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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Proclamations &c., by the President

P. O. No. CSA/4/COM/04

**BY HIS EXCELLENCY MAHINDA RAJAPAKSA PRESIDENT OF THE
DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**



MAHINDA RAJAPAKSA

To:

Hon. Mrs. Shiranee Tilakawardane
(Judge of the Supreme Court)

Hon. Nissanka Kumara Udagama Esquire,
(Judge of the Supreme Court).

Hon. Nimal Edward Dissanayake Esquire,
(Judge of the Supreme Court).

GREETINGS :

WHEREAS, the Government of Sri Lanka has procured high-value Weapons, other Military Equipment, Materials and Services during the period 2000 to 2005.

AND WHEREAS it appears to me to be necessary to establish a Commission of Inquiry for the purpose of inquiring into the matters hereinafter mentioned, being matters in respect of which an inquiry will, in my opinion, be in the interests of national security and the public good ;

NOW THEREFORE, I, Mahinda Rajapaksa, President, reposing great trust and confidence in your prudence, ability and fidelity, do, in pursuance of Section 2 of the Commissions of Inquiry Act, (Chapter 393), by these presents, appoint you, the said

1. Hon. Mrs. Shiranee Tilakawardane
2. Hon. Nissanka Kumara Udagama Esquire,
3. Hon. Nimal Edward Dissanayake Esquire,

to be my Commissioners and to inquire and report on the following matters relating to the procurements of Weapons, other Military Equipment, Materials and Services costing in excess of Rs. 100 million each by the Government of Sri Lanka during the period 2000 to 2005 ;

- (a) Was there a proper, documented procedure followed to appraise and identify **the need** to make the relevant procurement, and what were the modalities of the said procedure ?
- (b) Was due **approval** obtained from the proper Approving Authority for the relevant procurement ?
- (c) What were the modalities of the Tender Procedure followed for the relevant procurement ?
- (d) Have the Guidelines on Government **Tender Procedure** been followed to ensure a transparent, expeditious, and financially and qualitatively advantageous transaction on behalf of the Government ?
- (e) If the said Guidelines have not been followed, in what manner were they deviated from, were there legitimate and compelling objectives which justified such deviation, and were those objectives achieved ?
- (f) Have there been any instances in which duly awarded tenders have been cancelled or suspended, and if so, on whose authority were such tenders cancelled or suspended, and were there legitimate and cogent reason for such cancellation or suspension ?
- (g) Was there a proper, documented **inspection procedure** followed, prior to shipment and/or confirmation of Letter of Award, to appraise the relevant weapons, other military equipment and materials as to, *inter alia*, Age and Condition of the Product, and/or capacity to provide the relevant services, and what were the modalities of the said procedure ?
- (h) What were the observations/recommendations of the Inspectors, were they given effect to, and if not, were there legitimate and cogent reasons to override the said observations/recommendations ?
- (i) Were the **Contracts and/or Agreements** entered into for the relevant procurement subjected to proper scrutiny and/or expert advise to ensure optimum advantage to the Government in areas including Age and Condition of Product, Warranty, Training, Technical Support, After Sales Service, and conformity with Government expectations and requirements ?
- (j) Was there a proper, documented **testing procedure** followed, prior to disbursement of funds, to appraise the relevant weapons and other military equipment as to, *inter alia*, Age and Condition of the Product, and what were the modalities of the said procedure ?
- (k) What additional **safeguards** were employed to ensure that the procurement was in conformity with Government expectations and requirements and/or Contracts/Agreements in respect of Age and Condition of the Product, and were those safeguards stringently applied ?

- (l) Were all possible steps taken by the Approving Authority and/or other Officers/Officials involved in the relevant procurement to effect the most financially and qualitatively advantageous transaction on behalf of the Government ?
- (m) Identify and quantify any **loss or damage** caused to the Government as a result of the relevant procurement, if any, and recommend possible means of recovering the same.
- (n) Identify **Officers and/or Officials** responsible for any loss or damage caused to the Government as a result of the relevant procurement due to, *inter alia*, negligence and/or dereliction of duty and/or impropriety and/or bribery or corruption.
- (o) Identify and shortcomings and /or flaws in the procurement process, and recommend procedures to remedy the same.

And I do hereby appoint you, the said Hon. Justice Mrs. Shiranee Tilakawardane to be the Chairman of the said Commission.

And I do hereby authorize and empower you, the said Commissioners to hold all such inquiries and make all other investigations, into the aforesaid matters as may appear necessary, and require you to transmit to me within **three months** from the date hereof a report or interim reports thereon, under your hand, setting out the findings of your inquiries and your recommendations thereupon ;

And I do hereby direct that the inquiry relating to the aforesaid matters shall not be held in public, and that the Public and the Press be excluded therefrom, having due regard to the sensitive nature of the information and material that will be received and/or adduced at the inquiry, the disclosure of which may be prejudicial to national security ;

And I do hereby require and direct all public officers and other persons to whom you may apply for assistance or information for the purpose of your inquiry, to render all such assistance and furnish all such information as may be properly rendered and furnished, in that behalf ;

And I do hereby declare that the provisions of section 14 of the Commissions of Inquiry Act (Chapter 393) shall apply to the Commission ;

Given at Colombo, under the seal of the Democratic Socialist Republic of Sri Lanka, this 24 day of April, Two Thousand and Six.

By His Excellency's command,

LALITH WEERATUNGA,
Secretary to the President.

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