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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

STRATEGIC DEVELOPMENT PROJECTS ACT, No. 14 OF 2008

Notification under Section 3(2)

BY virtue of the powers vested in me in terms of Section 3(2) of the Strategic Development Projects Act, No. 14 of 2008 as amended, I, Lakshman Yapa Abeywardena, being the Minister in charge of the subject of Investment Promotion, in consultation with the Minister in charge of the subject of Finance, do by this Notification -

(1) Identify as a Strategic Development Project for the purposes of the aforesaid Act, the project for the development of Colombo Port City in two phases for the construction of wave protection breakwater, land reclamation, ground improvement, revetment, canals to connect seawater, artery roads, utilities with a total investment of United States Dollars One Thousand Three Hundred Million (US\$ 1,300 Mn) which will bring significant economic and social benefit to the country by creating a new land in extent of Two Hundred and Thirty Three Hectares (233 Hec.) and attracts strategic importance, in view of the substantial contribution :

- (i) development of Colombo Port City creating a new land in extent to Two Hundred and Thirty Three Hectares (233 Hec.) which attracts highest priority in economic development as per the development strategy of the Government ;
- (ii) through the inflow of foreign exchange and the strategic importance of the development of Colombo Port City with the total investment of United States Dollars One Thousand Three Hundred Million (US\$ 1,300 Mn) within the Project Implementation Period of Eight (08) years from the date of the Agreement signed between the Board of Investment of Sri Lanka and the Project Company ;
- (iii) through potential employment generation and consequent income earning opportunities for the people of Sri Lanka ; and
- (iv) towards changing the landscape of the country with the construction of Colombo Port city and the consequent large foreign exchange turnover that could be generated.



(2) The Project Company is CHEC PORT CITY COLOMBO (PRIVATE) LIMITED ("The Project Company"). The date of commencement of implement and commence commercial operations of the Project shall be within Eight (08) years from the date of the Project Agreement signed between the Board of Investment of Sri Lanka and the Project Company.

(3) Specify that for the purposes of the aforesaid project, in terms of the Strategic Development Projects Act, No. 14 of 2008 as amended, the exemptions set out in this Notification shall apply to the Project Company.

SCHEDULE

(1) Inland Revenue Act, No. 10 of 2006

(i) *Corporate Income Tax*

The provisions of the Inland Revenue Act, No. 10 of 2006 relating to the imposition of income tax on the Project Company on the profit and income generated from the activities from the said Project shall not apply for a period of twenty five (25) years ("Tax Exemption Periods").

The said Tax Exemption Period shall commence from the year in which the Project Company makes taxable profit or six (06) years after commencement of construction of the project, whichever falls first.

Provided that after the expiration of the aforesaid Tax Exemption Period income tax in respect of the profits and income of the Project Company shall be payable in terms of the provisions of the Inland Revenue Act for the time being in force.

(ii) *Tax on Dividends*

Dividends distributed to the shareholders out of the exempted profit shall be exempted from the income tax during the said tax exemption period of twenty five (25) years and one (01) year thereafter.

(iii) *Withholding Tax*

The Project Company shall be exempted from the payment of Withholding Tax on the following :

- (a) on interest on foreign loans taken for capital expenditure and on technical fees paid to consultants ;
- (b) on management fees and royalty payments provided however that total of such charges does not exceed three per centum (3%) of the gross operating revenue ;
- (c) on marketing fees provided however the total of such fees does not exceed one point five per centum (1.5%) of the gross operating revenue ; and
- (d) on incentive management fees provided however the total of such fees does not exceed ten per centum (10%) of the gross operating profit.

(iv) *PAYE Tax*

The expatriate staff of the Project Company shall be exempted from the payment of 'Pay as You Earn Tax' (PAYE) subject to a restriction that this concession shall apply subject to the maximum number of thrity (30) employees at any given time. Subject to such ceiling, this exemption shall be applicable for a expatriate project implementation period and for expatriate project operational staff for a period of ten (10) years from the date of commencement of commercial operations of the Project. Provided however, no single employee could be given this exemption for a period in excess of ten (10) years. Further, the Project Company shall be required to gradually replace expatriate staff with local employees on a best efforts basis.

(2) Value Added Tax (VAT) Act No. 14 of 2002

The importation of project related goods and services and the local purchases of project related goods and services as approved by the Board of Investment of Sri Lanka and services during the Project Implementation Period of eight (08) years shall be exempted from charge and payment of Value Added Tax (VAT) under Value Added Tax Act, No. 14 of 2002 as amended. The deferment as permitted in the VAT Act shall be applicable not only for direct supplies to the Project Company but also for supplies made to a contractor or by a sub-contractor to a contractor.

The Project Company shall be liable for the payment of VAT on value of supply as defined in the VAT Act, No. 14 of 2002 on the commencement of commercial operations.

(3) Ports and Airports Development Levy (PAL) Act, No. 18 of 2011

The payment and charge of Ports and Airports Development Levy (PAL) shall be fully exempted on all items imported as approved by the Board for implementing the said Project (whether directly imported by the Project Company or sourced through contractors or subcontractors) during the Project Implementation Period of eight (08) years.

(4) The Finance Act, No. 5 of 2005

Finance Act, No. 5 of 2005 as amended shall be exempted for the payment of Construction Industry Guarantee Fund Levy to the contractor/s and subcontractor's of the Project Company.

(5) Excise (Special Provision) Act, No. 13 of 1989

Import of project related items as approved by the Board of Investment of Sri Lanka shall be exempted from the Excise Duty Payment during the project implementation period of eight (08) years.

(6) The Sri Lanka Export Development Act, No. 40 of 1979

Import of project related items as approved by the Board of Investment of Sri Lanka shall be exempted from the payment of CESS during the project implementation period of eight (08) years.

(7) Nation Building Tax (NBT)

The project company shall be exempted from the Nation Building Tax during the Project Implementation Period of eight (08) years.

(8) Customs Duty on Importation of Project Related Items [Customs Ordinance - Chapter 235]

Exemption from Customs Duty will be applicable to all project related items in capital nature and any other project related items as approved by the Board of Investment of Sri Lanka imported in the name of the Company implementing the Project in relation to items so imported solely for the purpose of the Project whether directly imported by the Company or sourced through the contractors or sub-contractors to the contractors provided that the goods consigned in the name of the Company other than the items mentioned in the Negative List within the project implementation period of Eight (08) years. The Items in the Negative List will be also exempted from the Customs Duty where such items are either not wholly produced in Sri Lanka or are unavailable in sufficient quality, quantity and time lines for Project completion.

As such, in general, project related goods could be imported through a contractor or a sub-contractor in respect of the project within the Project Implementation Period of Eight (08) years as provided above, only if the Project Company is named as the consignee of such goods. Hence, if such imports have been done along with any other

imports, the Project Company shall be solely responsible to ensure that the concessions noted herein shall be available only to project related goods of the Project Company. If so, any reason this condition has been violated, taxes and levies payable under laws and regulations prevailing at the time shall apply to all goods that do not form part of project related goods for the project and such taxes shall become payable forthwith. It is noted that any personal effects imported by the Project Company for the private/personal use of any employee, consultant or any other of the Project Company shall not be treated as project related goods. It is further noted that in view of the exemptions/concessions granted to the Project Company under the Strategic Development Projects Act, no. 14 of 2008, no tenant or any other party associating with the project or the project company will be granted any exemptions or concessions in view of or consequent to such association.

LAKSHMAN YAPA ABEYWARDENA, MP
Minister of Investment Promotion.

Colombo,
24th January, 2014.

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