

BY HAND

14th May 2008

Mrs. J.A.N. Dissanayake
Secretary
Presidential Commission of Inquiry to Investigate
into Matters relating to Failed Finance Companies
Room No. 2-G30
BMICH
Baudhaloka Mawatha
Colombo 7.

Dear Madam,

I write further to the evidence I gave before the Commission yesterday.

Being mentally exhausted towards the end, I inadvertently did not afford copies of the following to the State Counsel :

1. Schedule showing the exchange rate movement, comparatively for Sri Lankan Rupee and Indian Rupee against US Dollar and UK Pound.
2. Hansard Columns 362 and 363 of 12.1.2007 containing the COPE Report on the Sale of 90% Shares of Sri Lanka Insurance Corporation – Items 11 to 17 thereof deal with the professional mis-conduct of Ernst & Young and PricewaterhouseCoopers.

They have been Auditors and Consultants vis-à-vis Mercantile Credit Ltd. Mr. P.D. Rodrigo of Coopers & Lybrand had been a Partner involved in the preparation of the Report on Mercantile Credit Ltd., and later had been a Member of the Monetary Board of Central Bank.

3. My Letter dated 24.8.2006 to Secretary to the Treasury vis-à-vis action not taken, *inter-alia*, on the COPE Report 2005 - *vide* paragraph 5 on page 4 to paragraph 5 on page 5 thereof.
4. The relevant Case Reports to the 'Schedule' – 'Reports on the Internet on some international instances of fraud, some involving well known corporates'.

5. Application in March 1994 to the Central Bank for the establishment of National Enterprise Bank– Banking Licence has been granted on 13.9.1999.
6. Letter dated 29.9.1996 to Mr. N.A.L. Cabraal, Chairman, National Enterprise Bank from Registrar of Companies, Malaysia, together with four attachments thereto.

Mr. N.A.L. Cabraal is the present Governor of the Central Bank.

7. Letter dated 12.2.1997 re - National Enterprise Bank to a Malaysian party from the Central Bank, with Letter dated 5.3.1997 to Governor, Central Bank, which refers to 10 Annexures thereto.
8. Letter dated 20.3.1997 of Central Bank re- National Enterprise Bank
9. National Enterprise Bank Annual Return Form 63 to March 1997.
10. National Enterprise Bank Annual Return Form 63 to October 2002.
11. National Enterprise Bank Memorandum & Articles dated 22.8.1995 and Incorporation Certificate dated 25.8.1995.
12. Mercantile Credit Ltd. Annual Return Form 63 to November 1990.
13. Mercantile Credit Ltd. Annual Return Form 63 to March 1992.
14. Mercantile Leasing Ltd. Annual Return Form 63 to July 2002.
15. Wider Institute Report and translation thereof pertaining, *inter-alia*, to its Director, Mr. Lal Jayawardena, disclosing at page 7 the enlistment of services of the former President, *authenticity of which Report ought be ascertained from the Finnish Embassy.*

I make the following observations to be of assistance to the Commission :

1. Coopers & Lybrand Report on Mercantile Credit Ltd. had been forwarded to the Central Bank on 31.7.1991, being appointed on 1.1.1991.
2. The Report contains Minutes of Meetings between Coopers & Lybrand and Directors of Mercantile Credit Ltd. held on 2.5.1991, 13.5.1991, 20.6.1991 and 1.7.1991.
3. The Report also contains Opinions dated 6.5.1991 of Ernst & Young, and dated 8.5.1991 of Ford, Rhodes, Thornton & Co.
4. The Balance Sheet of Mercantile Credit Ltd. as at 31.3.1990 has been given in the said Report, and it does not *ex-facie* disclose any Loans given by the Central Bank of Rs. 1750 Million.

5. Therefore, it would appear the said Loans of Rs. 1750 Million had been given after 31.3.1990, and the question arises, as to whether the said Loans had been given before, or during the processing of the Report, or after the said Coopers & Lybrand Report of 31.7.1990.
6. **The facts disclosed by the Report ought to have caused the Central Bank to have taken immediate action to control and supervise the utilisation of such a large amount of Loans of Rs. 1750 Million, which even today would be a very large amount of money.**
7. Could not the utilisation of such large sums of monies be traced through the Bank Accounts to disclose the Bank Accounts, to which they have been paid out to, and to thereby discover, as to who the actual beneficiaries had been, so that such moneys could be recovered from such parties; *more so if such monies had been siphoned to other companies of the family.*
8. Had not such large sums of monies of Rs. 1750 Million been obtained by the then Directors of Mercantile Credit Ltd., *holding out to the Central Bank, that they could be paid back*, and would not thereby the Directors be personally responsible? *If not, on what basis would such large Loans of Rs. 1750 Million have been given?*
9. As regards the following recommendation in the COPE Report of 2005

"Carry out investigations on the non repatriation of export proceeds to Sri Lanka and take corrective action appropriately to avoid drain of foreign resources."

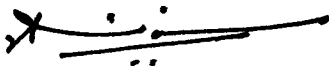
I suggest that to start with, the biggest 50 or 100 exporters, be immediately investigated by a Special Presidential Commission, to recover exports proceeds, which were contractually bound to be repatriated.

10. I also suggest that a Gazette Notification be immediately made to nullify the questionable Gazette Notifications of 1993 and 1994, which had caused and is continuing to cause the above problem.

I shall be grateful, if the forgoing could be brought to the kind attention of the Chairman, and the Members of the Commission, and the enclosed records handed over to the Senior State Counsel.

Thanking you,

Yours faithfully,



Nihal Sri Ameresekere

BY HAND

7th May 2008

Mrs. J.A.N. Dissanayake
Secretary
Presidential Commission of Inquiry to Investigate
into Matters relating to Failed Finance Companies
Room No. 2-G30
BMICH
Baudhaloka Mawatha
Colombo 7.

Dear Madam,

I refer to your Letter dated 30.4.2008 received on 5.5.2008.

I have examined the Terms of Reference contained in the Warrant issued under Section 2(c) of the Commissions of Inquiry Act, more particularly Item (a) of the Warrant, which refers to, *inter-alia*, the deficiencies in connection with the items highlighted in the COPE Report of 22.6.2005, pertaining to the period 1991 to 2005.

Accordingly, I intend to place for consideration before the Commission, facts and documents, with clarifications, pertaining to the aforesaid deficiencies, on which COPE had made recommendations for actions to be taken thereon.

Briefly I set out the following :

1. Bullet 6 under the Heading – “Financial Performance of CBSL” and the connected Bullet 7 under the Heading – “General Observations of Your Committee” and connected Bullets 2 and 13 under the Heading - “Your Committee in Conclusion Recommends”

The national economic proportions and grave implications of the foregoing, in relation to which, facts and data are available, are much more graver and have a direct material impact on the current financial position of the country, than the matters dealt with in the rest of the COPE Report, more particularly *vis-à-vis* Finance Companies, which are more or less of a historical nature, and comparatively financially not so significant, but I believe had got highlighted in the COPE Report due to political nuances

The credibility of the Central Bank put in issue in the COPE Report, not only underscores, but also gives validity to the matter referred to above.

2. Observations adducing certain facts and documents in relation to Finance Companies.

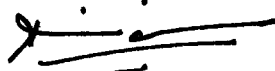
Recommendations in relation to current / future monitoring

Particularly of concern is that funding under the Medium & Long Term Credit Fund of the Central Bank for warranted financial rehabilitation of companies, particularly financially sick industries, was stopped, I believe, as a consequence of the foregoing debacle *vis-à-vis* the Finance Companies.

I am sorry I am being brief, since I am preparing my Written Submissions to be tendered to the Supreme Court on 9.5.2008 in a public interest matter, dealt with in the COPE Report 2007, where the financial implications / losses to the State and the public on one transaction, I believe is larger than the total financial outlay on the Finance Companies referred to in the COPE Report 2005 !

Thanking you,

Yours faithfully,



Nihal Sri Ameresekere