

Punishment for any one of the above Offences is imprisonment not exceeding 20 years and a fine of 3 times the loss or damage caused to public property, which would also include State funds.

3. In my experience, Sri Lanka critically needs, not so much new statutes, but a 'multi-disciplinary independent agency', capable of investigating and prosecuting fraud and corruption in the contemporary world, on the lines of the 'Commercial Affairs Department' in Singapore, set-up as far back as 1982, which has resulted in where Singapore is today ! There are similar agencies in other countries. I mooted the setting up of such an agency in 1994, but did not receive enthusiastic support from the Government ! Also statutes are of no use, if those manning law enforcement authorities for the enforcement of such statutes, are ineffective and are subservient to socio-political influences !

4. There cannot be presumption that the investigating and prosecuting authorities are themselves above board either ! In Singapore in a famous Case in 1991, the Director of the Commercial Affairs Department, was prosecuted, for what in Sri Lanka would not be considered to be even 'unethical', let alone 'offences' ! The Case is reported in [1992] ISLR at 720 and also reported in 1992 CLAS News No. 1 on Law Reports, *vis-à-vis*, the Appeal by Knight Glenn Jeyasingham, a man of good character, a Member of the Senate of Singapore Academy of Law, a distinguished Prosecutor and an Awardee of the 'gold medal' for Public Administration, where the 'offences' committed were of a 'personal nature' and unrelated to his official duties ! Nevertheless, he received a custodial sentence and a fine !
5. Though Police Department, more particularly the CID, is 'frowned upon' or 'faulted' for 'tardy' investigations, 'selective' prosecutions, etc., the actual fault lies with the Attorney General's Department. In an examination done in 2005, the IGP reported that nearly 1300 pending investigations in the Colombo District alone, were awaiting advice of the Hon. Attorney General to be proceeded with. My experiences with the Attorney General's Department have been appalling, with no sequencing of investigations and prosecutions, and where Cases of far less gravity getting prioritised due to socio-political influences and pressures, and far more grave cases are shelved and socio-political influential wrong-doers are shielded ! Should the Attorney General's Department play the role of 'guiding and controlling' investigations', whilst also being responsible for prosecution ? Why not the concept of 'independent prosecutors' in Sri Lanka ? In India, the Income Tax Department is assisted by independent Counsel !

In the context of the prognosis contained in the aforesaid publications, I attach the following recent Letters, for which I have had no response, whatsoever, whereby the facts stated therein stand undisputedly admitted !

1. Letter dated 31.8.2007 to Mr. Ranil Wickramasinghe, M.P., Leader of the Opposition, now propounding '*fraud and corruption combating rhetoric*' (whilst 3 major privatisations LIOC, SLIC and LMSL carried out by the Economic Affairs Cabinet Sub-Committee headed by him have 'exploded' as scandals, with colossal losses to the State, with two being before the Supreme Court, that too, which he has belatedly attempted to veto under the refuge of 'privilege'), and further raising a 'hue and cry' of the Commercial Bond issue of US \$ 500 Mn., whilst the perverse Tax Amnesty his Government perpetrated on the country, regardless of my disclosures to him of the 'perverseness' thereof, was reckoned to be a write-off around Rs. 200,000 Mn. in 2003, then equivalent to US \$ 2072 Mn., which today at 6 % p.a. would be equivalent to US \$ 2615 Mn.!! Even the *repeal* of the perverse Tax Amnesty, after such 'damning condemnation and castigation' by the Supreme Court, was questionably opposed both by Mr. Ranil Wickramasinghe and Mr. Karu Jayasuriya !

The real 'root causes' of the foreign exchange mismanagement of the country, as a result of two dubious, Orders caused to be gazetted in 1993 and 1994 by Mr. R. Paskaralingam and Mr. N.V.K.K. Weragoda, as the then Secretaries, Ministry of Finance, have been researched, analysed and exposed by me. (*vide* - '*The Nation*' of Sunday 16/9, 23/9 and 30/9) and the Web Site - www.consultants21.com.

It is indeed 'heartening' to note, that Transparently International (TI), which 'evaded and avoided' condemning and/or combating the perverse Tax Amnesty, which was determined by the Supreme Court to be a 'fraud on public revenue causing extensive loss to the State', and in addition to be 'antithetic to the rule of law', on the premise that TI does not deal with 'individual cases', has now come out with a publication on the US \$ 500 Mn. Commercial Bond issue, which the UNP is 'harking and barking' about, whereas ironically the perverse Tax Amnesty was not an 'individual case' ! When TI was be mooted, as far back as 1992, by Dr. Peter Eigen in Berlin, I was somewhat associated and invited to be a founder member. However, upon understanding what TI was being formed for, I then decided not to pursue to be involved !

It is also indeed 'heartening' to note that the Center for Policy Alternatives (CPA) is taking a 'lead role' to create awareness of the need to condemn and combat fraud and corruption, whereas in the Supreme Court Hearing in the Reference by H.E. the President of the perverse Tax Amnesty of 2003, which I caused to be made, and wherein I personally made submissions, CPA also making submissions, as an interested party, through their Lawyer Ms. Cyrene Siriwardane, whilst conceding the 'obnoxious' provisions of the perverse Tax Amnesty, however repeatedly pleaded and implored the Supreme Court, not to make publicly known the pronouncement thereon, before the impending General Elections ! Surely, ought not the people be made aware of what a government had done, prior to exercising the ballot, the only mechanism reposed in them to hold governments accountable and responsible ?

2. Letter dated 7.9.2007 to the Speaker of Parliament. W.J.M. Lokubandara, with copy of Letter dated 1.9.2007 to Mr. Wijeyedasa Rajapakse, P.C. M.P., Chairman COPE, suggesting that the most appropriate action to be taken to effectively deal with loss caused or attempted to be caused to public property, would be under and in terms of the Offences Against Public Property Act No. 12 of 1982, and not under the Bribery Act, for reasons set out in the said Letter.
3. Letter dated 15.9.2007 to Mr. Bandula Gunawardene M.P., Minister of Trade, Marketing Development, Co-operative & Consumer Affairs, together with copies of Letter dated 31.7.2007 to H.E. the President Mahinda Rajapakse and Letter dated 14.8.2007 to Mr. Lalith Weeratunga, Secretary to H.E. the President – putting in issue the ‘hypocrisy’ and ‘duplicity’ *vis-à-vis* the interest of the public of the country, and the diametrically opposite stances taken in gross violation of the enacted laws, with the threat of grave loss to public property, which includes State funds !!
4. Letter dated 11.9.2007 to the Hon. Attorney General endeavouring to enter ‘terms of settlement’ for the due and proper warranted enforcement of the rule of law, which settlement is pending finalisation by the Hon. Attorney General, now for 2 years ! The contents of the attached ‘Consent Motion’ are self-explanatory ! Action being taken on such lines, as warranted under the law, will be positive action to deal with the menace of fraud and corruption in the upper echelons society in the country, which is far more important, than going after the minions, who due to ‘sheer poverty’ are desperately driven to solicit ‘some extra payment’ for some service performed, inasmuch as hotel staff solicit and receive ‘tips’ !

Corruption, as prostitution, is as old as mankind ! The story goes back to Eve's temptation of Adam ! Jesus Christ was betrayed through the process of corruption – bribery ! Much has been diagnostically written about this phenomenon of ‘corruption’ ! What is necessary now, is not prognosis, but positive action, to harshly deal with those at the top, for if it is not cured at the top, it cannot be cured at all !!

"In his book controlling corruption Robert Klitgard, points out to corruption through history, thus: - "One reason why corruption is understudied as a policy issue may be the nagging sense that there is nothing to be done about it. After all, corruption is as old as government itself. Writing some 2300 years ago, the Brahman Prime Minister of Chandragupta listed "at least forty ways" of embezzling money from the government. In ancient China, officials were given an extra allowance called 'Yang-lien', meaning 'nourish incorruptness'. Apparently such nourishment often failed to achieve that purpose. Writing in the fourteenth century, Abdul Rahman Ibn Khaldun, said that "the root cause of corruption" was "the passion for luxurious living within the ruling group. It was to meet the expenditure on luxury that the ruling group resorted to corrupt dealing."

Plato talked about bribery in The Laws: -"The servants of the nation are to render their services without any taking of presents ... To form your judgement and then abide by it, is no easy task, and" 'tis a man's surest course to give loyal obedience to the law which commands,' Do not service for a present.'" - "Like illness, corruption will always be with us. But as this sad fact does not keep us from attempting to reduce disease, neither should it paralyze efforts to reduce corruption. Corruption involves questions of degree. Countries and agencies have more and less corruption, and various kinds of illicit behaviour are more and less harmful. We can do better in controlling corruption."

In the World Bank Staff Working Paper No. 580, on The Effects of Corruption on Administrative Performance, David J Gould and Jose A Amaro-Reyes reported: - "Corruption ... is pervasive in the countries of Asia, Africa and Latin America. The government monopoly of economic activities in developing countries, when combined with conditions of political "softness" widespread poverty and socioeconomic inequalities, ambivalence towards the legitimacy of government and its organisations and systematic maladministration, provides fertile grounds for corruption, which ... has a deleterious, often devastating effect on administrative performance and economic and political development, for example corroding public confidence, perverting institutions' processes and even goals, favouring the privileged and powerful few, and stimulating illegal capital export or use of nonrational criteria in public decisions."

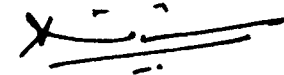
Robert Klitgard of Bolivia in his book "Controlling Corruption" at page 23 deals with the definition of corruption, thus: - " The literature on corruption contains several useful definitions. A widely cited definition of "corruption" is:- 'behaviour which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status -gains; or violates rules against the exercise of certain types of private-regarding behaviour.'"

Inscription carved in the base of the statue of Dr. Nkrumah out side the Law Courts in Accra, Ghana –

"Seek ye first the kingdom of politics and all else shall be added unto you" !!

I trust that the foregoing would be of benefit in your deliberations and endeavours !

Yours truly,



Nihal Sri Ameresekere

cc: Ms. Rebecca Cohn, Mission Director, USAID
Ambassador Robert O Blake, US Embassy, Sri Lanka.

PS: *Extra copies are enclosed to be forwarded to the respective Authors referred to above.*

BY COURIER

4th October 2007

Mr. David B. Smith
Chief of Party
Sri Lanka Anti-Corruption Program
410/115, Bauddhaloka Mawatha
Colombo 7.

Dear David,

Sri Lanka Anti-Corruption Program

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BY COURIER

31st August 2007

Mr. Ranil Wickremesinghe, M.P.,
Leader of the Opposition & Leader, UNP,
115, 5th Lane,
Colombo 3.

Dear Leader of the Opposition / Leader, UNP,

US \$ 500 Million Bond Issue by the Government

I write with reference to the apprehensions you have publicly articulated on the undesirability of the Government to borrow such a large amount of US \$ 500 million, as foreign commercial loan.

As to whether such foreign commercial borrowing, initially speculated for a 5-year tenure, now for a 10-year tenure, is to be invested in economic infrastructure, as held out, which generally would have 'pay-back' periods varying between 20 to 40 years, and not 10-years, or whether such borrowing is to re-pay foreign debts deferred to be payable during 2007, consequent to the 'moratorium' for the 2-years 2005 and 2006, afforded after the devastating Tsunami of December 2004, no doubt, are very pertinent issues.

Your concerns and apprehensions have been publicly pronounced, giving 'leadership' to raise a 'public outcry', even addressing a Letter dated 24.8.2007 to J.P. Morgan Chase, USA, the speculated issuer of the Government Bond for US \$ 500 million.

What shockingly amazes me, is that you chose, for reasons best known to you, not to so act, when I, as a citizen, was compelled to institute a public interest litigation, to prevent a 'large scale of foreign funds' from being 'deviously siphoned out of the country', under Government Guarantees, which the Supreme Court, upholding my action, prevented. Your party's influential and high profile Mr. K.N. Choksy P.C., M.P., a Defendant in my action, endeavoured to have such payment somehow made, not only giving writings in that regard, but also even futilely attempting to have my public interest litigation dismissed, asserting in Court, as a Defendant, that as a citizen of this country, I had no right to bring such an action, to prevent such payment.

Though the alleged claims, regardless of my objections as a professional Accountant, were endorsed, as claimed, by Mr. K.N. Choksy P.C., M.P., my sustained actions, amidst obstructions and pressures, achieved for the Government in June 1995 a write-off amounting to Jap. Yen 17,586 million, then equivalent to US \$ 207 million. At an average of 6% p.a. interest this amounts to a value of US \$ 417 million today, whilst in terms of the depreciating exchange rate, this would tantamount to US \$ 477 Million today. The Central Bank will confirm, that at the time I instituted litigation, the country's foreign reserves were in a perilous state, *which you too concurred with!*

Notwithstanding representations then made to you, not only did you choose to turn a 'blind eye' to the foregoing, well known in the public domain, but you regardlessly, also went on to subsequently startlingly install Mr. K.N. Choksy P.C., M.P., as the Finance Minister of this country!

As a consequence, he presented an 'all encompassing' perverse 'Tax Amnesty' of 2003 to Parliament, under the 'guise' of the Inland Revenue (Special Provisions) Act No. 10 of 2003, with questionable amendments effected at the Committee Stage, denying any opportunity, whatsoever, for the public of this country to have been educated on such perverse Act, or to have challenged the provisions thereof! The Supreme Court on a Reference, held the same, not only to be violative of the Constitution, but sadly indicted the same, as '*having defrauded public revenue causing extensive loss to the state*'! Were you also not a party to this?

In comparison to your current public stance and actions in relation to a proposed commercial borrowing of US \$ 500 million by the Government, how is it that, you chose to be silent and not take any action, whatsoever, on the foregoing, *one of which is comparable and the other far worse*, but acted otherwise?

Yours truly,


Nihal Sri Ameresekere

cc: Minister Karu Jayasuriya, M.P. / then Deputy Leader, UNP – *Did you not also act in concert?*

BY COURIER

7th September 2007

Hon. Speaker of Parliament
Office of the Hon. Speaker
Parliamentary Complex,
Sri Jayawardenapura
Kotte.

Hon. Speaker,

COPE Report - January 2007

I read with interest recently in the media that Parliament, on the recommendation of COPE, had decided to forward the COPE Report to the Commission to Investigate Allegation of Bribery or Corruption, for investigations and actions to be taken by the said Commission. I read this morning in the *Daily Mirror*, that you had confirmed having forwarded the same to the said Commission.

I enclose a copy of my Letter dated 1st September 2007 addressed to the Chairman, COPE, urging that the disclosures made by the COPE Reports of January 2007 and August 2007 be referred to the DIG-CID and/or the IGP for investigations and actions to be taken, under and in terms of the Offences Against Public Property Act No. 12 of 1982, for the reasons set out in my said Letter.

Disclosure having been made of the conduct and actions of private parties, you will no doubt concede, that not only the public officers, but also the private parties, who have been involved, ought be dealt with in terms of the law, as morefully set out in my said Letter.

With much exposure, action has been initiated on the COPE Report of January 2007, which deals with 'individual cases', which no doubt, are of seriousness and gravity, and ought be dealt with, enforcing the 'rule of law'. However, I regret that no action, whatsoever, has been taken on a matter of 'national economic proportion and significance', as was reported in the COPE Report of 2005, 'as a matter that needs immediate attention of Parliament'. I quote the following extracts of the COPE Report of 2005.

"The Committee was seriously concerned over the activities of the CBSL (*Central Bank of Sri Lanka*) and wishes to report to the Parliament on **matters that need immediate attention of the house**" (*emphasis added*)

"The Auditor General and the Department of Public Enterprises have highlighted the following in their reports"

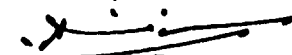
- **"Decline in the remittances of export earnings to the country as the Bank did not monitor the remittances of such export proceeds to the country and the foreign exchange loss to the country."** (*emphasis added*)

"Your Committee in conclusion recommends the following:"

- **"Carry out investigations on the nonrepatriation of export proceeds to Sri Lanka and take corrective action appropriately to avoid drain of foreign resources."** (*emphasis added*)

I respectfully urge you to cause action to be taken on both the foregoing matters.

Yours truly,



Nihal Sri Ameresekere

BY COURIER

1st September 2007

Hon. Wijeyadasa Rajapakshe, P.C., M.P.,
Chairman, Committee on Public Enterprises (COPE)
Parliament of Sri Lanka,
Sri Jayewardenepura,
Kotte.

Dear Chairman,

Action on COPE Reports of January 2007 & August 2007

I commend you on the courageous stance taken on fraud and corruption, and the strenuous efforts, which you and the other Members of COPE have put in, to release the above Reports. It was a pleasure for me to have extended co-operation and assistance in certain major cases.

I have noted with interest, that after a 'strange delay', it has been decided to refer certain matters in the Report of January 2007, to the Commission to Investigate Allegations of Bribery or Corruption.

Bribery cannot be presumed, unless discovered after investigation. 'Corruption' would *prima-facie* be disclosed, where **only public servants**, as defined in the Bribery (Amendment) Act No. 20 of 1994, with intent have caused wrongful and unlawful loss to the Government, or have conferred a wrongful or unlawful benefit, favour or advantage on themselves, or any person or have induced any other public servant to do so, as morefully defined in Section 70 of the Bribery Act. The offence of corruption is liable to imprisonment not exceeding 10 years and/or to a **fine not exceeding Rs.100,000/-**.

With due respect, ought not the instances, where losses of billions of rupees have been caused to the Government i.e the Public, by **collusive actions between the private sector and the public sector**, be referred to the IGP and/or the DIG-CID for investigation and action, under an in terms of the Offences Against Public Property Act No. 12 of 1982, as amended, wherein **not only public servants but all persons, including those from the private sector**, are held accountable and responsible ?

In terms of the said Public Property Act, the Offences would include the commission of:

1. Mischief to public property.
2. Theft of public property
3. Robbery of public property
4. Misappropriation or criminal breach of trust of public property
5. Cheating, forgery or falsification of accounts in relation to public property
6. Attempting to commit any one of the above offences

Punishment for any one of the above Offences is imprisonment not exceeding 20 years and a **fine of 3 times the loss or damage caused to public property**.

Given the gravity, seriousness and magnitude of some of the instances, which have been disclosed, do you not consider, that it is warranted, that action ought be taken in terms of the Public Property Act, inasmuch as, action has been taken under such Act for comparatively very minor offences *vis-à-vis* public property, with suspects being promptly remanded, **since offences under the said Act are non-bailable**.

My attention is also drawn to the interview you had given to *The Nation*, published on Sunday, 26th August 2007. You have specifically asserted that H.E. the President had been misled by Secretary to the Treasury, Dr. P.B. Jayasundera, who you state, was the one whose spread false information about the COPE findings, and misled H.E. the President, that the COPE Report, if published, might have an adverse effect on the donor contributions to the country, which had led H.E. the President to mention in a TV interview, that the COPE Report of January 2007 was conspiratorially released to coincide with the Aid Forum in Galle.

As COPE Chairman, having made such a public indictment of the Secretary to the Treasury, Dr. P.B. Jayasundera, ought you not take action, in that, in some of the major transactions you had castigated the very conduct and actions of Dr. P.B. Jayasundera ? Can a responsible senior public official be permitted to have so acted, and would it not tantamount to contempt of a Parliamentary Committee ?

As regards, the 'assertions' referred to above *vis à vis* the donor community, I cite the following, which give the lie thereto:

At the Opening Address made by Ms. Mieko Nishimizu, Vice President South Asia Region at the Sri Lanka Development Forum held in Paris in December 2000, she stated thus:

"In formulating a new Country Assistance Strategy, my colleagues have been listening intensively to hundreds of Sri Lankan citizens from all walks of life. They said:

**"The nation faces a deep crisis;
Public institutions are politicised;
Politicians are not accountable"**

In the Foreword in the World Development Report 2002 of the World Bank, it was stated thus:

"Without effective corporate governance, institutions that check managers' behaviour, firms waste the resources of stakeholders. And weak institutions hurt the poor especially. For example, estimates show that corruption can cost the poor three times as much as it does the wealthy."

Addressing the challenge of building effective institutions is critical to **the bank's mission of fighting poverty."**

In May 2003, the World Bank in a Letter addressed to me on behalf of its President stated thus:

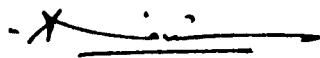
"the World Bank as well as other development partners are assisting the country's endeavours aimed at reforming governance and empowering the poor, including the enhancement of their legal rights"

"the senior management of the World Bank as well as the entire staff of the institution consider issues of fraud and corruption to be of grave concern"

As recent as February 2007, the World Bank in a Letter addressed to me on behalf of its President stated thus:

"The World Bank recognises the importance of good governance in the development of countries like Sri Lanka and in their efforts towards poverty reduction. Our program of assistance to Sri Lanka includes a strong commitment to helping improve the governance of their public sector institutions"

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Lalith Weeratunga, Secretary to H.E. the President / Member to Committee to Combat Fraud, Bribery & Corruption

His Excellency President Mahinda Rajapakse

Mr. D.W. Prathapasinghe, DIG-CID

Mr. Victor Perera, IGP

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order

Mr. C.R. De Silva P.C., Hon. Attorney General

Ven. Elle Gunawansa, Chairman, Committee to Combat Fraud, Bribery & Corruption

Hon. Members, COPE



BY COURIER

15th September 2007.

Mr. Bandula Gunawardena, M.P.,
Minister of Trade, Marketing Development,
Co-operatives & Consumer Affairs,
6th Floor, Rakshana Mandiraya,
21, Vauxhall Street,
Colombo 2.

Dear Minister,

**Proposed Cost Reduction on Essential Food Commodities by Rs. 9,000 Mn.
by imposing certain Taxes to raise Rs. 3,000 Mn.**

I refer to the recent interview you had, after the News, on Derana TV, on the above subject.

No doubt, the endeavour to reduce the cost of essential food commodities by **Rs. 9,000 Mn.**, would give 'some relief' to millions of poor people in the country, where today - **the cost of living is 'sky rocketing'!**

To meet part of this revenue loss, the Government last week hastily enacted Statutes in Parliament, amidst protests and controversy, to impose certain other taxes to raise revenue by **Rs. 3,000 Mn.**, including a tax on 'cellular phones', used **not only by the affluent, but also by a multitude of the poor.**

In 'stark comparison' to the foregoing, I attach copies of recent Letters dated 31.7.2007 addressed to H.E. the President and dated 14.8.2007 addressed to the Secretary to H.E. the President, contents of which are self-explanatory. I cite the following extracts from my said Letters :

'Cabinet Memorandum of 21.1.2007 had not disclosed the defaults by HDL on Government Loans from as far back as 1997 to 2005, as set out below:

<u>Date of Loan</u>	<u>Capital</u>	<u>Rate of Interest</u>	<u>Interest</u>
	Rs.	% p.a.	Rs.
02.7.1997	288,567,633	12.50	648,504,108
12.7.1999	469,742,070	12.50	735,514,859
03.7.2000	464,427,826	12.50	594,791,483
29.6.2001	360,618,876	18.56	640,942,571
01.7.2002	446,803,874	12.50	358,351,215
04.7.2003	340,024,378	9.40	147,032,120
30.6.2004	395,658,959	8.59	110,970,575
30.6.2005	<u>225,639,338</u>	10.28	<u>48,775,967</u>
Total	<u>2,991,482,954</u>		<u>3,284,882,898</u>

I annex copies of 8 Letters from 1997 to 2005, giving the conditions of these Treasury Loans.

In addition to the above defaults amounting to Rs. 6,276,365,852, **that too at old Treasury Bill rates**, further Loans would have been given on 1.7.2006 and 1.7.2007, with which, the defaulted Loans by HDL to the Government would be around **Rs. 7,000,000,000/-**; and with further Loans that would be required to be given on 1.7.2008, 1.7.2009 and 1.7.2010, the total defaults to the Government would then be in the region of **Rs. 10,000,000,000/-**.

The foregoing Loans given by the Treasury, to repay Foreign Loans, to one Luxury 5-Star Hotel alone, **stand defaulted from as far back as 1997**, and at present amounts to around Rs. 7,000 Mn., and is reckoned to increase to **Rs. 10,000 Mn.** You will note that the interest rate charged by the Treasury on these long defaulted Loans, which had been annually advanced, are still in the range of **8.6% p.a to 12.5% p.a**, only one Loan is at 18.5% p.a. **You are well aware, as to what the present Treasury Bill Rates are.** Notwithstanding the foregoing, Secretary to the Treasury, P.B. Jayasundera, without any Cabinet approval has stated to Court - that **'an undertaking has been given by the Government not to recover immediately the above defaulted Loans'**, which in addition, is a special privileged treatment, in violation of the fundamental rights guaranteed under the Constitution.

Is this not a 'glaring instance' of sheer 'hypocrisy' and 'duplicity', where a similar level of money is being endeavoured to be given by way of price reductions on essential food commodities to benefit millions of poor people in the country, whilst no endeavour, whatsoever, is made to recover such same level of money defaulted to the government by one 5-Star Luxury Hotel alone, that too, at 'concessionary rates' of interest, and in addition, with no recovery of any consideration, whatsoever, for the use of 7 acres of valuable prime Land in the heart of the city. How do you justify the same ?

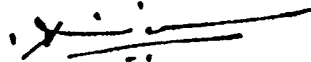
My attached Letters reveal my endeavours and strategy to ensure the disputed 64% ownership of the Government in this Hotel, to be 'transformed' to an undisputed 100% ownership by the Government of the said Hotel, which too, was attempted to be opposed by Secretary to the Treasury, P.B. Jayasundera, suppressing the aforesaid facts and misleading the Cabinet of Ministers.

In your interview on Derana TV, you also endeavoured to 'belittle' the Rs. 200,000 Mn 'all encompassing' perverse 'amnesty' of 2003, given under the 'guise' of an 'income amnesty', which was determined by the Supreme Court to be 'antithetic to the rule of law' and a 'fraud on government revenue, causing extensive loss to the State.' The Rs. 200,000 Mn estimate comprised of the reported Rs. 70,000 Mn. outstanding dues of the Inland Revenue Department alone, and Rs. 130,000 Mn. estimated dues of other Revenue Departments, such as, a Customs, Excise, etc. This estimate of Rs. 200,000 Mn., put in issue in Court, was not disputed and/or refuted by the Hon. Attorney General, who represented the Government.

In fact, the estimate of Rs. 200,000 Mn. was given, by none other than, Secretary to the Treasury P.B. Jayasundera, who, I verily believe, also gave you the aforesaid 'revenue loss' estimate of Rs. 9,000 Mn. and the 'additional revenue' of Rs. 3,000 Mn., which you undisputedly accepted and endorsed to the public, thereby raising the question, as to how you endeavoured to 'belittle' the Rs. 200,000 Mn., which was supported by state records; whilst thereafter in July 2006 the Auditor General in a Special Report to Parliament reporting that 'uncollected state revenues', including the 'fathomless' VAT fraud, amounted Rs. 384,000 Mn. ! Did you dispute and/or refute the same, or on the contrary, did you not endorse the same ?

Your comments on the aforesaid perverse 'amnesty', only demonstrated your inability to have comprehended the 'complexities' of the same. The P.A. Government was elected to power in 2004 on the platform of 'denouncing' such perverse and fraudulent 'amnesty', and thereafter rightfully repealed the same, as one of the very first statutes enacted after establishing the Government, which you have now ironically joined !

Yours truly,



Nihal Sri Amereskere

c.c. : News Editor, Derana TV.
Chief Executive Officer, Derana TV.

Minister Dinesh Gunawardena, M.P. – *You are aware that the UDA in your presence, upon demonstration, admitted the UDA approved Plan of the said Hotel, to be a 'fraudulent falsification' !*

Minister Sarath Amunugama, M.P. – *Did you not in October 2005 recommend to the Cabinet to wind-up HDL, and hence, could you now endorse a 'diametrically opposite stance' questionably recommended by the Secretary to the Treasury, suppressing the facts and misleading the Cabinet of Ministers ?*

His Excellency The President / Minister of Finance

Mr. Lalith Weeratunga, Secretary to H.E. The President – *To apprise H.E. The President of the foregoing, which are of national economic proportions and of public importance.*

BY COURIER

IMPORTANT

31st July 2007

His Excellency Mahinda Rajapakse
President of the Republic of Sri Lanka / Minister of Finance
Temple Trees
Colombo 3.

Your Excellency,

Hotel Developers (Lanka) Ltd. [HDL]

HDL Bankrupt warranting Winding-up

I refer to my Letter dated 24.11.2006, after intimating that in the interest of the Government, I had instituted an Action to wind-up HDL, in conformity with the Cabinet Decision of 5.10.2005 – viz:

"If, Settlement of pending Litigations cannot be concluded, and the proposed Financial Restructuring on the lines given above not given effect to immediately; then there would be no other option, but to wind-up HDL, transferring the Hotel Building to the Government, which owns the Land, and the Government settling Mitsui & Taisei the balance Loans under the State Guarantees; and setting-off the value of the Hotel Buildings against the defaulted owings by HDL to the Government." (*Emphasis added*)

HDL's Attorneys-at-Law, D.L. & F De Saram had filed Motions in the Supreme Court on 26.10.2005 and 8.11.2005, disclosing the facts and admitting that HDL is hopelessly bankrupt.

It is disclosed that on 5.10.2005 Dr. P.B. Jayasundera had advised the then Hon. Minister of Finance & Planning and the Cabinet of Ministers on 'one course of action', based on recommendation made by a CANC, and thereafter on 21.1.2007, with the change of Government, he had on his own advised the Hon. Minister of Finance & Planning and the Cabinet of Ministers on a 'diametrically opposite course of action', suppressing the first 'course of action' advised upon, and the justifications therefor, given by a CANC.

The Companies Act No. 7 of 2007 mandates Companies, which are bankrupt to be wound-up. Can a responsible Government violate the law? Also, in terms of the said law, those who oppose such winding-up stand personally responsible and liable for the losses caused, in this instance, to the Government.

Government Loans defaulted since 1997

Cabinet Memorandum of 21.1.2007 had not disclosed the defaults by HDL on Government Loans from as far back as 1997 to 2005, as set out below:

<u>Date of Loan</u>	<u>Capital</u> Rs.	<u>Rate of Interest</u> % p.a.	<u>Interest</u> Rs.
02.7.1997	288,567,633	12.50	648,504,108
12.7.1999	469,742,070	12.50	735,514,859
03.7.2000	464,427,826	12.50	594,791,483
29.6.2001	360,618,876	18.56	640,942,571
01.7.2002	446,803,874	12.50	358,351,215
04.7.2003	340,024,378	9.40	147,032,120
30.6.2004	395,658,959	8.59	110,970,575
30.6.2005	<u>225,639,338</u>	10.28	<u>48,775,967</u>
Total	<u>2,991,482,954</u>		<u>3,284,882,890</u>

I annex copies of 8 Letters from 1997 to 2005, giving the conditions of these Treasury Loans.

In addition to the above defaults amounting to Rs. 6,276,365,852, that too at old Treasury Bill rates, further Loans would have been given on 1.7.2006 and 1.7.2007, with which, the defaulted Loans by HDL to the Government would be around Rs. 7,000,000,000/-; and with further Loans that would be required to be given on 1.7.2008, 1.7.2009 and 1.7.2010, the total defaults to the Government would then be in the region of Rs. 10,000,000,000/-.

No Cabinet Approval for Undertaking ?

Dr. P.B. Jayasundera has stated to Court that the Government has given an undertaking to HDL not to demand re-payment, until the Japanese are paid in full i.e. upto 1.10.2010. No such Cabinet approval had been sought in the Cabinet Memorandum of 21.1.2007, and accordingly, there is no Cabinet Approval for the Government to have given such an undertaking to HDL.

Even to grant such questionable and dubious "special privilege" only to HDL, of not being demanded and/or not requiring repayment of long overdue defaulted Loans, is a blatant violation of the Fundamental Rights to equality guaranteed under the Constitution, whereby, in which event, if not all Loan defaulters, at least all Hotels, given the current condition in the Hotel Industry, ought to be given the same concession, enshrined as a Fundamental Right under the Constitution.

Such "special privilege" on enormous Loans, that too at old Treasury Bill rates, defaulted amounting to Rs. 7000 million, over the last 10 years, with further Loans, to be granted, in total reckoned to be around Rs. 10,000 million, is not even given to essential public utility services, such as in Transport, Electricity, Health, Education, etc.

7 Acres prime Government Land

The Land on which the Hilton Hotels stands is now owned by the Government, and the Supreme Court has accepted such fact, stating that the Land has now re-vested in the State. The Land was re-vested in the Government in July 1999 on the advice of the Hon. Attorney General. Thus, a Shareholding of Rs. 250.9 million allotted for an under-lease of the Land, of the total Share Capital of HDL amounting to Rs. 452 million, stands frustrated as 'not-paid for'.

Government has not received legitimate payment for the use by HDL of such valuable prime Land in extent over 7 Acres in the heart of the Colombo City, a benefit not permitted to or enjoyed by any other party; which therefore is an unequal favourable treatment before the law, violative of the Fundamental Right to equality enshrined in the Constitution.

Hilton International

Hilton International having been involved in 'technical assistance services', paid for by HDL, from the very inception of planning and construction of the Hotel, had been privy to and had been aware of the fraud perpetrated on HDL, upheld by Supreme Court; and which at present is under investigations by the CID, on the advice of the Hon. Attorney General, consequent to the Police Commission and your Secretary, having raised queries in this regard, upon representations made by me.

Hilton International in January 1998, consequent to the Bomb damage of the Hotel, dishonestly held out that the insurance monies of US \$ 10 million for the re-instatement of the Hotel, belonged to them, and by their Letter dated 16.1.1998 required Shares of HDL to the value of US \$ 7 million (then equivalent to SL Rs. 435 million) to be allotted to them. In the context of HDL's Share Capital of only Rs. 452 million, this was a devious attempt on their part to get a major Shareholding of HDL, which together with the Shareholding of Japanese of Rs. 124.5 million would have given them a majority control. This was thwarted by my Memo dated 28.3.1998 to then HDL Chairman, D.Y. Liyanage.

Even though Hilton International was and is entitled to 25% of the Net Profits, however, through various charges made, they had recovered more than 25%, even going up to 35%, as was analysed and exposed by me, as then Chairman, HDL, also disclosing that the Average Room Rate had questionably dropped from over US \$ 90 to around US \$ 70, in confronting Hilton International.

Proposed Resolution

In the given circumstances, the most advantageous solution for the Government, in conformity with the law, to protect its interest and to prevent loss, is as follows:

- i) for the Court to Order the Winding-up of HDL
- ii) for Government to immediately form a new Government owned Company
- iii) to capitalise the Government Land at today's market value, as Share Capital of the new Company, taking also into reckoning the fact that the Government had not received any payment from HDL for the use of this valuable Government Land.
- iv) to transfer as further Share Capital of the Government, the Hotel Building to the new Company, inasmuch as the Building goes with the Land owned by the Government (Debts payable by HDL to Government would be in the region of Rs. 10,000 million, whilst the Building and Equipment are valued at only Rs 5,000 million).
- v) for the new Company to give an option to Hilton International to negotiate on a new Management Agreement beneficial to the Government or competitive offers for same could be called from International Hotel Chains of repute.
- vi) therefore, the new Company would be 100% owned by the Government. If the Government so wishes, it could give the present 7.5% public Shareholders of HDL, compensatory Shareholdings in the new Company.
- vii) at an appropriate time, the Government could sell a majority Shareholding of the new Company or a minority Shareholding, with a Management Contract, thereby ensuring the optimum return to the Government; and resolving the present problem.

I, with my sole and sustained efforts, amidst severe obstructions and pressures, having made an enormous contribution to have saved HDL and the Government in June 1995, as much as Jap. Yen 17,586 million, then equivalent to US \$ 207 million / SL Rs. 10,200 million (today reckoned to be around Rs. 40,000 million), have an inherent right and entitlement, to ensure that such immense benefit is not 'exploited' for the benefit of any other party, including any party surreptitiously selected for a transaction, on the basis of 'private treaty', causing any loss and damage to the Government. *It should be noted that the Supreme Court had observed that in the given facts and circumstances, the Government could not be indifferent.*

I attach a copies of my Counter-Affidavits dated 26.7.2007 and 30.7.2007 (without the voluminous Documents annexed thereto), which I was compelled to file, being appalled at the contents of an Affidavit, which had been tendered to Court by Dr. P.B. Jayasundera, Secretary, Ministry of Finance & Planning. I draw your kind attention to the facts stated in my Counter-Affidavits.

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Lalith Weeraratna, Secretary to H.E. the President

Hon. Sarath Amunugama, Former Minister of Finance & Planning
and Minister of Enterprise Development & Investment Promotion

Mr. Dhammika Perera, Chairman, BOI

- *Does the BOI give foregoing privileges and concessions even to investors, who bring in foreign investments, whilst in this instance, there was an attempt to 'deviously siphon out a large scale of foreign exchange from the Government', as observed by the Supreme Court.*

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order

Mr. Victor Perera, IGP

Mr. D.W. Prathapasinghe, DIG-CID

- *Vis-à-vis, the on going Investigations*

Mr. Ameer Ismail, Chairman, Commission to Investigate Allegations of Bribery or Corruption

Ven. Elle Gunawansa, Member Police Commission / Chairman, Committee to Combat Fraud,
Bribery & Corruption

BY COURIER

14th August 2007

Mr. Lalith Weeratunga
Secretary to His Excellency the President
Presidential Secretariat
Colombo 1.

Dear Sir,

Hotel Developers (Lanka) Ltd. (HDL)

I thank you for the prompt acknowledgement of my Letter dated 31.7.2007 addressed to H.E. the President / Minister of Finance, with copy, amongst others, to you.

Further to my Letter, I clarify as follows:

1. As per CANC Report, Balance Sheet of HDL as at 30.6.2005 was as follows:

	Rs Mn.		Rs. Mn.
Share Capital	452.2	Fixed Assets	2,139.2
Reserves	860.7	Current Assets	744.6
Accumulated Loss	<u>(6,351.5)</u>	Current Liabilities	<u>271.6</u>
	<u>(5,038.6)</u>	Net Assets	<u>473.0</u>
Long Term Liabilities	<u>7,650.8</u> *		<u>2,612.2</u>
Sources of Funds	<u>2,612.2</u>		

*** Note:**

	Rs.Mn.
Loans to Government	4,940.5
Balance Loans to Mitsui & Taisei (Jap. Yen. 2,611,392,610)	2,386.6
Bank Loan	271.6
Gratuity Provision	<u>52.1</u>
	<u>7,650.8</u>

It would be noted that HDL's Share Capital of Rs. 452.2 Mn. has got completely eroded with the Accumulated Loss of Rs. 6351.5 Mn. as at 30.6.2005.

2. As per CANC Report, HDL Share Structure is as follows:

	<u>No of Rs 10/- Shares</u>	<u>Rs.</u>	<u>%</u>
Government	29,388,463	293,884,630	64.98
Mitsui & Taisei	12,445,325	124,453,250	27.52
Public Shareholders	<u>3,392,353</u>	<u>33,923,530</u>	<u>7.50</u>
Total	<u>45,226,141</u>	<u>452,261,410</u>	<u>100.00</u>

65% Shareholding by the Government has been confirmed in para 19 (i) of the Affidavit dated 9.5.2007 of Dr. P.B. Jayasundera and in the Cabinet Memorandum of 21.1.2007.

3. Share Capital held by the Government of Rs. 293,884,630/- comprised of Rs. 250,897,500/- as Shares Allotted in 1984 for an Under-lease to HDL of Land by Cornel & Co. Ltd., which had originally Leased the Land from the UDA; and this Share Capital, together with a Share Capital of Rs. 2,987,130/- paid for by Cornel & Co. Ltd., had been transferred to the Government, **as consideration for the Government Guarantees given for re-payment of Loans of HDL to Mitsui & Taisei**.

Since Cornel & Co. Ltd., had completely defaulted payment of Lease Instalments to the UDA on the original Lease, **in July 1999 on the advice of the Hon. Attorney General, the Land was re-vested in the Government, as per Surrender of Special Grant Instruments Nos. 673 and 674.**

As a consequence, the consideration for the said Shareholding of Rs. 250,897,500/- stood and stands frustrated, as 'not paid for'. The balance Rs. 40,000,000/- of HDL Shares had been paid for in cash by the Government in March 1990, that too, to pay Mitsui & Taisei.

Government's right to ownership of 65% Shareholding of HDL is disputed by Cornel & Co. Ltd., which claims a right thereto, which is baseless, in the context of HDL's huge indebtedness to the Government on Loans advanced under the Government Guarantees, even after the write-off on the Claims made on the Government Guarantees by Mitsui & Taisei of Rs. 10,200 Mn. (Jap. Yen 17,586 Mn. US \$ 207 Mn.) achieved by me in June 1995, **the benefit of which I insisted had to be to the Government, and none other,** as the main condition of my settlement with the Government.

4. With the protracted vexatious litigations by Cornel & Co. Ltd., the Government Loans to HDL, even **at old Treasury Bill Rates,** were defaulted by HDL and no payments, whatsoever, had been made since the Loans were given by the Government **from as far back as 1997.**

Also due to such litigations, HDL Accounts are not made public since 1990, even though HDL is a listed public company.

The outstanding position of the defaulted Loans given upto **30.6.2005** by the Government were disclosed by my Letter of 31.7.2007 to be as follows. **This material fact had been suppressed by Dr. P.B. Jayasundera in the Cabinet Memorandum of 21.1.2007:**

Date of Loan	Capital Rs.	Rate of Interest % p.a.	Interest Rs.
02.7.1997	288,567,633	12.50	648,504,108
12.7.1999	469,742,070	12.50	735,514,859
03.7.2000	464,427,826	12.50	594,791,483
29.6.2001	360,618,876	18.56	640,942,571
01.7.2002	446,803,874	12.50	358,351,215
04.7.2003	340,024,378	9.40	147,032,120
30.6.2004	395,658,959	8.59	110,970,575
30.6.2005	<u>225,639,338</u>	10.28	<u>48,775,967</u>
Total	<u>2,991,482,954</u>		<u>3,284,882,898</u>

Interest on these Treasury Loans was to be paid annually, **but had not been paid.** Capital on each Loan was to be paid after 5 years, **but had not been paid. Therefore, all Loans are in default.**

Dr. P.B. Jayasundera in his Affidavit dated 9.5.2007 has stated that the Government had given an undertaking to HDL not to recover immediately Loans given to HDL, even concealing the fact that such Loans were defaulted since **1998. Cabinet Approval of 24.1.2007 had not approved the giving of any such undertaking to HDL.**

In addition, to the above defaults on Government Loans given to HDL upto 30.6.2005 amounting to **Rs. 6,276,365,852/-**, **that too at old Treasury Bill rates**, further Loans would have been given on **1.7.2006** and **1.7.2007**, with which, the defaulted Loans by HDL to the Government would be around **Rs. 7,000,000,000/-** as at **1.7.2007**.

With further Loans that would be required to be given to HDL on **1.7.2008**, **1.7.2009** and **1.7.2010** to pay Mitsui & Taisei, the Total Loan defaults to the Government by HDL is reckoned to be in the region of **Rs. 10,000,000,000/-** by that date.

5. Upon Order for Winding-up, the Hotel Building & Equipment will revert to the Government, which owns the Land.

Since the Government owns the Land, **for which no payments have been made by HDL since July 1999 and even before**, the Hotel Building standing on this Government Land, will go with this Government Land.

The Hotel Building & Equipment valued at Rs. 4,590 Mn. by the Chief Valuer in September 2005 would be set-off against the owings by HDL to the Government, reckoned to be in the region of Rs. 8,500 Mn. today.

This is not a '**lengthy and time consuming process**', as misleadingly stated in the Cabinet Memorandum of 21.1.2007 by Dr. P.B.Jayasundera.

6. The Government could immediately form a New Company to take over the Hilton Hotel, structured as follows:

	Rs.Mn.
Shares for the Government in the New Company -	
Land - 7 Acres, as per Chief Valuer's Valuation of September 2005	4018
Hotel Building & Equipment, as per Chief Valuer's Valuation of September 2005	4590
Balance payment to Mitsui & Taisei on 1.7.2008, 1.7.2009 and 1.7.2010 at today's value	1500
<i>(The above Chief Valuer's Valuations could be updated to today)</i>	<u>10,108</u>

'Net Current Assets' of HDL are reckoned to be around Rs. 400 Mn., which will pass on to the New Company, and would be set-off against owings by HDL to the Government.

Upon Winding-up today, HDL will have a deficit payable to the Government of around Rs.3,500 Mn.

7. **The New Company will be a 100% Government owned Company, with no disputes, whatsoever, of Government's 100% Shareholding, and all Operational Profits of the Hilton Hotel will accrue to the benefit of Government.**

If the Government so wishes, it could give compensatory Shareholdings to the present 7.5% Public Shareholders of HDL, whose Shares are actually worthless today.

The Government could enter into a new Management Agreement with Hilton International on terms mutually acceptable, or if not, have the option of offering another Hotel Chain of international repute.

At an appropriate time, the Government could consider to sell a minority or majority Shareholdings, of the New Company, to recover part of its investment, and continue to benefit from the profits.

8. As per the Companies Act No.7 of 2007, which came into operation on 3.5.2007, *vide* Sections 219 and 220 thereof, when a company is Bankrupt and is continuing to carry on business, parties opposing a Winding-up, would be personally liable to pay the Debts to the Creditors, in this instance, the Creditor is the Government.

Approval of Cabinet had been obtained by Dr. P.B.Jayasundera on 24.1.2007, as per Cabinet Memorandum of 21.1.2007, to oppose the Winding-up of HDL, by suppressing and misrepresenting material facts, as disclosed by my Letter of 31.7.2007, on the basis of a '**contemplated suggestion**' made by the Hon. Attorney General in December 2006 *quote*: "***It may be advisable to oppose the liquidation***".

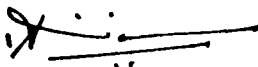
The above by no means is a conclusive Opinion by the Hon. Attorney General considering the totality of the facts, but a mere suggestion on some unknown representations made to him, *inasmuch as the Cabinet Memorandum of 21.1.2007 had suppressed and misrepresented facts*.

9. **The above was before the new Companies Act No. 7 of 2007 came into operation on 3.5.2007. I verily believe that the Hon. Attorney General, if apprised of the relevant facts, will no doubt reconsider his suggestion, in terms of the facts and the prevalent law, to act to protect the interests of the Government.**

I am sure you will agree that the Government cannot violate and/or contravene law enacted by Parliament.

10. It is beyond comprehension, as to how anyone in proper senses, could oppose the Government (*unless with an 'ulterior motive' or some 'hidden agenda', which will cause enormous loss to the Government*) obtaining a 100% owned Company to own the Hilton Hotel and have the benefit of the entirety of the Operational Profits of Hilton Hotel, as opposed to a present 65% Shareholding, in a bankrupt company, which Shareholding too is disputed in vexatious and baseless litigations, by parties, who had in fact endeavoured to perpetrate a fraud on the Government, which was prevented by me. **In this context, I reiterate the penultimate paragraph of my Letter dated 31.7.2007.**

Yours truly,



Nihal Sri Ameresekere

cc: H.E. the President / Minister of Finance

Hon. Attorney General

Hon. Sarath Amunugama, Former Minister of Finance & Planning
and Minister of Enterprise Development & Investment Promotion

Mr. Dhammika Perera, Chairman, BOI

Mr. Gotabaya Rajapakse, Secretary, Ministry of Defence, Public Security, Law & Order

Mr. Victor Perera, IGP

Mr. D.W. Prathapasinghe, DIG-CID

- *Vis-à-vis, the on going Investigations*

Mr. Ameer Ismail, Chairman, Commission to Investigate Allegations of Bribery or Corruption

Ven. Elle Gunawansa, Member Police Commission / Chairman, Committee to Combat Fraud,
Bribery & Corruption

ABDEEN ASSOCIATES

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Your Ref:

Our Ref: **BY COURIER**

11th September 2007

Hon. Attorney General,
Attorney General's Department,
Colombo 2.

Attn.: Mr. Arjuna Obeysekere,
Senior State Counsel

Dear Sir,

CA Writ Application No. 1661 / 2003

We write on behalf of our Client, Mr. Nihal Sri Ameresekere, F.C.A, F.C.M.A., the Petitioner in the above Application.

As per the annexed Schedule, this Application has come up in the Court of Appeal from October 2005, on several days, for 'terms of settlement' to be entered into. Secretary to H.E. the President (11th Respondent) has filed papers in this Application, concurring and agreeing with the Application of our Client.

As per the discussions had with the late Hon. Attorney General, K.C. Kamalabeyson, P.C. the settlement terms had been finalised – vide Consent Motion forwarded in August 2006 and amended in February 2007.

We draw your kind attention to the following Sections of the Exchange Control Act.

"39 (1) Without prejudice to any other provisions of this Act, the Bank may give to any person in, or resident in, Sri Lanka directions requiring him – (a) to furnish, within such time and in such manner as may be specified in such directions, to the bank or to any person designated in such directions as a person authorised to require it, any information in his possession which the bank or the person so authorised, as the case may be, may require for the purpose of securing compliance with, or detecting evasion of, the provisions of this Act, or where such person does not have the information in his possession, to obtain such information from any such person in Sri Lanka or abroad as may be specified in such directions and to furnish such information to the bank or to the person authorised; or

"39 (5) In this section, "bank" includes any Officer of the Department of Inland Revenue or Department of Customs generally or specially authorised by the Monetary Board to exercise the powers conferred by this section."

"43 This Act shall bind the State and shall apply to transactions by a Government Department or any person acting on behalf of the State."

"51 (1) Any person in or resident in Sri Lanka who contravenes any provision of this Act or of any regulation made under this Act or fails to comply with any direction given or condition or requirement imposed under this Act shall be guilty of an offence, notwithstanding that the offence may, by virtue of Part IV of this Act, be also punishable under the provisions of the Customs Ordinance."

On the premise, that the Supreme Court had determined the said repealed 'amnesty', as a fraud perpetrated on public revenue, no protection, right or entitlement, or any legitimate expectancy, whatsoever, flows from such 'amnesty', to whomsoever.

Accordingly, the Controller of Exchange in terms of Section 39(5) of the Exchange Control Act, directed the then Commissioner General, Inland Revenue to forward the particulars of the persons, who had declared foreign assets and foreign income, but the Commissioner General of Inland Revenue evaded and avoided in complying with such direction, notwithstanding reminders.

We also draw your kind attention to the following Section 85 of the Bribery Act and Section 5 of the Commission to Investigate Allegations of Bribery or Corruption Act;

“85. Notwithstanding anything to the contrary in the Income Tax Ordinance or the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979) **the Commissioner General of Inland Revenue shall report to the Bribery Commissioner for investigation any case where he suspects from information available to him that any person is guilty of bribery.**” *(emphasis added)*

“5 (1) for the purpose of discharging the functions assigned to it by this Act, the Commission shall have the power -

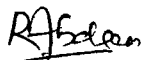
- (e) to direct by Notice in writing the Commissioner General of Inland Revenue, to furnish as specified in the notice, all information available to such Commissioner General relating to the affairs of any person in respect of whom a communication has received under section 4 or of the spouse or a son or daughter of such person and to produce or furnish, as specified in the notice, any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of such Commissioner General;”

Section 6 of the Inland Revenue (Special Provisions) Act No. 10 of 2003, which was repealed by the Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, specifically excluded any amnesty, whatsoever, for bribery and corruption, due notice of which was taken by the late Hon. Attorney General, in finalising to the terms of settlement.

We appeal to you to have this long outstanding matter, as had been finalised, concluded by the next date, September 20, 2007.

This is not a matter of personal interest to our Client, but a matter of public interest and national importance, particularly *vis-à-vis* revenue administration, foreign exchange leakage, exchange rates and cost of living, and also the enforcement of the Rule of Law, particularly on the matter of bribery and corruption.

Yours faithfully,



Attorneys-at-Law

cc: Commissioner General of Inland Revenue
Director General of Customs
Director General of Excise
Controller of Imports & Exports
Controller of Exchange,
Chairman, Commission to Investigate Allegations
of Bribery or Corruption

Secretary to H.E. the President

C.A. WRIT APPLICATION NO. 1661/2003

10.10.2005	Respondents' Counsel moving for further time to file Terms of settlement, fixed to be mentioned on 26.10.2005.
26.10.2005	Mentioned for Settlement Respondents' wanting more time to file Terms of Settlement, fixed to be mentioned on 23.11.2005
23.11.2005	Re-fixed to be mentioned on 6.2.2006 to finalise settlement.
6.2.2006	Upon both Counsel informing Court that there is a possibility of a settlement, matter fixed to be mentioned on 24.4.2006.
24.4.2006	State Counsel appearing for the Respondents informing Court that there is possibility of a settlement, re-fixed to be mentioned on 12.6.2006.
12.6.2006	Upon Counsel for the Petitioner & the Respondents informing Court that there is a possibility of a settlement and moving that the application be mentioned in a month's time, order made to mention on 12.7.2006.
12.7.2006	Re-mentioned (to finalise terms of Settlement) 2.8.2006.
2.8.2006	Re-fixed to be mentioned (Settlement) 23.8.2006.
23.8.2006	Re-fixed to be mentioned (Settlement) 27.9.2006.
27.9.2006	Re-fixed to be mentioned 1.11.2006
1.11.2006	Re-fixed to be mentioned 20.11.2006
20.11.2006	Re-fixed to be mentioned 22.1.2006
22.1.2007	Re-fixed to be mentioned to finalise terms of settlement on 9.3.2007
9.3.2007	Re-fixed to be mentioned 15.5.2007
15.5.2007	Counsel for the Respondents informing that Attorney General is considering the terms of Settlement, re-fixed to be mentioned 18.7.2007.
18.7.2007.	Re-fixed to be mentioned <u>20.9.2007.</u>

**IN THE COURT OF APPEAL
OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

*In the matter of an Application for Writs in the nature of
Certiorari, Prohibition and Mandamus in terms of Article
140 of the Constitution of the Democratic Socialist
Republic of Sri Lanka*

Nihal Sri Ameresekere
167/4, Sri Vipulasena Mawatha
Colombo 10.

PETITIONER

Case No. 1661/2003

Vs.

1. Commissioner General of Inland Revenue
Sir Chittampalam A Gardiner Mawatha,
Colombo 2.
2. Director General of Customs
Customs House, Bristol Street,
Colombo 1.
3. Director General of Excise
28, Staples Street,
Colombo 2.
4. Controller of Imports & Exports
75 1/3, 1st Floor, Hemas Building
York Street,
Colombo 1.
5. Controller of Exchange,
Central Bank of Sri Lanka
5th Tower, Level 7, Janadhipathi Mawatha,
Colombo 1.
6. Governor, Central Bank of Sri Lanka
Chairman, Monetary Board of Sri Lanka
1st Tower, Level 15,
30, Janadhipathi Mawatha,
Colombo 1.
7. Chairman, Commission to Investigate Allegations
of Bribery or Corruption
36, Malalasekera Mawatha,
Colombo 7.
8. Secretary, Ministry of Finance
& Secretary to the Treasury
Secretariat,
Colombo 1.

9. Minister of Finance
Secretariat,
Colombo 1.
10. Hon. Speaker of Parliament of Sri Lanka
Parliament of Sri Lanka
Sri Jayawardenepura
Kotte.
11. Secretary to His Excellency the President
Presidential Secretariat
Colombo 1.
12. Hon. Attorney General
Attorneys General's Department,
Colombo 12.

RESPONDENTS

TO: HIS LORDSHIP THE HONOURABLE PRESIDENT AND THEIR LORDSHIPS THE OTHER HONOURABLE JUDGES OF THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

WHEREAS the Petitioner abovenamed filed this Application on 29th September 2003 and Your Lordships' Court made Order on 27th October 2003 to issue Notice on the 12th Respondent, and further made Order on 12th January 2004 to issue Notice on the 1st Respondent, refusing Notices to be issued on the 2nd to 11th Respondents

AND WHEREAS the 11th Respondent abovenamed, Secretary to His Excellency the President, acting in terms of Rule (7) of the Court of Appeal [Appellate Procedure] Rules 1990, had, however, previously on 15th December 2003 already filed a Statement of Objections, concurring with the Petitioner and agreeing to the grant of the reliefs sought for by the Petitioner

AND WHEREAS the Supreme Court subsequently by its Order dated 15th June 2004 in SC Appeal No. 47/2004 having directed that Notices be issued on the 2nd to 11th Respondents as well, Your Lordships' Court on 24th June 2004 made Order to issue Notices on the said Respondents for 26th July 2004, whereby all Respondents stood and stand noticed by Your Lordships' Court

AND WHEREAS during the pendency of this Application, Her Excellency the President made Reference No. 1/2004 invoking the consultative jurisdiction of the Supreme Court, under and in terms of Article 129 (1) of the Constitution, *vis-à-vis*, the impugned Inland Revenue (Special Provisions) Act No. 10 of 2003 and the Inland Revenue (Special Provisions) (Amendment) Act No. 31 of 2003, in respect of which a public hearing was held on 17th March 2004 by a 5-Member Bench of the Supreme Court, and the Petitioner too intervened and made submissions at the said hearing

A true copy of the Opinion pronounced by Their Lordships of the Supreme Court is annexed hereto marked "XI"

AND WHEREAS said Opinion pronounced by the Supreme Court, *inter-alia*, held thus:

"It is to be borne in mind that public revenue is held in trust for the People of Sri Lanka who cannot be denied its benefit. Any exemption that is granted should be strictly in compliance with Article 12 (1) of the Constitution"

"The right to equality is statutorily enshrined in terms of Article 12 of our Constitution and is a component of the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights (Article 2). It provides for all persons to be equal before the law and to be entitled to equal protection of the law. This guarantee of equal protection of the law is an injunction issued by the Constitution to the Legislature against enacting discriminatory laws"

"It is our opinion, based upon the preceding analysis that, the provisions contained in the Inland Revenue (Special Provisions) Act, No. 10 of 2003, as amended, are inconsistent with Article 12(1) of the Constitution which guarantees to every person equal protection of the law; in that it grants; immunities and indemnities to persons who have contravened the laws that have been referred to and thereby defrauded public revenue causing extensive loss to the State"

AND WHEREAS subsequently Their Lordships of the Supreme Court made a Determination SC (SD) No. 26/2004 upon hearing on 23rd August 2004, on the reference made by the Cabinet of Ministers in terms of Article 122 (1) of the Constitution, of a Bill titled 'Inland Revenue (Regulation of Amnesty)', to repeal the Inland Revenue (Special Provisions) Act No. 10 of 2003, as amended by Act No. 31 of 2003

AND WHEREAS in the said Determination, Their Lordships of the Supreme Court reiterated excerpts from the aforesaid Opinion of the Supreme Court, specifically reiterating the last paragraph quoted above

A true copy of the said Determination of the Supreme Court is annexed hereto marked "X2"

AND WHEREAS consequently the Parliament of Sri Lanka enacted Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, which was certified into law by the Hon. Speaker on 20th October 2004, to repeal the Inland Revenue (Special Provisions) Act No. 10 of 2003 and Inland Revenue (Amendment) Act No. 31 of 2003, and to afford only an Income Tax Amnesty upto 31st March 2002 under the Inland Revenue Act No. 38 of 2000, in respect of the persons who had made Declarations under the said repealed laws, and further empowering the respective State Authorities to enforce the relevant laws to assess and collect all revenues legitimately due to the State, which had been defrauded to the State by the aforesaid repealed laws

AND WHEREAS the Petitioner instituted several actions in the national and public interest agitating against the aforesaid Inland Revenue (Special Provisions) Act No. 10 of 2003 and Inland Revenue (Amendment) Act No. 31 of 2003, which led to the final repeal of the said statutes and the enactment of Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, which was certified in law on 20th October 2004

AND WHEREAS the Petitioner's such stance having been fully vindicated by the foregoing, and most of the reliefs sought for by the Petitioner having already been satisfied and fulfilled, but however, upon the Petitioner in June 2005 discovering to his surprise that the 1st Respondent (*the former incumbent in office*) had failed and neglected to take any action, whatsoever, as required of him to duly give effect to Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, and the 1st Respondent (*the former incumbent in office*) had failed and neglected to afford informations lawfully called for in terms of Exchange Control Act by the 5th Respondent, the Petitioner by Motion dated 20th July 2005, with notice to the State Attorney, who is the Registered Attorney for the 1st to 10th and the 12th Respondents and the Registered Attorney for the 11th Respondent sought the permission of Your Lordships' Court to suitably amend the prayers, taking cognizance of the foregoing dicta pronounced by Their Lordships of the Supreme Court and the provisions of the Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004

AND WHEREAS upon Their Lordships of the Supreme Court opining and determining as aforesaid that the said repeal Acts, namely Inland Revenue (Special Provisions) Act No. 10 of 2003, as amended by Act No. 31 of 2003 had been a fraud perpetrated on the State, defrauding public revenue, no legitimacy or legitimate entitlement, right or expectation or any legal protection, whatsoever, would flow to anyone, whomsoever, who had partaken in such fraud defrauding the State

AND WHEREAS the Government had subsequently enacted the convention on the suppression of Terrorists Financing Act No. 25 of 2005, prevention of Money Laundering Act No. 5 of 2006 and Financial Transaction Reporting Act No. 6 of 2006

AND WHEREFORE in such circumstances, to ensure the due, perfect and effectual implementation of the provisions Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, a settlement has now been reached as set out hereinbelow by and between the Petitioner and the 1st, 2nd, 3rd, 4th, 5th and 7th Respondents, who are statutorily bound to give effect to the provisions of the said Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004

AND NOW THEREFORE in the foregoing circumstances, the Petitioner and the Respondents have of consent agreed to the termination of these proceedings upon the grant and issue by Your Lordships' Court of the following:

- a) a Writ of Mandamus compelling and directing the 1st Respondent to deal with the Declarations (approximately 51,805 Declarations), which had been made under the Inland Revenue (Special Provisions) Act No. 10 of 2003 and Inland Revenue (Special Provisions) (Amendment) Act No. 31 of 2003, and now deemed to be Declarations made under and to be dealt with in terms of the Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, and accordingly
 - i) to open new Income Tax Files in respect of approximately 13,482 Declarents, who have submitted Declarations, without having Income Tax Files, and to grant the said Declarents Income Tax Amnesty, after verification of the correctness of the Declarations, in terms of the law up to 31st March 2002, and to thereafter enforce the correct assessment and collection of Income Taxes for the subsequent Years of Assessment commencing from the Year of Assessment 2002/03 under and in terms of the Inland Revenue Act No. 38 of 2000, as amended, and
 - ii) to grant an Income Tax Amnesty in terms of the law up to 31st March 2002 to approximately 38,303 Declarents, who already had Income Tax Files, after verification of the correctness of the Declarations, and to thereafter enforce the correct assessment and collection of Income Taxes for the subsequent Years of Assessment commencing from the Year of Assessment 2002/03, under and in terms of the Inland Revenue Act No. 38 of 2000, as amended, and
 - iii) to enforce and/or cause the enforcement of the collection all other indirect taxes, such as GST, VAT and Turnover Tax, in respect of all the aforesaid Declarents as may be applicable under the respective laws
- b) a Writ of Mandamus compelling and directing
 - i) the 2nd, 3rd, 4th and 5th Respondents to enforce the respective laws against any one or more of the Declarents who had made Declarations under the Inland Revenue (Special Provisions) Act No. 10 of 2003 and Inland Revenue (Special Provisions) (Amendment) Act No. 31 of 2003, and now deemed to be Declarations made under and to be dealt with in terms of the Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004, and accordingly who are now liable to be dealt with in terms of the laws respectively being enforced by the said Respondents, and

- ii) the 1st Respondent and his agents and/or assigns to communicate to the 2nd and/or 3rd and/or 4th and/or 5th Respondents all relevant informations in the aforesaid Declarations, which would require to be investigated and dealt with by the said Respondents in terms of respective laws being enforced by the said Respondents, and
 - iii) the 2nd and/or 3rd and/or 4th and/or 5th Respondents to call from the 1st Respondent requisite informations in the Declarations of any one or more of the aforesaid Declarants
- c) a Writ of Mandamus compelling and directing
- i) the 1st Respondent to forward all Declarations made to the 1st Respondent under Inland Revenue (Special Provisions) Act No. 10 of 2003 and Inland Revenue (Special Provisions) (Amendment) Act No. 31 of 2003, and now deemed to be Declarations made under and to be dealt with in terms of the Inland Revenue (Regulation of Amnesty) Act No. 10 of 2004
 - x) by public servants, who have held such office within the last 10-years prior to the date of coming into effect of Inland Revenue (Special Provisions) Act No. 10 of 2003, coming under the purview of the Bribery Act, amended by Act No. 20 of 1994, and
 - y) by persons who have held such office within the last 10-years prior to the date of coming into effect of Inland Revenue (Special Provisions) Act No. 10 of 2003 coming under the purview of the Declaration of Assets and Liabilities Law No. 1 of 1975, amended by Act No. 74 of 1988

inasmuch as the aforesaid persons and/or their said Declarations had been specifically denied any immunity, whatsoever, under the Inland Revenue (Special Provisions) Act No. 10 of 2003, as amended by Inland Revenue (Special Provisions) Act No. 31 of 2003, and no legitimacy or legitimate entitlement, right or expectation or legal protection, whatsoever, could flow from a fraud, and in this instance, the perpetration of a fraud on the State defrauding public revenue as had been held by the Supreme Court.

- ii) the 7th Respondent to take warranted action in terms of the law in respect of the aforesaid Declarants referred to at x) and y) above, in terms of the provisions of Bribery Act, amended by Act No. 20 of 1994 and the Declaration of Assets and Liabilities Law No. 1 of 1975, amended by Act No. 74 of 1988.

On this day of September 2007

Attorneys-at-Law
for the Petitioner

State Attorney for
1st, 2nd, 3rd, 4th, 5th and 7th Respondents

BY COURIER

29th June 2007

Mr. David B. Smith
Chief of Party
Sri Lanka Anti-Corruption Program
410/115, Bauddhaloka Mawatha
Colombo 7.

Dear Mr. Smith,

**Public Review & Comment
Anti-Corruption Action Plan**

I thank you for your Letter of 19.6.2007, received whilst I was overseas for a few days, intimating that my representations of 15.6.2007 would be taken into cognisance in finalising an '**Anti-Corruption Action Plan for Sri Lanka**'.


In this connection, I cite the following:

- At the Sri Lanka Development Forum in Paris in December 2000, then World Bank Vice President – South Asia Region, Ms. Mieko Nishimizu lucidly stated thus – “In formulating a new Country Assistance Strategy, my colleagues have been listing intensively to hundreds of Sri Lankan citizens from all walks of life. They said – **‘The nation faces a deep crisis; Public institutions are politicised; Politician are not accountable’** ”
- Former World Bank President, Mr. James D. Wolfensohn at the Spring Meeting of the IMF and the World Bank, as far back as 1997, even threatened Governments, that if there is corruption, the World Bank would ‘black ball’ any project, emphasising, that **eliminating corruption has to be started at the highest levels of authority, and that it needs to be cured at the top, or that it would not be cured at all!**
- The inscription carved in the base on the Statue of Dr. Nkrumah outside the Law Courts in Accra, Ghana – **“Seek ye first the kingdom of politics and all else shall be added unto you”**.

Given the foregoing reality, I trust that the '**Anti-Corruption Action Plan for Sri Lanka**' is not targeted at the hapless strata of general society at large, but at the influential upper echelons of society, who are brazenly pillaging and plundering the wealth of the people impoverishing them, and are shielded by socio-political influence and power from being prosecuted under prevalent laws, whilst professionals and law enforcement authorities are meekly collusively subservient.

Further to the 2 Supreme Court Petitions I forwarded with my Letter of 15.6.2007, I attach a copy of a further Petition filed in the Supreme Court. Ironically, the large Sri Lankan corporate implicated, **I believe is a signatory to the UN Global Compact, advocating the principles of Anti-Corruption.**

Yours truly,



Nihal Sri Ameresekere

cc: Ms. Rebecca Cohn, Mission Director, USAID