

BY COURIER

18th April 2008

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

Your Excellency,

Please accept my best wishes for the New Year.

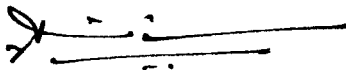
I refer to Letter dated 21.2.2008 sent by your Assistant Secretary on your direction on my Letter dated 19.12.2007 forwarded to you.

I enclose a copy of my Letter of even date addressed to Mr. Sisira Mendis, Deputy Inspector General of Police, Criminal Investigation Department on the same subject referred to in my aforesaid Letter, with copies to the persons named therein.

I urge that action to enforce the 'rule of law' as warranted is taken, without any further delay and indifference by the law enforcement authorities, irrespective of the social status and the standing of the parties concerned, to ensure equitable social justice.

The grave and serious crime complained of was an unpardonable traitorous act against the people and our country.

Yours truly,



Nihal Sri Amereskere

BY COURIER

18th April 2008

IMPORTANT

Mr. Sisira Mendis,
Deputy Inspector General of Police
Criminal Investigation Department
4th Floor, New Secretariat Building
Colombo 1.

Dear Mr. Mendis,

**Criminal Prosecution against Mr. K.N. Choksy P.C., M.P.
& Mr. R. Paskaralingam & Others**

My congratulations on your appointment as DIG-CID, and my best wishes for the New Year !

I refer to Letter dated 4.4.2008 addressed to me, on behalf of Director, CID, by Chandra Nimal Wakishta, Senior Superintendent of Police, with copy to Hon. Attorney General, on the above-mentioned subject, which was personally delivered to me in my office, by Sub-Inspector Gunatilleke of the CID. *Copy of the said Letter is attached for your reference.*

I acknowledged the receipt of the said Letter, with following endorsement made thereon:

***"I do not agree with the above position. I shall reply as I may be advised on the matter" –
"Please inform the Hon. Attorney General".***

Accordingly, I refused to accept the several documents, including a photocopy of the Plan in issue, which had been furnished by me to the CID, upon they recording my statement of complaint on or about 12.3.2004, and followed-up, as requested, forwarding further documents with my Letter dated 15.3.2004. Hence, Sub-Inspector Gunatilleke took the said documents back to the CID.

On the very same day, I telephoned you and briefly informed you of the foregoing matter, and intimated that I would submit a reply after the New Year !

At the very outset, I reiterate that I cannot agree with the contents of the said Letter. In fact, I assisted the CID to trace the documents to the Department of National Archives, and caused the Secretary to the President, Mr. Lalith Weeratunga, to direct the Department of National Archives, to release the said documents in terms of the National Archives Law. I was made to understand that the Department of National Archives had agreed to do so, whereas on the contrary, then SSP-CID questionably endeavoured to make a futile attempt to photocopy the voluminous documents, as evidenced by his Letter dated 19.10.2006, *copy attached*; **thereby giving the lie to the stance, that documents are not available !**

In addition, I had pointed out that documents, which had been acceptable to and admitted in the Supreme Court are also with the Commercial High Court, having been transferred from the District Court. Furthermore, that copies of documents are also with the Attorney General's Department, they having appeared in my civil action, and also having assisted the Special Presidential Commission.

Secretary, Special Presidential Commission, Mr. S.K.P. Bambarenda, who on behalf of the then Secretary to the President, had transmitted the aforesaid documents to the Department of National Archives, was the person who confirmed to me that the aforesaid documents are at the Department of National Archives, when in the first instance they had questionably indicated to the CID, that they had no such documents, but later when confronted with Mr. Bambarenda's disclosure, reneged on their earlier position, as evidenced by the aforesaid Letter ! Mr. Bambarenda, who at present is the Co-ordinating Secretary to Mr. Mahinda Madihewa, Secretary, Ministry of Labour, confirmed to me that **an inventory of the aforesaid documents transmitted to the Department of National Archives had been made, and which too, would be available at the Department of National Archives !**

As requested in September 2007, I called over at the CID, and after discussions, I was requested to assist the CID to accompany the CID to trace the documents, particularly Sub-Inspector Gunatilleke, who I was informed was thereafter transferred outstation for a considerable period of time. Mr. Bambarenda being the State Official, who transmitted the said documents to the Department of National Archives, when phoned by me from the CID, consented to come and assist to trace them, if necessary. However, my cogent question to the then SSP-CID was, as to why a "B" Report could not be filed, as is the normal case, and an Order of Court obtained to retrieve the said documents. **I was informed that then Director-CID was reluctant to do so !**

This was indeed most baffling, because I have first hand experience of seeing "B" Reports filed by the CID, on the advice of the Hon. Attorney General and his Officials, comparatively on far more trivial matters, whereas this being a matter of national economic proportions and of far greater gravity, ought to be dealt with, with far greater zeal and commitment; however I am intrigued by the questionable and unenthusiastic indifference ! Law enforcement ought to have been with far more greater dedication and commitment, with the Supreme Court having upheld this to be a serious case of fraud on the Government, observing that the government could not be indifferent, **which necessarily includes the law enforcement authorities.**

In addition, a Special Presidential Commission of Inquiry, after investigations by the CID Officers on the advice of the Hon. Attorney General represented by the then Solicitor General, had issued Show Cause Notices on the aforementioned and other persons containing several charges on grounds of fraud committed against the Government, which were in fact prepared by the then Solicitor General. Hence this investigation before the CID for prosecution is not on a mere complaint by me, as a citizen, as in other cases. **Therefore, it is beyond comprehension, as to what is the apparent difficulty now ?**

Furthermore, I am indeed quite amused of the implication or connotation in the aforesaid Letter, that the original Plans are essential to launch a criminal prosecution ! I have to believe that this has been the advice proffered by the Officials of the Attorney General's Department ! I am advised that this is contrary to statutory provisions in the criminal law and applicable case law ! Ironically, I myself have witnessed, where in the absence of even a photocopy of the original document, and on the mere reference to such a document in an *ex-parte* report, a prosecution has been zealously and successfully carried out by the Officials of the Attorney General's Department. **Hence, it begs the question, as to why such duplicity ?**

I am advised that more than adequate documents and corroborative circumstantial evidence are available for criminal prosecution, which, however, had not been adequately examined and addressed or the relevant facts clarified from me, who successfully carried out a civil prosecution and assisted the Special Presidential Commission to issue Charge Sheets on grounds of fraud committed against the Government i.e. the country.

This inquiry by the CID commenced with the Letter dated 23.12.2003, *copy attached*, by the then Hon. Attorney General, **who at a discussion having examined the facts and documents, conceded that there was irrefutable evidence of criminality.** Significantly, thereafter it was you, as then Director-CID, who wanted to have my statement recorded on or about 12.3.2004, stating that it was an urgent and important matter, **and quite rightfully so !** However, thereafter I have been intrigued, as to the unenthusiastic and uncommitted manner, in which this matter of national economic proportions and gravity has been handled, notwithstanding the foregoing, both by the Attorney General's Department and the CID, whereas I can cite cases of far less gravity and triviality handled zealously and committedly, which I have cited in some of my correspondence. The CID got activated again only after I made a complaint to the Police Commission and the Police Commission called for a Report from the IGP.

Being reasonably aware, as to how investigations and prosecutions are supervised and directed by the Hon. Attorney General and his Officials, I cannot fault the CID, since I verily believe, that the Hon. Attorney General and his Officials are questionably unenthusiastic *vis-à-vis* such fraud of national economic proportions and gravity, notwithstanding the Supreme Court having upheld a serious case of fraud, and a Special Presidential Commission, chaired by a Supreme Court Judge, with 2 Appeal Court Judges as Members, assisted by the **Solicitor General, having framed charges of fraud committed against the Government !**

I am not surprised at all, in that, excluding the Hon. Attorney General, Sunil de Silva P.C., who did not oppose my prosecution of the civil action in the interest of the country, the subsequent Hon. Attorney Generals and Officials, questionably '*kicking the rule of law*' opposed my civil prosecution, I verily believe, due to socio-political influences and pressures by parties impleaded, who in fact were castigated by the District Judge in his Order issuing the interim injunctions ! The only other Hon. Attorney General, who appreciated the facts of this case and its national importance and gravity, and acted accordingly, is the present Chief Justice His Lordship Sarath N. Silva P.C., at the time he was the Hon. Attorney General.

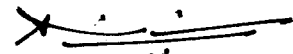
As intimated, I wish to call over for a proper and meaningful discussion on this grave and serious matter, in view of the volume of facts and gravity of this matter, which I cannot again repetitively include in this Letter. A perusal of the Files at the CID will disclose that I have made several written representations disclosing material facts to assist and urge the CID to enforce the 'rule of law', irrespective of the social standing and status of the personalities concerned ! If required, I can make photocopies of my said Letters and forward same to you !

I wish to however place on record, that I have made **two** complaints to the CID, **one** on the fraud perpetrated on the government and attempts to cover-up the same, *which ironically would include certain Officials of the Attorney General's Department, which therefore begs the question, as to whether the Hon. Attorney General and his Officials are eligible to advice on this matter*, and **two**, an attempt to make fraudulent payments, that too, in foreign exchange, in the region of US \$ 207 Mn., in 1995, *which today would amount to over Rs. 45,000 Mn.*, an offence under and in terms of Section 10 of the Offences Against Public Property Act No. 12 of 1982. **The said Letter dated 4.4.2008 under reference has no bearing, whatsoever, to my such second complaint !**

I attach for your kind information and necessary action, Letter dated 15.3.2007 addressed to the Hon. Attorney General by Mr. Lalith Weeratunga, Secretary to the President.

Attempting to perpetrate a fraud of this magnitude on the Government and the country, which was prevented by me, is a grave crime on the country and its people, whereas *on the contrary endeavouring to sweep such crime under the carpet, and shield the parties involved in such grave crime, is a far graver crime and a denial of equitable social justice !*

Yours truly,



Nihal Sri Amersekere

cc: Mr. Victor Perera, Inspector General of Police
Mr. Gotabhaya Rajapakse, Secretary, Ministry of Defence

Mr. C.R. de Silva, Hon. Attorney General

Mr. S.K.P. Bambarenda, Co-ordinating Secretary, to the Secretary, Ministry of Labour

Mr. Neville Piyadigama, Chairman, Police Commission

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

Mr. Lalith Weeratunga, Secretary to the President

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குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

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4 ஆம் மாடி, புதிய செயலகக் கட்டிடம்
4th Floor, New Secretariat Building
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CLASSIFICATION

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දිනය } 2008.04.01
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- 02. පැමිණිල්ලේ සඳහන් පරිදි මුල් පිඹුරුවලට පටහැනිව හෝටලේ ව්‍යාපෘතිය ඉදිකිරීම පිලිබදව පරීක්ෂා කර ඇත. අපරාධ නඩුවකදී පැමිණිල්ල විසින් චෝදනා ඔප්පු කල යුතු හෙයින් එකී තත්වය තහවුරු කර ගැනීම සඳහා මුල් පිඹුරු සොයා ගැනීමට සියළු උත්සාහ දරන ලදී. එසේම නීතිමය කරුණු සම්බන්ධයෙන් ගරු නීතිපතිගේ සහායද ලබාගෙන ඇත.
- 03. කොළඹ නගරසභාව එහි ගිණි නිවීමේ අංශය සහ නාගරික සංවර්ධන අධිකාරියෙන් පරීක්ෂා කර ඇතත්, මුල් පිඹුරු සොයා ගත නොහැකිවිය. ඔබ විසින් දුන් තොරතුරු අනුව පාතික ලේඛණාරක්ෂක දෙපාර්තමේන්තුවෙන්, විශේෂ ජනාධිපති කොමිසමේ පරීක්ෂණ වලින් පසු මෙකී පිඹුරුපත් භාරදී ඇතද යන්න පරීක්ෂා කර ඇතත්, නිසි බලධාරියෙකුගෙන් මුල් පිඹුරුපත් ලබාගැනීමට නොහැකිවිය.
- 04. මේ සම්බන්ධයෙන් 2007.09.20 වන දින ඔබ මෙම කාර්යාලයේ පෙනී සිටියදී කරුණු පැහැදිලි කර දී ඇති බව විමර්ශන නිලධාරීන් වාර්තා කර ඇත.
- 05. තවදුරටත් මේ සම්බන්ධයෙන් ඉදිරි පරීක්ෂණ පැවැත්වීමට අවකාශයක් නොමැති හෙයින්, අවසන් කරනු ලබන බව කාරුණිකව දන්වා සිටීම.

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Please inform me the Attorney General
Received original
delivered by SI Anusudhara
I do not agree with the above position. I shall reply as I may be advised on the matter.
Year 2008/Reports/CCIU 1
04-Apr-08

mk

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இலங்கைப் பொலிசு
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குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

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4 ஆம் மாடி, புதிய செயலகக் கட்டிடம்
4th Floor, New Secretariat Building

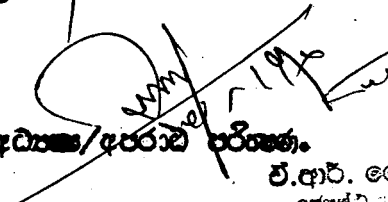
කොළඹ 1, ශ්‍රී ලංකාව කොලොම්බු 1, இலங்கை Colombo 1, Sri Lanka

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අංක 07,
ටීටී ආචාර,
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02. එම ලේඛන ලබා ගැනීම ප්‍රමාද වී ඇති බැවින්, පරීක්ෂණ නවයුතු සිදුකර
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අධ්‍යක්ෂ/අපරාධ පරීක්ෂණ.

වි. ආර්. චේන්දනාලංකාර
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කොළඹ - 01

විවරණ:-

1. කිහිල් ශ්‍රී අමරසේකර, අංක 167/4, ශ්‍රී විප්‍රලසේන ආචාර, නොදුම් 10.

24 DEC 2003

මමේ අංකය
எனது இல.
My No.

AG55/2003



මමේ අංකය
அஞ்சல் பெட்டி
P. O. Box No.

502

ඔබේ අංකය
உமது இல.
Your No.

දුරකථන අංක
தொலைபேசி இல.
Telephone Nos.

433967
433769
320800
327919

නීතිපති දෙපාර්තමේන්තුව

சட்ட மா அதிபதி திணைக்களம்

ATTORNEY-GENERAL'S DEPARTMENT

කොළඹ 12.

கொழும்பு 12.

Colombo 12.

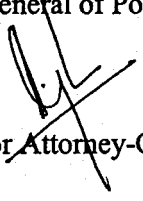
23rd December, 2003

Mr. Nihal Sri Ameresekera,
167/4, Vipulasena Mawatha,
Colombo.

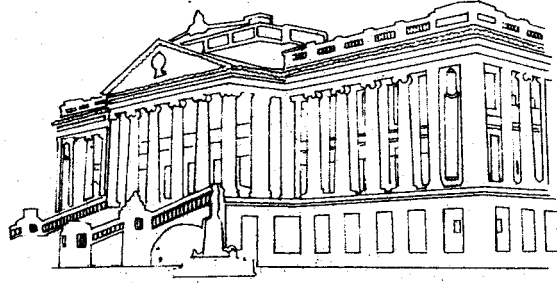
**CRIMINAL PROSECUTION AGAINST K.N.CHOKSY P.C., M.P.
AND R.PASKARALINGAM**

I refer to your letter of 18th December, 2003.

This is to inform you that I have called for the relevant particulars from the Inspector General of Police.


for Attorney-General

19 MAR 2007



මගේ අංකය
எனது இல.
My No.

SP/4/12

ඔබේ අංකය
உமது இல.
Your No.

ජනාධිපති කාර්යාලය
சனாதிபதி அலுவலகம்
PRESIDENTIAL SECRETARIAT

කොළඹ 1.
கொழும்பு 1.
Colombo 1.

March 15, 2007

Hon. Attorney General
Attorney General's Department

Mr. Nihal Sri Ameresekere has been repeatedly writing to me in regard to what he considers to be a major fraud in the construction of the Colombo Hilton. He also contends that the Supreme Court upheld that there was a major fraud in the construction and had further made an observation that the government should not be indifferent.

Mr. Ameresekere further laments that his numerous complaints to the CID has gone unheeded. I wish to seek your advice as to what action the government of Sri Lanka should take on this matter, as Mr. Ameresekere emphasizes that a major fraud has been perpetrated on the government of Sri Lanka.

Lalith Weeratunga
Secretary to the President

Copy: Mr. Nihal Sri Ameresekere
Business & Management Consultant
167/4, Sri Vipulasena Mawatha,
Colombo.

BY HAND / COURIER

7th February 2007

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

Your Excellency,

I forward for kind information copy of my Letter dated 2.2.2007 addressed to Mr. Praful C. Patel, Vice President for South Asia, World Bank, who chaired the recent Sri Lanka Development Forum. It was also copied to certain other relevant persons.

The contents of my Letter are consistent with what you have persistently exhorted political and public officials - *i.e.* to act with accountability and responsibility, devoid of fraud and corruption, placing foremost the interest of the country.

It is my commitment to act in the national and public interest to combat fraud and corruption of national economic significance in socio-politically influential sectors, which inhibited me from acquiescing to your request last year to assist with the economy, and to have initial discussions in such regard with Mr. Lalith Weeratunga and Mr. Gotabaya Rajapakse. (*I am copying this Letter to them*).

Nevertheless, respecting your request, I forwarded my Letter dated 24.8.2006 to Dr. P.B. Jayasundera, Secretary to the Treasury (*contents of which stand undisputed, nor refuted*), and intimated to Mr. Lalith Weeratunga that it is in such context that I wished to have discussions. I similarly clarified to Prof. A.V. de S. Indraratne, who contacted me recently *via* Ven. Elle Gunawansa.

To apprise you of the facts, I forwarded copies of Letters addressed to Chairman, COPE, *vis-à-vis*, the Sale of Lanka Marine Services Ltd., and Sri Lanka Insurance Corporation Ltd. (I enclose copies of initial Reports tabled in Parliament by Chairman COPE). These 2 transactions and the Lanka IOC issue (which you complimented me on my initiatives), involve several billions of rupees of state funds, which the Government could ill-afford to lose.

Consequent to the upholding by the by the Supreme Court of a serious fraud in the construction of the Hilton Hotel, the write-off on alleged Claims on Government Guarantees I obtained in 1995 amounted to US \$ 207 million *i.e.* then Rs. 10,200 million, and at 12.5% interest, it amounts today to Rs. 39,600 million.

The total privatisation proceeds over the years had amounted only Rs. 77,378 million, of which Sri Lanka Telecom Ltd., amounted to Rs. 16,636 million. Some of these privatisations were dubious and even fraudulent causing considerable loss to the Government, completely eroding public and worker confidence in privatisation, and even frustrating re-structuring reforms, which are warranted today.

As explained to you, my recent action to wind-up the Hilton Hotel Company, in which the Government has 64% Shareholding is to facilitate the Government to have a 100% Shareholding, subject to the 8% Public Shareholders being given an equitable Shareholding in a new Company, should the Government so decides. This was since a Supreme Court suggested 'settlement' to protect the interests of the Government failed, due to the intransigence of one party, *during whose tenure as Chairman & Managing Director the fraud was perpetrated*.

Curiously, *sailing together with the said party*, the present Chairman of the Company has filed papers to oppose my Application, whilst the Japanese, who own 28% Shareholding, has not filed papers to oppose the Application, as such Shareholders, but have only opposed to ensure the payment of the balance sum guaranteed to them under the Government Guarantees, *which are in any case secured*.

I cite the following from the Book – “Confessions of an Economic Hit Man”, referred to in my Letter to the World Bank:

“Economic hitmen are highly paid professionals who cheat countries around the globe out of trillions of dollars. They funnel money from the World Bank, U.S. Agency for International Development and other foreign 'aid' organizations into the coffers of huge corporations and the pockets of a few wealthy families who control the planet's natural resources. Their tools include fraudulent financial reports, rigged elections, payoffs, extortion, sex, and murder. They play a game as old as empire, but one that has taken on new and terrifying dimensions during this time of globalisation. I should know; I was an economic hit man” - *John M. Perkins, Chief Economist, Chas. T. Main, Inc., International Consultants*

‘Aid’ on loans on ‘concessionary terms’, particularly to fund ‘mega projects’, are ‘front-end-loaded’, with intentional non-feasible re-payment commitments being placed on the future generations, *benefiting an ‘influential’ few and impoverishing the poor, thereby plunging the country into a ‘debt-trap’, to subjugate the country for extraneous motives, as per first hand confessions made in the above Book by an US economist, who had carried out such strategies, particularly in countries having oil or potential of oil.*

I urge that you request someone to brief you in summary, the facts contained in the above Book, which I believe are materially pertinent to our country, *and would be invaluable to you.*

Yours truly,



Nihal Sri Amersekere

cc: Mr. Lalith Weeratunga, Secretary to H.E. the President
Mr. Gotabaya Rajapakse, Secretary Ministry of Defence



BY COURIER

2nd February 2007

Mr. Praful C. Patel
Vice President for South Asia
The World Bank
1818 H Street, N.W.
Washington D.C. 20433
U.S.A.

Dear Mr. Patel,

At the recently concluded Sri Lanka Development Forum 2007, in your statement as Chairman, reported in the media, you have been quoted: "The development partners had indicated the importance of harnessing the linkages among poverty reduction, governance, peace and equality". Though 'governance' necessarily mandates the combat of fraud and corruption and the enforcement of the 'rule of law', the media reports emanating did not reveal any significance having been placed on such a vital and currently very relevant policy issue.

Consequent to research carried out by the Harvard University, focusing on corruption particularly in Asia, the 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 !"

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 revealed : - "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 socio-economic 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 eroding 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."

The former World Bank Country Director, Mr. Peter Harrold in February 2006 was reported in the media to have asserted - "Corruption is the biggest enemy of the poor ... there is a growing sentiment the world over that corruption is the biggest enemy of the poor and that organisations must not stand idly-by in its wake" ..

The present World Bank President, Mr. Paul Wolfowitz made the following much publicised pronouncement in Jakarta in April 2006 - "Corruption is often at the very root of why government don't work. It weakens the system and distorts the markets. In the end, governments and citizens will pay a price, in lower incomes, lower investment and more volatile economic swings. But when governments do work 'when they tackle corruption and improve their rule of law' they can raise their national income by as much as four times"

In response to representations made to Mr. Paul Wolfowitz, in May 2006 the World Bank cited the following specific programmes in Sri Lanka, *vis-à-vis*, combating fraud and corruption and enforcing the 'rule of law' -" i) We have recently initiated a joint program with the Ministry of Finance to carry out some public expenditure analysis that is designed to improve the allocation of public resources; and ii) In expanding our follow-up to the 2003 Country Financial Accountability Assessment, we are continuing to provide support to strengthen the office of the Auditor General, as well as the capacity of the Accounting & Auditing Standards in Sri Lanka."

Mr. Robert O. Blake, US Ambassador, who was a participant at the above Development Forum, on United Nation's International Anti-Corruption Day in December 2006, was quoted to have stated - "The United States through the U.S. Agency for International Development (USAID), is one of the several donors that play a special role to assist Sri Lanka in combating corruption - not only to ensure transparent, accountable and effective use of tax payer's money, but also to assist the country to enforce its laws and create institutions to fight corruption."

At the Sri Lanka Development Forum in Paris in December 2000, the then World Bank Vice President – South Asia, Ms. Mieko Nishimizu lucidly stated – “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; Politician are not accountable”

The above pathetic and critical plight highlighted, far from having been arrested and corrected, has further deplorably aggravated. In view of the gravity and seriousness of mismanagement of public finance and malpractices, the Auditor General deemed it necessary to forward an extensive Special Report to Parliament in July 2006, which was a severe castigation of the systems and an indictment on those responsible. The Parliamentary Committee on Public Enterprises in December 2006 presented a Special Report to Parliament highlighting widespread fraud and corruption, including revelations of collusion by large corporates and questionable professional conduct by well known accountants and auditors.

The funding to alleviate and reduce poverty, without the enforcement of the ‘rule of law’ to combat fraud and corruption, is to indirectly fund fraud and corruption, which impoverishes the poor. Admittedly, the pillage and plunder of public resources through fraudulent and corrupt means, results in abject poverty, precipitating social stress and trauma, leading even to insurrections. Hence, would not the funding to alleviate and reduce such poverty, in effect be to replace those pillaged and plundered resources of the poverty stricken ?

In the context of my committed interest of on the subject, I recently received a gift from the U.S. - the New York Times Bestseller - “Confessions of an Economic Hit Man” by John Perkins. It is indeed a revelation! – “A bombshell. One of those rare instances in which someone deeply entrenched in our governmental / corporate imperialist structure has come forward to reveal in unequivocal terms with its inner workings. A work of great insight and moral courage” – *John E. Mack, Harvard Professor & Pulitzer Prize-winner.*

Yours truly,



Nihal Sri Amersekere

cc: Mr. Liqun Jin, Vice President, Asian Development Bank }
Mr. Richard Vokes, Country Director, Asian Development Bank } re- ADB OECD Anti-Corruption
Mr. Robert O Blake, US Ambassador } Initiative for Asia - Pacific
Ms. Rebecca Cohn, Resident Representative, USAID
Mr. Paul Wolfowitz, President, World Bank
Ms. Naoko Ishii, Country Director, World Bank

BY FAX / COURIER

IMPORTANT

24th November 2006

His Excellency Mahinda Rajapakse
President of the Republic of Sri Lanka / Minister of Finance
President's House
Janadhipathi Mawatha
Colombo 1.

Your Excellency,

Hotel Developers (Lanka) Ltd. [HDL]

As intimated on the phone this morning, I, as a Shareholder of the above Company, filed an Application for the winding-up of the above Company, in the circumstances, which are set out in the annexed Petition.

The Petition was settled and supported by Mr. K. Kanag-Isvaran P.C. and Dr. Harsha Cabral P.C., and Court issued Notice and made Order for Notifications to be published in the media and the Gazette.

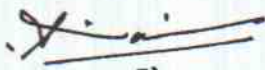
Even though, in the given facts and circumstances, I was advised that I could have also made Application under the provisions of the Companies Act for the appointment of a 'provisional liquidator', I did not do so, since I did not wish to jeopardise the on going operations.

If there is no remedy of re-structuring the Company, as had been proposed by the Government (*copy annexed, which had been approved by the Cabinet on 5.10.2005, as had been recommended by the Secretary to the Treasury, and also consequently accordingly endeavoured, without success, to be concluded by the Supreme Court*), in the given facts and circumstances, there would be no option, but to wind-up the Company.

In such event, the Land (*valued by Chief Valuer at Rs. 4018 Mn. for a 99-year Lease*) already belonging to the Government and not to the Company, with the Company having no lease or entitlement to the Land, the Hotel Building therefore would go with the Land to the Government; which could then form a new Company, with a new Agreement with Hilton or any other Operator, on better terms than at present.

The value of the Hotel Building and Assets of Rs. 4981 Mn. would be set-off against the present owings by the Company to the Government amounting to over Rs. 5565 Mn. and further guaranteed payments to be made by the Government under Government Guarantees, amounting to over Rs. 2400 Mn. in Japanese Yen at today's rate, over the next 5 years at 5.25% p.a. interest.

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Lalith Weeratunga, Secretary to His Excellency the President

BY FAX / COURIER

16th October 2006

IMPORTANT / URGENT

His Excellency Mahinda Rajapakse
President of the Republic of Sri Lanka / Minister of Finance
President's House
Janadhipathi Mawatha
Colombo 1.

Your Excellency,

'Proposed Settlement with LIOC'

I refer to the telephone conversation had with me, *inter-alia*, on the LIOC divestiture, and my subsequent Letter dated 23.6.2006. The telephone call was consequent to the exposure on the LIOC divestiture, which I caused to be published in the *Daily Mirror* of 13.6.2006; in the light of misleading media exposures, *vis-à-vis*, the controversial 'subsidy claims' made by LIOC from the Government.

I have come to know from the media, that a 'Settlement Agreement' is in the process of being signed by the Government and LIOC to the "Share Sale & Purchase Agreement for 100 Filling Stations", which had been signed by the Government and LIOC on 30.12.2003.

The said 'Settlement' proposed is as a consequence of the 'subsidy claims' made by LIOC from the Government, under the aforesaid Agreement, payments in respect of which were estopped due to Opinions given by the Hon. Attorney General and a respected President's Counsel, as a consequence of issues, which were raised by me, as then Chairman, PERC. *If not for which, Government would have had to make all payments, as claimed as 'subsidies'.*

I understand from media reports, that in the proposed 'Settlement', the provision for the '5% profit margin' on a 'cost plus basis' in the 'pricing structure' for the computation of the 'subsidy claims' has been proposed to be reduced to '1 ½ %'.

I draw attention to the following issues, which ought also to be reckoned in a 'Settlement', which issues had been highlighted in the aforesaid exposure in the *Daily Mirror* of 13.6.2006:

1. IOC had been selected '*sans* any transparent competitive bidding process'; but had been 'simply selected'.
2. IOC had agreed to bring in US \$ 75 Mn. in foreign exchange as their 'investment'. Cabinet Memorandum of 8.10.2003 had specifically stated that 'the purchase consideration should be in foreign currency and should not be raised through local banks'. Cabinet Memorandum had also noted that a further Rs. 2 – 3 billion had been committed by IOC to be invested and that 'this downstream investment together with the upfront consideration adds to around US \$ 100 Mn'.
3. Nevertheless, for the consideration of US \$ 75 Mn. to be paid to the Government for 100% Shareholding of LIOC (having 100 Filling Stations) and 33 1/3% Share of CPSTL (CUF Company), IOC had brought in only US \$ 40 Mn., whilst US \$ 35 Mn. had been 'raised from local Banks'. This is in contravention of the stipulations in the Cabinet Memorandum.

Hence, any 'cap' on a Government subsidy ought be in relation to a just, fair and equitable return on the investment of US \$ 40 Mn., subject, however, to what is noted herein.

4. The consideration of US \$ 75 Mn., had been based on the 'business valuation' of US \$ 71 Mn., which had been reckoned by Ernst & Young, in respect of the above two Shareholdings. Ernst & Young had been engaged as 'Financial Advisors' to the Government on this divestiture.
5. Furthermore, Ernst & Young had also added a 'premium' upto a maximum value of US \$ 30 Mn. 'for the right' to market access to enter into arrangements with 'Franchisee Filling Stations' i.e. other than CPC Filling Stations.

Nevertheless, 'without any additional consideration paid therefor', Condition 3.1.2.(i) (e) of the said Agreement titled - "Share Sale & Purchase Agreement for 100 Filling Stations", stipulated thus - *quote*:

"The GOSL shall ensure that CPC shall not preclude LIOC from entering into suitable arrangements with dealers pertaining to Franchisee Filling Stations, subject to the settlement mechanism reflected in Clause 2.3.1 (b)."

Consequently, in addition to the 100 Filling Stations of LIOC, it had expanded its operations by entering into arrangements with a further 70 'Franchisee Filling Stations'.

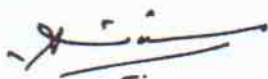
Therefore, the question arises, 'as to whether any Government subsidy ought be applicable to the operations of LIOC via additional 70 'Franchisee Filling Stations', the 'right to access' to which had been granted 'without any consideration', regardless of the 'valuation placed on such right' by Ernst & Young. *If the turnover of such expanded operations is meant to be excluded, then it ought be expressly so stated, inasmuch as the Agreement is 'titled' to be in respect of 100 Filling Stations.*

6. Also, interest payments in respect of borrowings of US \$ 35 Mn. from local banks to pay for the consideration to the Government, in violation of the stipulation in the Cabinet Memorandum, could not be reckoned as 'costs' for Government subsidy consideration.
7. LIOC had also been engaged in other business areas, such as sale of lubricants, operation of 'mini-super markets' and Oil Tanks in China Bay, Tincomalee, in addition to the expanded 70 'Franchisee Filling Stations', in respect of which there would be operational, as well as refurbishment, 'costs', which ought not be 'admissible costs' to be subsidised by Government
8. The 'pricing structure', *in itself*, is in question, in that, the actual 'marketing & distribution costs' for the year ended 31.3.2005 had been reported to be 10.2 Mn. and for the 9-Month period ended 31.12.2005 had been reported to be 26.0 Mn., whilst 'subsidy claims' from the Government, in terms of the 'pricing structure' had included a recovery component as 'marketing & distribution cost' of Rs. 230.9 Mn. and Rs. 187.7 Mn., respectively, for the said two periods.

Notwithstanding the foregoing, the 'subsidy claims' made on the Government had been certified by PricewaterhouseCoopers, Auditors of LIOC, and not by independent Auditors.

I am aware, that you are strenuously focused on endeavours for the resolution of the north-east conflict, but nevertheless, the foregoing being of national importance involving 'billions of rupees' of public funds, which are 'held in trust for the people', ought not go by default, even in such circumstances.

Yours truly,



Nihal Sri Ameresekere

cc: Mr. Lalith Weeratunga, Secretary to His Excellency the President

BY COURIER

26th September 2006

His Excellency Mahinda Rajapakse
President of the Republic of Sri Lanka
President's House
Janadhipathi Mawatha, Colombo I.

Your Excellency,

I enclose copy of my Letter dated 13.9.2006, together with the Annexures thereto, forwarded to Ven. Elle Gunawansa, in his capacity as a Member of the National Police Commission, with copies to the Chairman, National Police Commission, Inspector General of Police and Secretary, Mr. Lalith Weeratunga. The facts contained in my Letter and Annexures thereto *are self-explanatory*.

This grave and serious act of fraud on the Government dealt with in my Letter was upheld by the Supreme Court, and subsequently probed by a Special Presidential Commission (comprising a Supreme Court Judge & 2 Appeal Court Judges), assisted by the Attorney General and the CID, which issued Charge Sheets on certain persons on grounds of fraud and corruption against the Government. Ven. Elle Gunawansa is also the Chairman of a Committee to highlight and cause action to be taken against fraud, bribery and corruption, to which Committee, Secretary, Mr. Lalith Weeratunga was nominated. Among other incidents, this was considered by this Committee, and was presented to Mr. Lalith Weeratunga, for warranted action to be taken. I am aware that he has endeavoured to cause action to be taken.

In my Letter dated 29.5.2006 to the IGP, whilst setting out the background, I, *inter-alia*, stated as follows:

"Notwithstanding the gravity and the national economic proportions of this economic crime, I regret that the CID has been 'tardy' in this investigation, particularly when compared with the haste and speed at which the following subsequent matters have been investigated by the CID, as per advice / directions of the Hon. Attorney General, with proceedings commenced in the Magistrates' Courts –

- Rs. 1 Mn. alleged Offence by Mr. Abdul Cader M.P. in terms of Offences Against Public Property Act No. 12 of 1982
- Investigations into Accounts of Sri Lanka Cricket for alleged malpractices including re- a payment of UK Pds. 1500/- as an alleged Offence under the Immigrants & Emigrants Act
- Alleged misappropriation of Rs 82 Mn. in the 'Helping Hambantota' issue, found fault with by the Supreme Court."

"I drew attention to the Offence to attempt to commit an Offence in terms of Section 10 of the Offences Against Public Property Act No. 10 of 1982. In this instance, the attempt to fraudulently obtain a large scale of foreign exchange from the Government under Government Guarantees, including by cheating, forgery, false certification of records and accounts, etc."

The write-off in June 1995 on Government Guarantees due to my actions was then equivalent to US \$ 207 Mn.

I cite the following extract from Your Excellency's *Address to the Nation on assumption of Office*-

"In this respect my policy will be to consolidate the rule of law to the maximum. The law of the country should be just. Everybody including the President of the country should obey and respect that just law. I would like to state here that I will not allow anyone to subvert law and order using political power and privileges. I believe all state institutions should strictly follow policies of good governance. My Prime Minister, members of my Cabinet, the Armed Forces and the Police, the entire public service from the highest officer to the lowest rank should follow these good governance norms. Public service should be a responsible and ethical service where there is no room for fraud, bribery and corruption."

Questionable delay and inaction on the part of the law enforcement authorities, on a matter which had been upheld by the Supreme Court to be a serious prima-facie case of fraud on the Government, only enables wrong-doers to continue to freely subvert the law, rendering nugatory the above Government policy. Hence regardless of the personalities concerned, warranted action ought be taken, eventhough belatedly, on this serious matter of gravity and national economic proportion, involving socio-politically influential persons.

Yours truly,


Nihal Sri Ameresekere

BY COURIER

24th August 2006

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

Your Excellency,

I write further to my Letter dated 23.6.2006, *copy attached*.

Since Mr. Lalith Weeratunga has been extremely busy due to his enormous load of work, the discussions that I was requested to have, could not be had.

However, on certain occasions, when I casually met him, I indicated to him that there were certain matters, that I wished to discuss. I also so intimated to you, when you made a request for me to have a discussion, *vis-à-vis*, the economy, during the telephone conversation had.

My conscience has always compelled me to act in the public interest, irrespective of personalities concerned. There can be no exception. I believe this is in conformity with your policies.

Accordingly, in the national and public interest, given the current circumstances, I was compelled to forward the enclosed Letter of even date, the contents of which are self-explanatory.

Kind regards,



Nihal Sri Amersekere

BY COURIER

PRIVATE & CONFIDENTIAL

23rd June 2006

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

Your Excellency,

I thank you for commending me during the telephone conversation on Monday for the Article I caused to be published on the Lanka IOC Ltd., matter and the Letter forwarded to the Indian High Commissioner. I could not be a silent spectator to the disinformation by the media. I acted in the interest of the country.

As requested, I contacted Mr. Lalith Weeratunga to arrange for a discussion.

Coincidentally, I met Mr. Lalith Weeratunga on Wednesday at the Temple of Ven. Elle Gunawansa, who had invited me to a Meeting on the subject of fraud and corruption, in the context of submissions I had made at his request on the subject, on 21.6.2006, 24.4.2006 and 6.4.2006; copies of which are enclosed for information and warranted action.

Vis-à-vis the request for advice and/or assistance on some 'economic matters', I must confess that I am not an 'economist', but in addition to experience on professional assignments on 'privatisation / 'public-private partnerships' for the World Bank and USAID, as a Member of the International Consortium on Governmental Financial Management, having attended international conferences, I have an exposure out of interest on the subject of 'governmental financial management', the basics of which are not much different to the management of finances of 'commercial organisations' or for that matter of 'households' !

The enclosed Letters would reveal that the very basic rubrics of 'sound financial management' have been desecrated !

Kind regards,



Nihal Sri Ameresekere

PS: I also attach a copy of Letter dated 24.4.2006 to the President of the World Bank, to which I received a positive response. I am in the process of replying.

