

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

*In the matter of an Application under Article 126 of  
the Constitution of the Democratic Socialist  
Republic of Sri Lanka*

Vasudeva Nanayakkara  
Attorney-at-Law  
Advisor to His Excellency the President  
Secretary, The Democratic Left Front  
49 1/1, Vinayalankara Mawatha  
Colombo 10.

**Petitioner**

**SC FR Application No. 209/2007**

**Vs**

1. K.N. Choksy P.C., M.P.  
Former Minister of Finance  
23/3, Sir Ernst De Silva Mawatha  
Colombo 7.
2. Karu Jayasuriya, M.P.  
Former Minister of Power & Energy  
2, Amarasekera Mawatha  
Colombo 5.
3. Ranil Wickremesinghe M.P.  
Former Prime Minister  
115, 5<sup>th</sup> Lane  
Colombo 3.
4. Chandrika Bandaranaike Kumaratunga  
Former President of Sri Lanka  
Horagolla Walawwa  
Horagolla.
5. Milinda Moragoda M.P.  
Former Minister of Economic Reform  
3/2, Allen Methiniyarama Road  
Colombo 5.
6. Sripathy Sooriyarachchi, AAL, M.P.  
Former Minister, Public Enterprise Reforms  
22, Niwasa Mawatha  
Rilaula  
Kadana.
7. Charitha Ratwatte  
Former Secretary to the Treasury  
16, Jawatte Road  
Colombo 5.
8. P.B. Jayasundera  
Secretary to the Treasury / Former Chairman,  
Public Enterprises Reform Commission (PERC)  
Secretariat  
Colombo 1.

9. P. Weerahandi  
Former Secretary  
Ministry of Power & Energy  
410/7, Baudhaloka Mawatha  
Colombo 7.
10. Daham Wimalasena  
Former Chairman  
Ceylon Petroleum Corporation  
Member, Technical Evaluation Committee  
22/11, Subadra Mawatha  
Madiwela.
11. Upali Dahanayake  
Former Director, Ministry of Finance  
Member, Technical Evaluation Committee  
32, Peiris Avenue, Idama  
Moratuwa.
12. A.W.C. Perera  
Former Addl. Secretary  
Ministry of Economic Reforms  
Member, Technical Evaluation Committee  
57/2, Rajamaha Vihara Road  
Pita Kotte.
13. Shamalee Gunawardene  
Attorney-at-Law  
Former Director Legal, PERC  
500/111, Thimbrigasyaya Road  
Colombo 5.
14. DFCC Bank  
73/5, Galle Road  
Colombo 3.
15. Commissioner of Lands  
Land Commissioner's Department  
7, Gregory's Avenue  
Colombo 7.
16. Sri Lanka Ports Authority  
19, Church Street  
Colombo 1.
17. Ceylon Petroleum Corporation  
109, Rotunda Tower  
Galle Road  
Colombo 3.
18. John Keells Holdings Ltd.  
130, Glennie Street  
Colombo 2.
19. Lanka Marine Services Ltd.  
69, Walls Lane  
Colombo 15.

20. Susantha Ratnayake  
Chairman  
John Keells Holdings Ltd.  
130, Glenille Street  
Colombo 2.
21. V. Lintotawela  
Former Chairman  
John Keells Holdings Ltd.  
55, Abdul Caffoor Mawatha  
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22. Nihal Sri Ameresekere  
Former Chairman, PERC  
167/4, Vipulasena Mawatha  
Colombo 10.
23. W.M. Bandusena  
Former Chairman, PERC  
XB 1/2/2, Edmonton Houses  
Kirulapona  
Colombo 5.
24. W.A.S. Perera  
Chairman, PERC  
West Tower, 11<sup>th</sup> Floor  
World Trade Center  
Colombo 11
25. Channa De Silva  
Director General  
Securities & Exchange Commission of Sri Lanka  
(SEC), Level 11-01, East Tower  
World Trade Center  
Echelon Square  
Colombo 1.
26. Lalith Weeratunga  
Secretary to His Excellency the President  
Presidential Secretariat  
Colombo 1.
27. Wijeyadasa Rajapakshe P.C., M.P.  
Chairman, Parliamentary Committee on Public  
Enterprises (COPE)  
17, Wijeba Mawatha  
Off Nawala Road  
Nugegoda.
28. Inspector General of Police  
Police Headquarters  
Colombo 1.
29. Deputy Inspector General of Police  
Criminal Investigation Department  
4<sup>th</sup> Floor, New Secretariat Building  
Colombo 1.

30. Chairman  
Commission to Investigate Allegations of Bribery or  
Corruption  
36, Malalasekera Mawatha  
Colombo 7.
31. Hon. Attorney General  
Attorney General's Department  
Colombo 12.

**Respondents**

32. Sri Lanka Shipping Company Limited  
46/5, Nawam Mawatha  
P.O. Box 1125  
Robert Senanayake Building  
Colombo 2.
33. Lanka Maritime Services Limited  
3<sup>rd</sup> Floor, Robert Senanayake Building  
46/5, Nawam Mawatha  
Colombo 2.
34. Lanka Bunkering Services (Pvt) Ltd.  
1<sup>st</sup> Floor, Robert Senanayake Building  
46/5, Nawam Mawatha  
Colombo 2.

**Added-Respondents**

**TO: HIS LORDSHIP THE CHIEF JUSTICE AND THEIR LORDSHIPS AND LADYSHIPS THE OTHER HONOURABLE JUSTICES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

**WHEREAS** as directed by Your Lordships' Court, the Petitioner filed his Counter-Affidavit dated 4.10.2007 countering the Statement of Objections / Affidavits filed as directed by Your Lordships' Court.

**AND WHEREAS** subsequent thereto, the Petitioner being in receipt of a belated Statement of Objections dated 2.10.2007 filed by the 1<sup>st</sup> Respondent, supported by an Affidavit dated 1.10.2007, the Petitioner tenders a Further Counter Affidavit countering the said Statement of Objections of the 1<sup>st</sup> Respondent, and also tenders in terms of paragraph 34 (d) of his Petition, further documents marked **P36** and **P37** to be of assistance to Your Lordships' Court.

**NOW THEREFORE** we respectively MOVE that Your Lordships' Court be pleased to accept the same .

Copy of this Motion together with the documents annexed thereto having been sent by Registered Post to the Respondents, Registered Postal Article Receipts are annexed hereto.

On this 26<sup>th</sup> day of December 2007

*Abdulla Associates*  
Attorneys-at-Law for the Petitioner

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#### **Added-Respondents**

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### **Further Counter-Affidavit of Petitioner**

I, Vasudeva Nanayakkara of 49 1/1, Vinayalankara Mawatha, Colombo 10, being a Buddhist, do hereby solemnly, sincerely and truly affirm and declare as follows:

1. I am the Petitioner and the affirmant above-named and I affirm to the facts herein contained from my personal knowledge and belief and from the documents available with me.
2. By my Counter-Affidavit dated 4.10.2007, I countered the Statements of Objections / Affidavits of the following Respondents.
  - a) 3<sup>rd</sup> Respondent
  - b) 8<sup>th</sup> Respondent
  - c) 16<sup>th</sup> Respondent
  - d) 17<sup>th</sup> Respondent
  - e) 18<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> Respondents
  - f) 22<sup>nd</sup> Respondent



3. By paragraph 11 of my said Counter-Affidavit, I reiterated that the reliefs I had prayed for in my Petition be granted in the context of the papers, filed by the following Added - Respondents.
- a) 32<sup>nd</sup> Added-Respondent
  - b) 33<sup>rd</sup> Added-Respondent
  - c) 34<sup>th</sup> Added-Respondent
4. Subsequent to the tendering of my said Counter-Affidavit, I was in receipt of a belated Statement of Objections dated 2.10.2007, supported by an Affidavit dated 1.10.2007 filed by the 1<sup>st</sup> Respondent, after the final date, 28.9.2007 granted by Your Lordships' Court for the filing of Objections, and therefore, the Statement of objections of the 1<sup>st</sup> Respondent, being out of time, I respectfully state ought be rejected *in limine* .
5. However, without prejudice to the foregoing, I respectfully place the following facts in countering the averments contained in the said Statement of Objections and corresponding averments in the Affidavit of the 1<sup>st</sup> Respondent.
- a) Whilst admitting that he had been the Minister of Finance and that the Ministry of Finance was involved in the transaction in issue, the 1<sup>st</sup> Respondent has for reasons best known to him, tried to shift the responsibility in respect of the same solely on the Ministry of Economic Reforms ; whereas the Affidavit of the 1<sup>st</sup> Respondent in its entirety clearly demonstrates that he had been fully aware of this transactions which he is now desperately trying to wash his hands off from, thereby conceding that this transaction is dubious and fraudulent.
  - b) The 1<sup>st</sup> Respondent as a responsible Minister of the Cabinet, namely, as the Minister of Finance was directly responsible for Cabinet Decisions concerning finance in a Cabinet Memorandum, and in practice the observations of the Minister of Finance are made on such Cabinet Papers.
  - c) Clearly, the 1<sup>st</sup> Respondent admits a failure on his part to have discharged such responsibility as the Minister of Finance, even in the face of the Cabinet Memorandum "P14" of the 4<sup>th</sup> Respondent, then President, objecting to this transaction.
  - d) The 1<sup>st</sup> Respondent has admitted that he had been incompetent, as the Minister of Finance, to have supervised his Secretaries including the 7<sup>th</sup> Respondent, but he cannot thereby deny his responsibility.
  - e) The 1<sup>st</sup> Respondent has admitted that the 18<sup>th</sup> Respondent had been a Client of his. I verily believe that, the 1<sup>st</sup> Respondent, as the Minister of Finance, granted exemption of Stamp Duty on Mortgage Instruments with the intent of enabling the 18<sup>th</sup> Respondent to avoid the large payment of Stamp Duty on the SAGT Mortgage Instrument with the Government owned Private Sector Infrastructure Development Company Limited, causing loss of revenue to the Government.
  - f) The 1<sup>st</sup> Respondent presented the damning Tax Amnesty Act No. 10 of 2003, which Your Lordships' Court held to be fraudulent defrauding large extent of public funds. I verily believe that this intentionally was to grant undue financial benefits, among others to his Clients, causing loss to the Government, some of which were reported in the media, including a Court Case resisting the payment of tax in which the 1<sup>st</sup> Respondent appeared.
  - g) The 1<sup>st</sup> Respondent has been made a Party because he was the Minister of Finance during 2002 when this transaction was dubiously concluded, with his Secretary, the 7<sup>th</sup> Respondent entering into Agreements, with the 7<sup>th</sup> Respondent also an *ex officio* Member of PERC.
  - h) Having been the Minister of Finance, the 1<sup>st</sup> Respondent in the given facts and circumstances stands estopped from denying, that he was very much a part of this transaction admittedly with a Client of his.

- i) I deny that the 1<sup>st</sup> Respondent was made a Party with the intent of damaging his reputation. The conduct and actions of the 1<sup>st</sup> Respondent well known to the public had been adduced before Your Lordships' Court in the scandalous Hilton Hotel Case.
6. I respectfully refer to paragraph 34 (d) of my Petition, whereby I reserved my right, *inter-alia*, to adduce any further facts and documents, as may become available to me in relation to this transaction, which would be of assistance to your Lordships' Court, and accordingly, I respectfully adduce, annexed hereto,
- a) compendiously marked "P36" Letter dated 1.11.2007, together with the annexures thereto, received by me, with copy to the 26<sup>th</sup> Respondent, from the Chairman, Board of Investment of Sri Lanka disclosing the questionable and irregular tax concessions granted to the 18<sup>th</sup> and / or 19<sup>th</sup> Respondents.
- b) marked "P37" my Letter dated 24.12.2007 forwarded to the Ceylon Chamber of Commerce, pointing out that their actions to award the Award for Best Corporate Citizen for Corporate Social Responsibility to the 18<sup>th</sup> Respondent is an affront to Court. Furthermore, if it be true, that the 31<sup>st</sup> Respondent, as I understand, had become a party to such action, whilst this matter was pending before Your Lordships' Court, I am appalled.
7. None of the other Respondents have tendered Objections and/or Affidavits to my Petition, controverting averments in my Petition, whereby the averments in my Petition stand undisputedly admitted by each and everyone of them.

Having read and understood the contents, nature and effect of the above, affirmed to the correctness and veracity hereof, signed at Colombo on this 26<sup>th</sup> day of December Two Thousand and Seven



BEFORE ME

*[Signature]*  
 Justice of the Peace /  
 Commissioner for Oaths

**S. NAVARTANAM**  
 Justice of the Peace  
 No. 25/10, Wipulasena Mawatha,  
 Colombo - 10.  
 2007/12/26

P36



BOARD OF INVESTMENT OF SRI LANKA

01<sup>st</sup> November, 2007

Mr. Vasudeva Nanayakkara  
49 1/1, Vinayalankara Mawatha  
COLOMBO - 10.

World Trade Center  
Level 26  
West Tower  
Echelon Square  
Colombo 1  
Sri Lanka

Dear Sir,

Date:

Our Ref:

Your Ref:

**FUNDAMENTAL RIGHTS APPLICATION NO. 209/07  
SCANDALOUS AND FRAUDULENT PRIVATIZATION OF  
LANKA MARINE SERVICES LTD.**

This has reference to your letter dated 29<sup>th</sup> October 2007 on the above subject.

In this regard we wish to inform you that the BOI grants concession to companies as per the applicable regulations which are gazetted from time to time. Accordingly, M/s. Lanka Marine Services Ltd. was granted tax concessions as per the attached regulation which had been gazetted on 01<sup>st</sup> January 2002 under the No. of 1256/22.

The sequence of the approval granted are as follows:

1. The John Keells Holdings has submitted the project application on 20.03.2002 (Annex 1).
2. The BOI has granted the investment approval on 11.07.2002 (Annex 2).
3. The ammended regulation applicable for project of this nature on 01.10.2002 (Annex 3).
4. Subsequently they requested to revise the approval as per the revised regulation on 04.10.2002 and 24.10.2002. (Annex 4)
5. The amended letter of approval has issued on 31.10 2002. (Annex 5).
6. The Company has signed the agreement on 02.12.2002. (Annex 6).

Yours sincerely,

  
Dhammika Perera  
CHAIRMAN/DIRECTOR GENERAL

c.c. - Mr. Lalith Weeratunga  
Secretary to H.E. the President

OFFICE OF THE DIRECTOR GENERAL

Tel: 94-11-2436639, 2430514 Fax: 94-11-2447994-5, 2430512  
E-mail: dgoffice@boi.lk Internet: www.boi.lk



# BOARD OF INVESTMENT OF SRI LANKA

## APPLICATION FOR APPROVAL OF AN INVESTMENT

### UNDER SEC. 17 OF THE BOI LAW

#### NOTES FOR YOUR GUIDANCE

- (i) The application shall be used
- Either for the purpose of setting up a new company to be operated under Sec. 17 of the BOI Law or
  - for the purpose of transferring an existing non-BOI company to be operated under Sec. 17 of the BOI Law
- (ii) This Application comprises two parts:
- Investment Approval
  - Site Approval
- If you have not identified a site, you should submit the site application as soon as a site is located.
- (iii) Application fee:
- Please make cheques and drafts in favour of the "Board of Investment of Sri Lanka."
- Overseas - Bank draft or cheque for US\$ 100
  - In Sri Lanka - Bank draft, cheque or cash equivalent of US\$ 100 in SL Rupees.
- (iv) Provide documentary evidence relating to business background e.g. Company Profile, Current Annual Report, Bank References etc.
- (v) If you require any assistance in filling up your application form, please contact the following BOI officials
- Executive Director (Investment) and his staff - Tel : 439659, 346130, 346338, 438972
  - Director (Promotion) and his staff - Tel : 430511, 448880, 422407, 430516
- (vi) Proposed investment indicated under item (4) should tally with the proposed financing indicated under Item (5)
- (vii) Lodging an Application
- Once you have completed this application form it may be submitted with the appropriate fee to the receiving officer, Investment Appraisal Department, Board of Investment of Sri Lanka, 15th Floor, West Tower, World Trade Centre, Echelon Square, Colombo 01.
- (viii) (a) Applicants of this application shall be either Two proposed shareholders in case of a new company or
- A New shareholder's representative who is in possession of a letter of authority to act on their behalf.

For Office use only  
Project Officer Code  
BOI Code  
ISIC Code

CB Code  
Country Code  
Enterprise Code

9

1. Particulars of Collaborators

Proposed Equity Contribution

	Rs. Mn.	%
a). Name :- JOHN KEELLS HOLDINGS Address :- NO. 130, GLENNIE STREET, COLOMBO 02 Citizenship :- SRI LANKA National Identity Card/Passport No. :- Name & Address of Banker :- BANK OF CEYLON, HATTON NATIONAL BANK, HSBC, NDB Current Business interests of:- INFRA-STRUCTURE, PLANTATIONS, IT, Investor/s LEISURE, TRANSPORTATION, F&B Interests in other BOI Projects, if any :- Special Experience, Technical :- capabilities etc. Other relevant information to :- illustrate capability of investors to undertake the project		
b). Name :- Address :- Citizenship :- National Identity Card/Passport No. :- Name & Address of Banker :- Current Business interests of :- Investor/s Interests in other BOI Projects, if any :- Special Experience, Technical :- Capabilities etc. Other relevant information to :- illustrate capability of investors to undertake the project		

Note : Where the number of collaborators exceeds four (04), please attach a separate sheet.

## Project Proposal

2.1 a) New Project

(Tick as appropriate)

b) Expansion of Existing BOI Project

c) Expansion of Existing Non BOI Project

## 2.2 Summary of Proposed project

(Give brief description of the project)

The primary objective of the project is to supply Heavy Fuel & Lubricants<sup>oil</sup> to the marine bunker market, whilst exploring the possibilities of supplying the power and similar sectors. This project will maintain the minimum requirement of 70% export income. If possible, the project envisages the purchase and expansion of an existing company in a similar business.

## 3) Marketing Programme (One year requirement)

(Rs. Mn.)

PRODUCTION/ SERVICES	UNIT OF MEASURE	EXPORT			LOCAL SALES			TOTAL	
		QT	VL	%	QT	VL	%	QT	VL
a). FUEL OIL	MIS	174,000	2.4	90%	10,000	0.1	10%	184,000	2.5
b). MGO		35,000	.6	100%				35,000	.6
c). MDO		24,000	.4	100%				24,000	.4
d).									
e).									
f).									
g).									
h).									
i).									3.5BN

## 4) Investment Programme

Rs. Mn

	YEAR 1				YEAR 2			
	1 ST HALF		2ND HALF		1 ST HALF		2 ND HALF	
	Foreign	Local	Foreign	Local	Foreign	Local	Foreign	Local
A. Fixed Capital								
Land								
Buildings				405				
Plant & Equipment				325				
Other				10				
TOTAL (A)				744				
B. Working Capital								
Stocks				280				65
Cash in Hand				284				449
Other								
TOTAL (B)				564				514
TOTAL (A & B)				1308				514

Note : Where goods or services are to be obtained from abroad indicate the rupee equivalent of such costs as "foreign", State rate of currency conversion used (e.g. US\$ 1 = SL Rupees .....)

Proposed Financing

(Rs. Mn.)

2002

2003

YEAR 1				YEAR 2			
1 ST HALF		2ND HALF		1 ST HALF		2 ND HALF	
Foreign	Local	Foreign	Local	Foreign	Local	Foreign	Local
			261.6				102.8
			1046.4				411.2
			1308.0				514.0

Share Capital

Loan Capital

Others (Specify)

TOTAL INVESTMENT

Manpower Requirements:

INITIAL REQUIREMENT

CAPACITY REQUIREMENT

i). Managerial		
a). Foreign	2	1
b). Local	5	6
ii). Technical		
a). Foreign	2	1
b). Local	4	5
iii). Clerical	5	5
iv). Labour		
a). Skilled	20	20
b). Unskilled	25	25
v). No. of 8 hour shifts per day and time		

Please submit details of their Technical, Managerial capabilities with supporting documents.

Remittable Liabilities:

7.1 Royalty N/A

7.1.1 Basis of computation of royalty

7.1.2 Time period royalty is payable

7.1.3 Amount payable per annum

Year

Amount (Rs. Mn.)

1

2

3

4

5

.....  
 .....  
 .....  
 .....  
 .....

7.2 Technical Services & Other Fees

7.2.1 Basis of computation of fees

7.2.2 Time period royalty is payable.

7.2.3 Amount payable per annum

Year

Amount (Rs. Mn)

1.

2.

3.

4.

5.

6

Programme of Implementation

No of months after signing agreement

i). Commence building construction

ii). Commence installation of machinery

iii). Commence training of personnel

iv). Commence test production

v). Commence commercial production

10 - 12 Months

5 Months

2 - 5 Months

In the event, the application is forwarded by a representative of the proposed new shareholders, he or she should submit a copy of a letter of authority to act on their behalf which shall also indicate of individual, foreign equity contribution of each foreign collaborator.

Name, Address, Telephone Numbers etc., of Contact Officer/s (attach letter of authority or copy of power of Attorney if applicable.) Mr Sasantha Ratnayake 077-344133 or 445134 / 440828

We certify that the proposal constitutes a new project and does not involve the closure of an existing enterprise of a similar nature or the transfer of any assets from an existing enterprise in Sri Lanka.

Name & Designation

Mr Sasantha Ratnayake  
Director

Signature of Investors

[Handwritten Signature]

Date : 20/03/02



BOARD OF INVESTMENT OF SRI LANKA

P.O. Box 1768, World Trade Center, Colombo 01, Sri Lanka.

Tel: (94-1) 437-137, 448-880, 448-105, Fax: (94-1) 447-995, E Mail: info@boisrilanka.org.

Internet: http://www.boisrilanka.org, http://www.lanka.net

Telex: 21332 ECONCOM CE, Cable: ECONCOM COLOMBO



Location

- 1.1 Address of Location 69, WALLS LANE, COLOMBO 15  
(Please attach a sketch) OPTION - FLOATING STORAGE /OTHER
- 1.2 Extent of Land required 8A 2R 21.4P  
(in acres of/Sq.Mtrs)
- 1.3 Ownership of the land
- 1.4 Covered Space of Buildings  
(in Sq.ft/Sq. Mtrs.) 300 - 2,500 sq. ft.
- 1.5 Whether it is an existing Building Yes

9

Note: See "General Guidelines for factory buildings" -Section A & B

2) Environmental Examination

2.1 Raw-materials usage

ITEM	KG.PER MONTH	SOURCE (LOCAL/ IMPORTED)
1. Fuel Oil	16,000 MTs	50% imported
2. MGO	3,000 MTs	Local
3. MDO	2,000 MTs	Local
4.		
5.		

2.2 Machinery

List of machinery to be installed

ITEM	H.P	NO.OF ITEMS	CONDITION USED/NEW.
1. Upgrading of existing tank forms		12 Tanks	40 Years old
2. New Tanks		3 Tanks	
3.			
4.			
5.			
6.			
7.			

2.3 Equipment

(Please provide a separate list of all equipment including boilers and furnaces with sources of power and capacity where applicable)

2.4 Fossil Fuel Consumption (For pumps)

3

	No	Type of fuel used			
		Petrol Lit/Mon	Diesel Lit/Mon	Furnace Oil Lit/Mon	Kerosene Oil Lit/Mon
1 Electricity Generator	1		300 - 400 ltrs		
2. Furnace/s					
3. Boiler/s					
4. Others (Pl. specify)					

2.5 Chemicals

(Indicate all chemicals including those used in small quantities)

Chemical Name	Purpose	Qty./Month
1.....		
2.....		
3.....		
4.....		
5.....		
6.....		
7.....		

2.6 Water Use

	At Commencement of production	At Capacity
Process Use (Ltrs-day)		
Cooling purposes (Ltrs-day)		
Human Use (Ltrs-day)		

2.7 Process

(Please attach a flow chart together with a description)

2.8 Finished products

	Product	Qty. Per Month
1. No existing products		
2. to be pumped out		
3.....		
4.....		
5.....		

2

1.9 Waste products

a) Solid waste

	Nature	Kg. per day
1.....		
2.....		
3.....		
4.....		
5.....		

b) Effluents

Nature of Effluents	Litre/day	Proposed in house treatment
From process use		
From floor washing		
From cooling		
From human use		

2.10 Noise/Vibration

High intensity noise and/or vibration generating machinery/equipment (Please specify)

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....

2.11 Hazardous Materials

Potentially dangerous injurious substances/processes (Please specify)

- 1. Yes, Oil spillage at the Berth / with the pipeline areas
- 2.....
- 3.....
- 4.....
- 5.....

2.12 Fire Risk

Potentially Inflammable or incendiary materials/process

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....

17

### Electricity Requirements

	At commencement of production	At capacity
A. Power (KVA)	2 x 5 KVA	
B. Energy (Kwh)		

4. Name, address, telephone numbers etc. of contact officer/s (attach letter of authority or of Power of Attorney if applicable)

Name and designations: Mr. Susantha Ratnayake  
Director

Signature of Investors: [Handwritten Signature]

Date: 20/02/02

Annex 2

M/s John Keels Holdings  
No.130, Glennie Street,  
Colombo 02.

11.07.2002

EC/4/6121/02

Dear Sir

**PROJECT TO SUPPLY HEAVY DUTY OIL AND LUBRICANTS TO THE MARINE BUNKER MARKET**

The application dated 20th March 2002 forwarded by you to set up an enterprise to supply heavy duty oil and lubricants to the marine bunker market and facsimile dated 3<sup>rd</sup> July 2002 sent by your company regarding the said project, were considered by the Board of Investment of Sri Lanka and the Board decided to approve the application subject to the terms and conditions stipulated below; which shall among others be included in the Agreement to be entered into with the Board.

- (1) Your project will be governed under Sec. 17 of BOI Law, No. 4 of 1978.
- 2) a). For a period of three (03) years reckoned from the year of assessment as may be determined by the Board, the provisions of the Inland revenue Act No.38 of 2000 relating to the imposition, payment and recovery of income tax in respect of the profits and income of the enterprise shall not apply to the profits and income of the enterprise.
- b). After expiration of the tax exemption period indicated in (2) (a) above, income tax in respect of the profit and income of the enterprise for the fourth and fifth year of operation will be calculated at the rate of 10% and thereafter income tax will be payable at the rate of 15%.

For the above purpose, the year of assessment shall mean the year in which first commercial export of service of the enterprise is effected.

- (3) a). The Tax Concessions stated at clause (2) above are granted to your enterprise on meeting the following criteria.
  - i) At least seventy (70%) of the turnover of the enterprise should be received in convertible foreign currency.

- ii) The commercial invoices raised in respect of export earnings should be submitted to the Board for the purpose of ascertaining 70% exports indicated (i) above.
- b). If your project does not meet the criterion as indicated in (a) above, the Board reserves the right to withdraw all or any of the concessions granted to your enterprise.
- (4) a). The shares of the Enterprise may be allotted or transferred to residents or non-residents. However, you are required to notify the Board of all details of such allotments/transfers at least 30 days prior to the date on which each such transaction will be effected.
- b). In the event, shares are allotted or transferred to non-residents, each such investor will be eligible to obtain a recommendation for resident visa only if a minimum investment of US\$ 50,000/- is invested by him.
- (5) An annual fee of Sri Lanka Rupee equivalent to US\$ 2000/- is payable to the BOI in respect of the Enterprise.

The first annual payment of Sri Lanka Rupee equivalent to US\$ 2000/- is payable at the time of signing of the Agreement.

The Board may once in every three years from the date of execution of the Agreement revise and determine the quantum of the Annual Fee payable by the enterprise.

- (6) The commercial operation of the project should be commenced within a period of five (05) months from the date of signing of the agreement with the Board as indicated in the project application.
- (7) An amount not exceeding thirty percent (30%) of the turnover may be received in local currency which is liable for applicable fiscal levies.
- (8) The enterprise should adhere to the terms & conditions to be imposed by the Ministry of Port Development and Director, Shipping (Merchant Division) and Marine Pollution Prevention Authority with regard to operation of the project.
- (9) a) The project should be an entirely new enterprise and should not involve the reconstitution of an existing business or the transfer of assets any description from an enterprise within Sri Lanka.

- b) The plant machinery and equipment to be used for the purpose of the enterprise shall be new. However, the importation of used plant machinery and equipment will be permitted, provided that on or before the date of each such import, a valid certificate from a surveyor of international repute is furnished to the Board, certifying the quality and value thereof.
  
- (10) You should obtain clearance to site your project at No.69, Walls Lane, Colombo 15, from Director (Engineering Approvals) of BOI. In the event, site clearance is not granted, this letter of approval ceases to be valid.
  
- (11) Your project would be entitled to import project related items that are directly related to the project as approved by the Board free of custom duty. For this purpose, a list of items to be imported/purchased locally on duty free basis with approximate quantities and values should be submitted to the Board for consideration and approval before signing of the Agreement.
  
- (12) It will now be necessary for you to make the following arrangements :
  - a). Incorporate a Company in Sri Lanka.  
  
Please forward the draft Memorandum and Articles of Association for scrutiny and approval by the Exe. Director (Legal) of the Board, prior to incorporation of the Company.
  
  - b). After incorporation of the company, please forward the following documents to the Exe. Director (Legal), who will then prepare the Draft Agreement.
    - i. Memorandum and Articles of Association of the Company and the Certificate of Incorporation.
    - ii. List of goods, wares and merchandise to be imported on duty free basis mentioned at clause (11) above, approved by the Board and the list of goods, wares and merchandise that would be exported.
    - iii. Letter confirming that the project is an entirely new Enterprise and does not involve the reconstitution of an existing business or the transfer of assets of any description from an existing Enterprise within Sri Lanka.
    - iv. Certified entries obtained from the Registrar of Companies relating to the particulars of Directors and the Registered Office of the Company.

On receipt of the documents listed above, the draft of the Agreement to be signed between your Enterprise and the Board will be forwarded to you by the Exe. Director (Legal) of the Board for approval.

Thereafter, please forward the approved Draft Agreement with the following to the Exe. Director (Legal) :-

Certified copy of the minutes of meeting of the Company, approving the final Draft Agreement, approved by our Exe. Director (Legal) and empowering two named Directors of the Company to affix the Common Seal of the Company to an engrossment and attest. The Company should also resolve to be bound by the undertakings, representations, commitments and proposals made for and on its behalf.

A date could then be arranged for the signing of the Agreement and payment of monies under the Agreement. In addition to the levies indicated in clause five (05) above, a fee of Sri Lanka Rupee equivalent to US\$ 1500/- is payable at the time of signing the Agreement in respect of the processing of such agreement. Please note that these levies will incur GST/VAT liability.

Post approval services will be provided to your company by the Investor Services Department of the BOI at No. 14, Sir Baron Jayatillake Mawatha, Colombo - 01.

It should be noted that the validity of this letter of approval is subject to the condition that the Agreement with the Board will be signed within thirty (30) days from the date of this letter and the project should be implemented within ninety (90) days from the date of such agreement.

In the event, the project is not implement within the time schedule indicated above, the approval hereby granted will be automatically invalidated, unless such time schedule is extended at your request by the Board in writing.

Yours faithfully,

c<sup>cc</sup> Arjunna Mahendran  
CHAIRMAN/DIRECTOR GENERAL  
BOARD OF INVESTMENT OF SRI LANKA

- cc : Ministry of Ports Development & Shipping
- Director (Merchant Shipping)
- Exe. Director (Monitoring & PI)
- Exe. Director (R/D & S/P)
- Exe. Director (Legal)
- Exe. Director (I/S)
- Director (Engineering Approvals)
- Director (P/T)
- Director (Environment Management)

/dr 6121 d 22

Received.  
M. S. Mahendran  
15/07/2002



Annex 3

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය

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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1256/22 - 2002 ඔක්තෝබර් 01 වැනි අඟහරුවාදා - 2002.10.01  
No. 1256/22 - TUESDAY, OCTOBER 01, 2002

(Published by Authority)

## PART I : SECTION (I) — GENERAL

### Government Notifications

L.D.-B 4/78 III

#### THE BOARD OF INVESTMENT OF SRI LANKA LAW No. 4 OF 1978

REGULATIONS made by the Minister of Enterprise Development, Industrial Policy, Investment Promotion and Constitutional Affairs under Section 24 of the Board of Investment of Sri Lanka Law, No. 4 of 1978.

G. L. PEIRIS,  
Minister of Enterprise Development,  
Industrial Policy, Investment Promotion and  
Constitutional Affairs.

Colombo.  
25th September, 2002.

#### Regulations

The Board of Investment of Sri Lanka Regulation, No. 1 of 2002 published in *Gazette Extraordinary* No. 1242/29 of 28th June, 2002 are hereby amended as follows : —

(a) In regulation 2 thereof, by the insertion, immediately after paragraph (ii) of that regulation, of the following new paragraph (iii) —

(iii) that the provisions of the Inland Revenue Act, No. 38 of 2000 relating to the imposition, payment and recovery of income tax shall not apply to the profits and income for a period specified in column II below reckoned from the commencement of the commercial operation or production or from a date specified by the Board, of any existing or a new enterprise which is formed by the acquisition of assets of any existing enterprise to engage in the business relating to petroleum, power generation, transmission and development of highways, sea ports, air ports, railways, water services, public transport or any other infrastructure project approved by the Minister with an investment or additional investment of such value as specified in column I below, as the case may be within a period as may be determined by the Board.

Column I Additional/Investment (Rs. Mn.)	Column II Tax Exemption period (No. of years)
1,250-2,499	05
2,500-4,999	08
Above 5,000	10

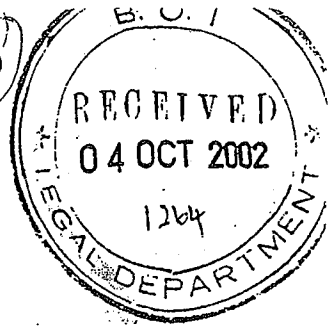
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H/S  
4/7*

*Annex 04*

# John Keells Holdings

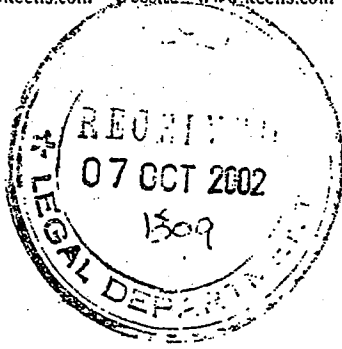
John Keells Holdings Limited

P.O.Box 76, 130, Glennie Street, Colombo 2, Sri Lanka.  
Telephone : 306000 (10 lines) 421101 (8 Lines) Fax : 447087, 439026  
e-mail : jkh@keells.com Website : www.keells.com



October 4, 2002

Mr.H.K. Seneviratne  
Executive Director, Legal  
Board of Investment of Sri Lanka  
Level 27, West Tower  
World Trade Centre  
Colombo 1



*EE/4/6121/02*

*475586*

*Mr W...*

Dear Sir,

### Investment in a company supplying heavy fuel oil, gas oil and marine lubricants

We refer to the recent discussions held with you whereat it was brought to your attention that the BOI regulations in relation to incentives provided under section 17 of the BOI Law have been revised to include specific relief to investments made in existing companies. In this context we specifically refer to the amendment made to the Gazette Extraordinary No 1242/29 of 28<sup>th</sup> June 2002.

This letter is sent with the express purpose of obtaining for the above investment, the tax relief that is provided to similar investments through such amendment.

As you are aware, John Keells Holdings Ltd (JKH) submitted an application dated March 21, 2002 for approval of the BOI for the above investment. The application was made in relation to JKH's proposed investment in a subsidiary of Ceylon Petroleum Corporation, namely Lanka Marine Service Ltd (LMS) that was to be sold via the privatization program of the Government. At the time of application JKH was not fully aware of the process and modality by which the investment would actually be made. Hence it was also stated that JKH intended to purchase and expand an existing company operating in a similar business.

LMS currently supplies fuel and marine lubricants (i.e. Petroleum Products) to vessels calling in at Ports of Sri Lanka. The main source of income is earned in foreign currency via the export of fuel and related products.

After a period of about 4 months after the initial application was made, the BOI by their letter dated 11<sup>th</sup> July 2002, gave conditional approval to JKH on the basis that the project should be entirely a new enterprise without the reconstitution of an existing enterprise or transfer of assets.

JKH made the said investment in the following manner.

As part of the Government's strategy for the liberalization of the petroleum sector in Sri Lanka, a 90% equity stake in Lanka Marine Services (Pvt) Ltd (LMS) was identified for divesture as part of the Government's privatization program.



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LMS was at that time the sole supplier of marine fuels and lubricants to vessels calling at ports of Sri Lanka, and a wholly owned subsidiary of the Ceylon Petroleum Corporation (CPC). The petroleum products sold and marketed by LMS were either imported or supplied by the CPC refinery in Sapugaskanda. The majority of the sales of LMS are export sales with a relatively small proportion of local sales.

Following a competitive tendering process conducted by PERC on behalf of the Government, JKH was selected as one of the shortlisted bidders for the privatization of LMS. In July 2002, JKH was awarded the transaction on the basis of JKH being the only bidder to meet the Government's minimum floor price of Rs. 1,199,362,500. Accordingly, the Share Sale & Purchase Agreement and other related privatization agreements were executed between JKH/LMS, the CPC, SLPA and Secretary to the Treasury on 20<sup>th</sup> August 2002.

As can be seen JKH was required to make a share investment in order to acquire the existing undertaking of LMS. Hence, the condition mentioned in the interim reply of BOI viz, the creation of a *new* company was not practicable.

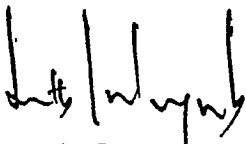
However, consequent to the recent amendment to the BOI Regulations, we are of the opinion that the acquisition of LMS in the aforesaid manner would qualify LMS to be brought within the purview of the tax and related concessions mentioned therein. We specifically refer to the amendment that provided a tax holiday to ***"....any existing or new enterprise which is formed by the acquisition of assets of any existing enterprise to engage in the business relating to Petroleum.....with an investment or additional investment of such value as specified in column I below as the case may be within a period as may be determined by the Board..."***

LMS is a company that has been actively engaged in business relating to the petroleum sector. An investment of Rs. 1,199 Mn was paid by JKH to acquire a 90% shareholding in the company. Further to such acquisition, LMS would also make additional investment of over Rs 600 Mn over the next few years to rehabilitate the existing storage and pipeline facilities, which would bring the total investment to over Rs 1,250 Mn. which is the threshold for the tax holiday of 5 years.

Based on the foregoing it is our view that LMS would qualify for a minimum of a 5 year tax exemption period under the above regulation as recently amended. Whilst a detailed application could be made to you in due course, **we would greatly appreciate if you could confirm that LMS would be granted such approval on the basis of the revised regulations.**

If you require any further information or clarifications please do not hesitate to contact me. An early reply would be much appreciated.

Yours faithfully  
**JOHN KEELLS HOLDINGS LTD**



Susantha Ratnayake  
Director

Annex 04

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# John Keells Holdings

John Keells Holdings Limited

P.O.Box 76, 130, Glennie Street, Colombo 2, Sri Lanka.  
Telephone : 306000 (10 lines) 421101 (8.Lines) Fax : 447087, 439026  
e-mail : jkh@keells.com Website : www.keells.com

475595

October 24, 2002

Dr. Nihal Samarappuli  
Executive Director, Investment & Appraisal  
Board of Investment of Sri Lanka  
Level 24, West Tower  
World Trade Centre  
Colombo 1



Dear Sir,

### Investment in a company supplying heavy fuel oil, gas oil and marine lubricants

Further to our recent letter dated 4<sup>th</sup> October, we have reviewed the BOI Letter of Approval and draft BOI Agreement sent by the BOI based on the previous BOI Regulations and, identified certain amendments that may be required in the context of the recent revisions made to the BOI Regulations.

A listing of the required amendments is attached herewith. We would appreciate the opportunity to discuss and finalise such changes with you prior to the issuance of the amended BOI Letter of Approval and Draft BOI Agreement.

Please also find attached for your information, an extract of the Share Sale & Purchase Agreement executed between the Government, the Ceylon Petroleum Corporation and John Keells Holdings Ltd for the sale of 90% of the shares in Lanka Marine Services (Pvt) Ltd for Rs. 1,199,362,500 and related correspondence on the award of the transaction.

If you require any further information or clarifications please do not hesitate to contact me. An early reply would be much appreciated.

Yours faithfully  
**JOHN KEELLS HOLDINGS LTD**

Susantha Ratnayake  
Director

Cc: Mr. H.K. Seneviratne, Executive Director- Legal

Handwritten initials and a circled '3'

Urgent.  
P. v. a. p.



## Some key changes required in the BOI Letter of Approval and Draft BOI Agreement

### Letter of Approval dated 11<sup>th</sup> July 2002

**1. General**

Should be reworded based on the revised BOI Regulations and our letter dated 4<sup>th</sup> October 2002.

**2. Heading of the Letter**

Should be re worded as:

*" Investment in a company supplying heavy fuel oil, gas oil and marine lubricants".*

**3. Paragraph 1**

This should be reworded, to reflect our recent correspondence and the revised BOI regulations:

*"The application dated 20<sup>th</sup> March 2002 forwarded by you and the letter dated 4<sup>th</sup> October 2002, relating to the acquisition of the assets/shares of an existing enterprise (Lanka Marine Services (Pvt) Ltd) that engages in the business relating to petroleum, including supply of heavy fuel oil, gas oil, and marine lubricants, were considered by the Board of Investment of Sri Lanka and the Board decided to approve the application subject to the terms and conditions stipulated below, which shall among others be included in the Agreement to be entered with the Board."*

**4. Item 2 (a)**

Tax holiday should be five years in terms of the new BOI regulations.

**5. Item 2(b)- 1<sup>st</sup> Paragraph**

Should be reworded on the basis that the tax rate applicable after the expiry of the tax holiday is the,

*" lower of 15% or the rate applicable in terms of the Inland Revenue Act No 38 of 2000."*

The existing incentives for large scale investment clearly state that the tax rate applicable for the period after the expiry of the tax holiday is 15%.

**6. Item 2(b)- 2<sup>nd</sup> Paragraph**

Replace with:

*" For the above purpose, the year of assessment shall mean the year in which the acquisition of assets/shares in the Enterprise was made."*

Normally the tax holiday period for new enterprises would commence in the year of assessment in which commercial operations commenced. Under the revised regulations the commencement date is said to be determined by the Board. As this application relates to the acquisition of an existing enterprise (LMS), can the Board determine the year of assessment for commencement of the tax holiday as the year in which Lanka Marine Services (LMS) was acquired i.e. 1<sup>st</sup> April 2002 to 31<sup>st</sup> March 2003.

7. Item 3 (a)(i)

Is this requirement necessary in the context of the revised regulations as, the BOI incentives are based on the investment threshold and not on the basis of the quantum of export proceeds.

8. Item 3 (a)(ii)

May not be relevant if Item 3 (a)(i) is removed.

If not, reword on the basis that a Statement certified by the Auditors is submitted by the Enterprise to ascertain the 70% export criteria instead of all commercial invoices that may be cumbersome to both parties.

9. Item 4

Need to include a section on tax exempt Dividends.

10. Item 6

Not applicable as LMS is an existing enterprise.

11. Item 8

Reference to Ministry of Port Development is not applicable.

12. Item 9(a)

Not applicable based on new BOI regulations.

13. Item 10

May not be applicable as this is an existing enterprise and not a new site. Therefore the issue of specific site clearance and approval by the BOI would not be applicable.

14. Item 12 (a)

Not applicable as LMS is an existing enterprise.

15. Item 12(b)(iii)

Not applicable.

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**Draft BOI Agreement dated 16<sup>th</sup> September 2002**

**1. Paragraph 1 on page 1**

The name of the Enterprise is Lanka Marine Services (Pvt) Ltd having its registered office at 130 Glennie Street, Colombo 2

**2. Paragraph 2 on page 1**

Should refer to the JKH letter dated 4<sup>th</sup> October referring to the revised BOI Regulations.

The third line after requested should be amended as

*" to engage in the business relating to petroleum, including the importation and supply of heavy fuel oil, gas oil, and marine lubricants ( hereinafter referred to as "the business"). "*

**3. Paragraph 3 on page 1**

Change letter reference date.

**4. Clause 4 (a)**

Not applicable as this is an existing business and not a new site. Therefore the issue of site clearance and approval by the BOI is not applicable.

**5. Clause 4 (b)**

Not applicable as the business is an existing business.

**6. Clause 5(b)**

Not applicable based on new BOI regulations.

**7. Clause 5(c)**

Is this requirement necessary in the context of the revised BOI regulations as, the BOI incentives are based on the investment threshold and not on the basis of the quantum of export proceeds.

If not add:

*" other than with the prior written approval of the Board"*

at the end of this clause.

**8. Clause 5(e)**

Delete reference to Ministry of Port Development as it is not applicable.

**9. Clause 6**

Should be reworded, as this is an existing business.

**10. Clause 10 (i)**

Tax holiday period should be five years:

For clarity can the following be added after the first paragraph.

*" Provided an initial investment and an additional investment of not less than Rs. 1,250 Mn is made through the acquisition of shares/assets and additional investment in the Enterprise."*

After the word Enterprise in the second paragraph add,

*" was acquired as determined by the Board"*

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**11. Clause 10(ii)**

Should be reworded on the basis that the tax rate applicable after the expiry of the tax holiday is the

*" lower of 15% or the rate applicable in terms of the Inland Revenue Act No 38 of 2000."*

Normally the tax holiday period for new enterprises would commence in the year of assessment in which commercial operations commenced. Under the revised regulations the commencement date is said to be determined by the Board. As this application relates to the acquisition of an existing enterprise (LMS), can the Board determine the year of assessment for commencement of the tax holiday, as the year in which Lanka Marine Services (LMS) was acquired i.e. 1<sup>st</sup> April 2002 to 31<sup>st</sup> March 2003.

**12. Clause 10(iii)**

Not applicable based on new BOI regulations.

**13. Dividends**

A new clause needs to be included on tax exemption on dividend distributions.

**14. Clause 10(v)**

Reference to Stamp Duty is not applicable.

**15. Clause 10(vi)**

Is this requirement necessary in the context of the revised regulations as, the BOI incentives are based on the investment threshold and not on the basis of the quantum of export proceeds.

If not, reword on the basis that a Statement certified by the Auditors is submitted by the Enterprise to ascertain the 70% export criteria instead of all commercial invoices that may be cumbersome to both parties.

**16. Clause 10(vii)**

It is assumed that this clause would cover the importation of fuel oil, gas oil and marine lubricants in addition to the import of project related items as approved by the Board. Can this exemption be effective from the year of assessment in which the acquisition of LMS was made or from the date of acquisition of LMS (i.e. 20.08.2002)

**17. Clause 20(a)**

Is this relevant.

**18. Second Schedule**

Should refer to application and JKH letter of 4<sup>th</sup> October 2002.



M/s John Keels Holdings  
No.130, Glennie Street,  
Colombo 02.

31.10.2002

EC/4/6121/02

Dear Sirs

**ACQUISITION OF LANKA MARINE SERVICES LTD - SUPPLYING OF HEAVY FUEL OIL AND MARINE LUBRICANTS**

We refer to the application dated 20th March 2002 forwarded by you to set up an enterprise to supply heavy fuel oil and lubricants to the marine bunker market and our letter dated 11.07.2002 approving the said application and your subsequent letters dated 04<sup>th</sup> & 24<sup>th</sup> October 2002 requesting approval to Lanka Marine Services Ltd in accordance with the regulation No. 1 of 2002 as amended on 01<sup>st</sup> October 2002 by a Gazette Notification No. 1256/22.

We are pleased to inform you that having considered the your application dated 20<sup>th</sup> March 2002 and your letter dated 04<sup>th</sup> October 2002 relating to the acquisition of Lanka Marine Services Ltd which engages in the business relating to petroleum including supply of heavy fuel oil, gas oil and marine lubricants, the Board has decided to approve the proposal subject to the terms and conditions stipulated below; which shall among others be included in the Agreement to be entered into with the Board.

- (1) Lanka Marine Services Ltd is granted approval to operate under Sec. 17 of BOI Law, No. 4 of 1978.
- 2) a). For a period of five (05) years reckoned from the year of assessment as may be determined by the Board, the provisions of the Inland revenue Act No.38 of 2000 relating to the imposition, payment and recovery of income tax in respect of the profits and income of the enterprise shall not apply to the profits and income of the enterprise.
- b). After expiration of the tax exemption period indicated in (2) (a) above, the provisions of the Inland Revenue Law for the time being in force shall apply for the enterprise.

For the above purpose, the year of assessment shall mean the year in which the enterprise entered into an agreement with the Board.

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- (3) a). The Tax Concessions stated at clause (2) above are granted to your enterprise subject to the following conditions:
- i) Initial investment to be made by you in Lanka Marine Services Ltd should not be less than Rs. 1,250 Mn.
  - ii) At least 70% of the turnover of the enterprise should be received in convertible foreign currency.
  - iii) Annual Income Statement certified by the auditors of the company should be submitted to the Board for the purpose of ascertaining 70% exports income indicated (i) above.
- b). If your project does not meet the criterion as indicated in (a) above, the Board reserves the right to withdraw all or any of the concessions granted to your enterprise.
- (4) a). The shares of the Enterprise may be allotted or transferred to residents or non-residents. However, you are required to notify the Board of all details of such allotments/transfers at least 30 days prior to the date on which each such transaction will be effected.
- b). In the event, shares are allotted or transferred to non-residents, each such investor will be eligible to obtain a recommendation for resident visa only if a minimum investment of US\$.50,000/- is invested by him.
- (5) An annual fee of Sri Lanka Rupee equivalent to US\$ 2000/- is payable to the BOI in respect of the Enterprise.
- The first annual payment of Sri Lanka Rupee equivalent to US\$ 2000/- is payable at the time of signing of the Agreement.
- The Board may once in every three years from the date of execution of the Agreement revise and determine the quantum of the Annual Fee payable by the enterprise.
- (6) An amount not exceeding thirty percent (30%) of the turnover may be received in local currency which is liable for applicable fiscal levies.
- (7) The plant machinery and equipment to be used for the purpose of the enterprise shall be new. However, the importation of used plant machinery and equipment will be permitted, provided that on or before the date of each such import, a valid certificate from a surveyor of international repute is furnished to the Board, certifying the quality and value thereof.
- (8) You should obtain clearance for your site at No.69, Walls Lane, Colombo 15, from Director (Engineering Approvals) of BOI.

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(9) Your project would be entitled to import project related items that are directly related to the project as approved by the Board free of custom duty. For this purpose, a list of items to be imported/purchased locally on duty free basis with approximate quantities and values should be submitted to the Board for consideration and approval before signing of the Agreement.

(10) It will now be necessary for you to make the following arrangements :

a). Introduce necessary amendments if any to the Memorandum & Articles of Association of the existing company in consultation with the Exe. Director (Legal) of the Board.

Please forward the amended Memorandum and Articles of Association for scrutiny and approval by the Exe. Director (Legal) of the Board.

b). After completing above (a), please forward the following documents to the Exe. Director (Legal), who will then prepare the Draft Agreement.

- i. Memorandum and Articles of Association of the Company and the Certificate of Incorporation.
- ii. List of goods, wares and merchandise to be imported on duty free basis mentioned at clause (9) above, approved by the Board and the list of goods, wares and merchandise that would be exported.
- iii. Certified entries obtained from the Registrar of Companies relating to the particulars of Directors and the Registered Office of the Company.

On receipt of the documents listed above, the draft of the Agreement to be signed between your Enterprise and the Board will be forwarded to you by the Exe. Director (Legal) of the Board for approval.

Thereafter, please forward the approved Draft Agreement with the following to the Exe. Director (Legal) :-

Certified copy of the minutes of meeting of the Company, approving the final Draft Agreement, approved by our Exe. Director (Legal) and empowering two named Directors of the Company to affix the Common Seal of the Company to an engrossment and attest. The Company should also resolve to be bound by the undertakings, representations, commitments and proposals made for and on its behalf.

A date could then be arranged for the signing of the Agreement and payment of monies under the Agreement. In addition to the levies indicated in clause five (05) above, a fee of Sri Lanka Rupee equivalent to US\$ 1500/- is payable at the time of signing the Agreement in respect of the processing of such agreement. Please note that these levies will incur VAT liability.

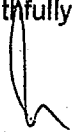
Post approval services will be provided to your company by the Investor Services Department of the BOI at No. 14, Sir Baron Jayatillake Mawatha, Colombo - 01.

It should be noted that the validity of this letter of approval is subject to the condition that the Agreement with the Board will be signed within thirty (30) days from the date of this letter.

Please note that our letter of approval issued to you on 11.07.2002 granting approval for a new company is hereby withdrawn.

If you need any further clarification with regard to contents of this letter of approval, please feel free to contact your Project Officer, Mr W A G Jayathilleke on Tel: No. 346341 and Fax No. 346629.

Yours faithfully,



Arjunna Mahendran  
CHAIRMAN/DIRECTOR GENERAL  
BOARD OF INVESTMENT OF SRI LANKA

- cc : Exe. Director (Monitoring)
- Exe. Director (R/D & S/P)
- Exe. Director (Legal)
- Exe. Director (I/S)
- Exe. Director (P/I)
- Director (Engineering Approvals)
- Director (Environment Management)

/kw c 6121

Checked By :  
 Name: W.A.G. Jayathilleke  
 Designation: *Mano Jr*  
 Signature: *[Signature]*  
 Date: 31-10-2002

Prepared By :  
 Name: H.G. Suresh  
 Designation: *Assist. Manager*  
 Signature: *[Signature]*  
 Date: 31.10.02

*cy 5/11/02*

(2612)  
H.O. (82)

Annex 06

NO: ....

THIS AGREEMENT MADE AND ENTERED into at Colombo in the Democratic Socialist Republic of Sri Lanka on this 02nd day of December, Two Thousand and Two between the BOARD OF INVESTMENT OF SRI LANKA a body corporate established under the Board of Investment of Sri Lanka Law No. 4 of 1978 presently having its Principal Office in the West Tower, World Trade Centre, Echelon Square, Colombo 01 (hereinafter called and referred to as "the Board") of the One Part and LANKA MARINE SERVICES (PRIVATE) LIMITED a limited liability company incorporated in Sri Lanka under the Companies Act No. 17 of 1982 and having its Registered Office in the premises situated at premises No. 130, Glennie Street, Colombo 02 (hereinafter referred to as "the Enterprise") of the Other Part.

W I T N E S S E T H

WHEREAS by application dated 20th March, 2002 and letters dated 4th and 24th October, 2002 made by M/s John Keells Holdings, No. 130, Glennie Street, Colombo 02 that approval was requested relating to the acquisition of the Enterprise engaging in the business relating to petroleum including supply of heavy fuel oil, gas oil and marine lubricants (hereinafter referred to as "the business") on the on-shore site at No. 69, Walls Lane, Colombo 15 (hereinafter referred to as "the site") and situated outside the Area of Authority of the Board.

AND WHEREAS the Board has approved the said application of the Enterprise subject to the terms and conditions referred to in the Board's letter dated 31st October 2002 and subject to the terms and conditions hereinafter set out.

NOW THIS AGREEMENT FURTHER WITNESSETH that in pursuance of the foregoing premises the parties hereto have agreed as follows:-

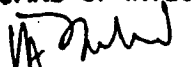

PART I  
RIGHT TO OPERATE

- (1) The Enterprise shall be entitled to and shall set up/conduct and operate the business in accordance with undertakings, representations, commitments and proposals made by the Enterprise and set out in the said application and as set out in this agreement and the correspondence enumerated in the Second Schedule hereto and subject to the terms and conditions hereinafter provided and subject to the provisions of the said Law No. 4 of 1978 and any amendments thereto and other rules and statutory regulations as may be applicable thereto.
- (2) The Enterprise shall pay to the Board on or before the execution of these presents an annual fee of the Sri Lanka Rupees One Hundred and Ninety Two Thousand Seven Hundred (Rs. 192,700/-) being the Sri Lanka Rupee equivalent of United States Dollars Two Thousand (US\$ 2000/-). Thereafter the annual fee of the Sri Lanka Rupee equivalent of the United States Dollars Two Thousand (US\$ 2000/-) shall be paid by the Enterprise to the Board on or before the tenth day of the first month in each year from the date hereof. Provided however, that the Board once in every three (03) years from the date hereof may revise and determine the annual fee aforesaid.
- (3) The right of the Enterprise to set up/conduct and/or operate the business shall be exclusive to the Enterprise only and shall not be assigned or transferred without the prior written consent of the Board.
- (4) The Enterprise shall obtain clearance to the site from the Director (Engineering Approvals) of the Board.
- (5) (a) In the conduct of and/or operation of the business the Enterprise shall observe and implement all rules regulations and requirements pertaining to the maintenance of safety precautions, sanitation and pollution as may be prescribed by law and/or by the Board.  
(b) At least seventy per cent (70%) of the turnover from the Enterprise shall be received in convertible foreign currency. An amount not exceeding thirty per cent (30%) of the turnover may be received in

the local currency subject to the payment of relevant custom duty and other applicable levies including income tax.

- (c) The Enterprise shall not assign its business to any person or body of persons without prior written approval of the Board.
  - (d) The Enterprise shall adhere to the terms and conditions to be imposed by the Director, Shipping (Merchant Division) and Marine Pollution Prevention Authority with regard to operation of the business.
  - (e) The Enterprise shall import only new plant, machinery and equipment for the purpose of the business. However the importation of used plant, machinery and equipment shall be permitted, provided that on or before the date of each such import a valid certificate from a Surveyor of International repute is furnished to the Board certifying the quality and value thereof.
- (6) The Enterprise shall acquire good title to the site and submit a copy of the title deed to the Board within a period of one (01) year from the date hereof and/or within any extended period as may be granted by the Board on written request.
- (7) The Enterprise shall employ for the purpose of the business only persons who are citizens of Sri Lanka. Provided however that the Enterprise may with the prior written approval of the Board employ foreign nationals whom the Enterprise considers necessary and indispensable for the proper and efficient functioning of the business.
- (8) (a) The Enterprise shall offer to all employees who are citizens of Sri Lanka such terms and conditions of service as are not less favourable than the minimum terms and conditions of service as may be prescribed by the Board from time to time relating to wages, hours of work, overtime, leave, provident fund, welfare facilities, safety precautions and workmen's compensation.
- (b) The Board in prescribing the said minimum terms and conditions of service shall have regard to the practices, rules, collective agreements and standard terms and conditions of service applicable to employees in comparable categories in the private sector.

- (c) The Enterprise shall refer to the Board any industrial dispute between the Enterprise and its employees for settlement by the Board by conciliation or arbitration.
- (9) (a) The Enterprise shall set up and maintain an effective accounting system which shall include details relating to disbursement of capital both foreign and local including distribution of the share capital, details relating to sources of loans foreign as well as local, details of operational costs, details of employment in various categories, details relating to volume of import and earnings and details relating to revenue and expenditure and such other details as may be requested by the Board and the Enterprise will make available to the Board whenever necessary the books of account and/or records and/or the details of the same including the revenue and expenditure in foreign currency of the business as distinct from such revenue and expenditure in Sri Lanka currency.
- (b) Within six (06) months of the end of the financial period of the Enterprise, the Enterprise shall submit to the Board statements of accounts and statistics including a report indicating the results of a physical verification carried out on the capital goods imported by the Enterprise on duty free basis during the financial year as aforesaid duly audited by a member of the Institute of Chartered Accountants in Sri Lanka.
- (10) In accordance with and subject to the powers conferred on the Board under section 17 of the said Law No. 4 of 1978 and regulations that may be applicable thereto the following benefits and/or exemptions and/or privileges are hereby granted to the Enterprise in connection with and/or in relation to the business.
- (i) For a period of five (05) years reckoned from the year of assessment as may be determined by the Board (hereinafter referred to as the "tax exemption period") the provisions of the Inland Revenue Act No. 38 of 2000 relating to the imposition, payment and recovery of income tax in respect of the profits and income of the Enterprise shall not apply to the profits and income of the Enterprise.

BOARD OF INVESTMENT OF SRI LANKA	
	
.....	.....
Director General.	Member.

*Amirawala*  
*12/1/2008*



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For the above purpose the tax exemption period shall commence from the date of this Agreement.

- (ii) After the expiration of the tax exemption period referred to in sub-clause (i) above, the profits and income of the Enterprise shall be subject to the Inland Revenue laws for the time being in force.
- (iii) All dividends paid to shareholders of the Enterprise whether resident or non-resident shall not be liable to any income tax during the tax exemption period of five (05) years plus an additional year if such dividend is paid out of the profits and income of the Enterprise which are exempt from income tax.
- (iv) The business and the capital or assets employed or used in the business or improvements and returns belonging to the Enterprise shall not be liable to acquisition expropriation and/or nationalization and the capital investment of non-resident shareholders and/or foreign companies in the Enterprise the returns thereon as well as any proceeds and/or entitlement thereon upon liquidation, shall be transferable and shall not be subject to any exchange control or other like restriction.
- (v) The shares of the said Enterprise may be allotted or transferred within and outside Sri Lanka to residents or non-residents and such allotments or transfers shall not be subject to tax or restriction provided however that such transactions are subject to the condition that the Board shall be informed thirty (30) days prior to all such transfers or allotments. This requirement to inform the Board thirty (30) days in advance would not be applicable if the Enterprise becomes a public listed company.
- (vi) The Enterprise shall be entitled to the tax concessions referred to in sub-clauses (i), (ii) and (iii) of Clause (10) hereof on the following specific undertakings of the Enterprise that -
  - (a) initial investment made in acquiring the Enterprise and any additional investment shall not be less than Rupees One Thousand Two Hundred and Fifty Million (Rs. 1250 Mn); and

- (b) at least seventy per centum (70%) of the turnover from the Enterprise shall be received in convertible foreign currency, and
- (c) the annual income statement certified by the auditors of the Enterprise shall be submitted to the Board for the purpose of ascertaining seventy per centum (70%) of the turnover referred to in sub-para (b) above.
- (vii) All imports of project related items that are directly related to the project approved by the Board to be used for and by the Enterprise for the purpose of the business, shall not be liable to any custom duty. Provided that this exemption shall not apply to any personal effects imported by the Enterprise for the private and personal use of any person in the Enterprise, and provided that the Board reserves to itself the right to cause or permit to be caused the examination of any imports for purposes connected with this Agreement.
- (viii) The provisions of Parts I, IA, II, III, IV, V, VA and VI of the Exchange Control Act shall not apply to or in relation to the business of the Enterprise. This exemption is applicable solely to the business of the Enterprise.
- (ix) In the event of the Enterprise failing to comply with the requirements specified in sub-clause (vi) of Clause (10) hereof the Board shall have the right and the Board in the exercise of such right notwithstanding the provisions herein mentioned may withdraw all or any of the concessions, rights, privileges and benefits including the tax concessions granted to the Enterprise in any manner whatsoever at any time and such withdrawal shall come into force from the date specified by the Board and thereafter the Enterprise shall be bound by such withdrawal.
- (x) The provisions of the laws set out in Schedule B of the said Law No. 4 of 1978 which are inconsistent with the benefits and/or exemptions and/or privileges set out in sub-clauses (i) to (viii) above shall not be applicable to the Enterprise in relation to the business. The Enterprise shall be subject to all other laws, not referred to in Schedule B of the Law No. 4 of 1978 save and except any

exemptions and/or benefits and/or privileges specifically granted to it by such other laws and/or orders, regulations framed thereunder.

(11) (i) In the event of any default and/or failure on the part of the Enterprise in performing or complying with any duty or obligation imposed on the Enterprise by this Agreement and/or any failure to comply with any representations, undertakings or commitments referred to in Clause (1) of this Agreement, the Board may by notice in writing, immediately withdraw and/or cancel all rights, privileges and benefits conferred in terms of this Agreement, in toto or in part, effective from the date as may be specified by the Board.

(ii) In the event of the Board withdrawing and/or cancelling in toto or in part the rights, privileges and benefits as aforesaid the approval granted to the Enterprise shall deemed to have been cancelled, and all rights and privileges conferred upon the Enterprise for and in connection with conducting and/or operating the said business shall thereupon cease, without prejudice to any claim by the Board against the Enterprise arising out of the breach of any covenant or term of this Agreement. The Enterprise if so determined by the Board, shall be liable to pay the customs duty and other levies as determined by Sri Lanka Customs on the items imported on duty free basis by the Enterprise for the purpose of the said business. The Enterprise shall have the right, if approved by the Board in writing to sell/transfer the items referred to above to any other Enterprise eligible for duty free facility in respect of same or to re-export same free of customs duty or restrictions provided the Board reserves to itself the right to cause or permit to be caused the examination of such goods/items for the purpose of this Agreement.

(iii) If the Board is of the opinion that any default and/or failure referred to in sub-clause (i) above is unintentional the Board may first serve a written warning on the Enterprise requesting the Enterprise to remedy the default and/or to comply with this Agreement and/or such representations, undertakings or commitments referred to in Clause (1) of the Agreement within such period as may be prescribed by the Board. If at the expiry of such period, the Enterprise has without justification failed to act in accordance

with such warning the Board shall act in accordance with sub-clause (i) above.

PART II  
GENERAL PROVISIONS

(12) The Enterprise shall at all times comply with and observe all laws, regulations and statutory provisions as well as rules laid down by the Board, relating to sanitation health safety planning (including aesthetic planning) and pollution in the construction and maintenance of buildings on the site.

Further, the Enterprise shall take all suitable protective measures as may be stipulated by the National Environmental Act No. 47 of 1980 and the Regulations framed thereunder to control possible pollution and other hazards resulting from the business of the Enterprise.

(13) The Enterprise shall at all times keep its buildings, plant, machinery, equipment, furniture, fittings, fixtures and goods on the site insured against loss or damage by fire with an authorized insurer registered under the Regulation of Insurance Industry Act No. 43 of 2000.

(14) If the Enterprise shall enter into liquidation whether voluntary or otherwise or enter into any agreement or make any arrangements with its creditors for liquidation of its debts by composition or otherwise then and in any of the said events it shall be lawful for the Board to cancel and/or withdraw by a notice in writing addressed to the said Enterprise all rights, privileges and benefits imposed upon the Enterprise in terms of this Agreement and the approval granted to the Enterprise in terms of this Agreement shall thereupon cease.

(15) This Agreement shall be registered by the Board under Section 17(2) of the said Law No. 4 of 1978 and a certificate of such registration shall be issued to the Enterprise within ten (10) days of the receipt of this Agreement by the Board after attestation of same by the Notary retained by the Enterprise.

BOARD OF INVESTMENT OF SRI LANKA  
*[Signature]*  
.....  
Director General.                      *[Signature]*  
.....  
Member.

*[Handwritten signature]*  
*[Handwritten signature]*

(20)

(1)

- (16) Notwithstanding Section 26(I) of the said Law No. 4 of 1978 all disputes relating to the interpretations of the provisions of this Agreement or to the rights of the parties hereto under this Agreement shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more Arbitrators appointed in accordance with the said Rules, provided however that unless the parties hereto otherwise agree the venue of the said arbitration proceedings shall be at Colombo. Any award made by the said arbitrator or arbitrators shall be final and binding on the parties hereto and it may be enforced by either of the parties hereto in the High Court of Sri Lanka holden in the judicial zone of Colombo or holden in such other zone as may be designated by the Minister in terms of the Arbitration Act, No. 11 of 1995 and subject to the provisions relating to the enforcement of such awards in the said Act.
- (17) The Board its agents and servants shall maintain the utmost secrecy in respect of all such information and data furnished from time to time by the Enterprise to the Board in its application, reports and correspondence for the purpose of the business of the Enterprise.
- (18) This Agreement shall be construed and enforced according to the Laws of Sri Lanka and the High Court or District Court of Colombo in Sri Lanka as the case may be, shall be the Court of competent jurisdiction for any cause of action or dispute arising under this Agreement.
- (19) Notice required hereunder or by law and/or any rules or statutory regulations to be served upon either of the parties hereto shall be deemed to be sufficiently served if sent by registered post to the address of the said party as set out in this Agreement and/or such other address previously designated by the said party in writing.
- (20) For the purpose of this Agreement unless the context otherwise requires:-
  - (a) "Area of Authority" shall mean the Area depicted in the plan referred to in Schedule 'A' of the Board of Investment of Sri Lanka Law No. 4 of 1978.
  - (b) "Board" shall mean the Board of Investment of Sri Lanka established under and in terms of Law No. 4 of 1978 and shall include the agents and servants of the said Board.

- (c) "Enterprise" shall mean Lanka Marine Services Limited.
- (d) "Month" shall mean any consecutive period of thirty (30) days.
- (e) "Year" shall mean any consecutive period of three hundred and sixty five (365) days.

**THE FIRST SCHEDULE ABOVE REFERRED TO :**

All that allotment of land marked Lot 1 being a part of Lot 2 depicted in PP 16982 authenticated by Surveyor General of the land called Bloemendhal Mills premises belonging to the State bearing Assessment No. 69, Walls Lane, situated at Ward No. 4, Aluth Mawatha within the Municipal Limits of Colombo and in the A.G.A.'s Division of Colombo in the District of Colombo, Western Province and bounded on the North by Premises bearing Assessment Nos. 59, 59(3), 59(4), 59(5), 59(6), 59(7), 59(8), 47/23, 37/46, Walls Lane and Assessment No. 65(1), Bloemendhal Road; on the East by Premises belonging to the Bloemendhal Police and Premises belonging to the Ports Authority; on the South by K. Cyril C Perera Mawatha (Bloemendhal Road) and Walls Lane; and on the West by Walls Lane and containing in extent Three point Four Nine Six Six Hectares (3.4966 Ha.) or Eight Acres Two Roods and Twenty One point Four Four Perches (8A-2R-21.44P) according to P.Plan No. Co. 7454 dated July - September 1993 made by the Surveyor General.

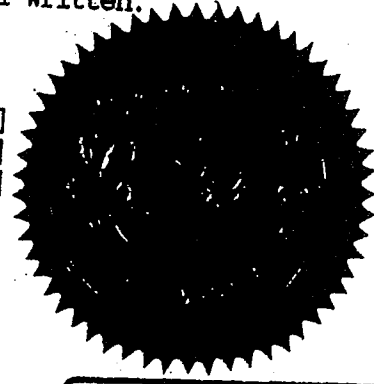
**THE SECOND SCHEDULE ABOVE REFERRED TO :**

Date	From	To	Particulars
20.03.2002	John Keells Holdings	B O I	Project Application.
04.10.2002	- do -	- do -	Amendment to project application.
31.10.2002	B O I	John Keells Holdings	Letter of approval.
06.11.2002	- do -	- do -	Draft Agreement for approval.
25.11.2002	- do -	- do -	Revised Draft Agreement for approval.
28.11.2002	- do -	- do -	Amended Draft Agreement for approval.
29.11.2002	- do -	- do -	Amended Draft Agreement for approval.

(82)

IN WITNESS WHEREOF the said BOARD OF INVESTMENT OF SRI LANKA and the said LANKA MARINE SERVICES (PRIVATE) LIMITED have affixed their respective Common Seals hereunto and to three others of the same tenor and date as these presents at the place and on the date at the beginning hereof written.

The Common Seal of the BOARD OF INVESTMENT OF SRI LANKA was affixed hereunto in the presence of two of its Members namely ] ] ]



and in the presence of the following witnesses:-

- 1.
- 2.

BOARD OF INVESTMENT OF SRI LANKA	
..... Director General.	..... Member.

The Common Seal of LANKA MARINE SERVICES (PRIVATE) LIMITED was affixed hereunto in the presence of two of its Directors namely ] ] ]



and in the presence of the following witnesses:-

- 1.
- 2.

HKS/ap/mr

**VASUDEVA NANAYAKKARA**

49 1/1, VINAYALANKARA MAWATHA  
COLOMBO 10.  
TEL: 5374361 / 4939207

24<sup>th</sup> December 2007

Mr. Prema Cooray  
Secretary General / CEO  
The Ceylon Chamber of Commerce  
50, Nawam Mawatha  
Colombo 2.

Dear Sir,

**Award for Best Corporate Citizen for Corporate Social Responsibility (CSR)**

I was amazed that the Ceylon Chamber of Commerce, the premier business Chamber in the country, awarded the Best Award for CSR to John Keells Holdings Ltd.

I had instituted a Fundamental Rights Application in the Supreme Court on the scandalous and fraudulent acquisition by John Keells Holdings Ltd., of 90% Shares of Lanka Marine Services Ltd. (LMSL). The Supreme Court having considered my Petition has already granted Leave to Proceed and the matter is pending hearing before the Supreme Court.

I understand that prior to such Award, that you had been notified of the foregoing and that a copy of the Petition had been forwarded to you, cautioning you in this very regard.

Subsequent to the filing of my Pétition, I have come to reliably know, so also the Secretary to H.E. the President, that BOI had granted special approval, with tax concessions for John Keells Holdings Ltd., for a project to carry out marine bunkering business.

John Keells Holdings Ltd.'s Application dated 20.3.2002 submitted by Mr. Susantha Ratnayake to set up an enterprise for marine fuel bunkering business had been granted approval by the BOI on 11.7.2002, granting a tax holiday for 3 years, a tax rate of 10% for 2 years, and 15% thereafter.

Very significantly, then PERC Chairman, Dr. P.B. Jayasundera by his Letter dated the very next day, 12.7.2002 addressed to Mr. Susantha Ratnayake awarded the 90% Sale of Shares of LMSL to John Keells Holding Ltd., which was promptly accepted by Letter of same date by John Keells Holdings Ltd., signed by Mr. Susantha Ratnayake.

Then Minister of Enterprise Development, Mr. G.L. Peiris by Gazette Extra-ordinary No. 1256/22 dated 1.10.2002 gazetted BOI concessions, among other things, in respect of the business of marine fuel bunkering and extended the tax holiday for 5 years, confirmed by BOI Letter dated 31.10.2002.

There was no new project set up by John Keells Holdings Ltd., for marine fuel bunkering business. The purchase price which they paid for the 90% Shares of LMSL was deemed to be their investment qualifying them to enjoy a tax holiday and a continuing tax concession for purchasing the Shares of a profitable government company, at a highly under valued price, with the transfer of 8 ½ Acres valuable government land on a fraudulent document, without any payment therefor.



In the foregoing facts, the conduct by your supposedly prestigious Chamber, is not only an affront to the Supreme Court, the highest judiciary in this country, which you ought to have respected, but also is an attempt to baptise as good, what is patently despicable and injurious to society, warranting condemnation and punishment by your Chamber for such corporate social irresponsibility, than give the Best Award for corporate social responsibility. This only demonstrates your deplorable standards and values.

I reliably understand that your President, Mr. Mahen Dayananda, had endeavoured to justify the selection on the basis that the Hon. Attorney General, Mr. C.R. de Silva P.C. had been a Member of the selection panel. If that be true, I am indeed appalled that he had compromised himself to be so associated, whilst as Hon. Attorney General, he is a Respondent in the above Fundamental Rights Application filed in the public interest, and ought to have known better to act to protect the public interest.

I shall be placing the foregoing facts before the Supreme Court.

Yours faithfully,



Vasudeva Nanayakkara