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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(4)

BY virtue of the powers vested in me in terms of Section 3(4) 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. The Notification identifying 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 and for the transfer or lease of reclaimed lands to the prospective buyers with a total investment of the United States Dollars One Thousand Three Hundred and Thirty Seven Million (US \$ 1,337 Mn) ("Project") 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 as a Strategic Development Project for the purposes of the aforesaid Act, was published in the *Gazette Extraordinary* No. 1879/14 dated 11th September, 2014.

2. In terms of Sub-section (3) of Section (3) of the aforesaid Act, the approval of the Cabinet of Ministers has been obtained to declare 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 and for the transfer or lease of reclaimed lands to the prospective buyers with a total investment of the United States Dollars One Thousand Three Hundred and Thirty Seven Million (US \$ 1,337 Mn) as a Strategic Development Project.

3. The above stated Strategic Development Project shall be called and known as 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 and for the transfer or lease of reclaimed lands to the prospective buyers" and the Project Company to undertake the Project is M/s. CHEC PORT CITY COLOMBO (PRIVATE) LIMITED.

4. The Project Company shall implement and commence commercial operations within Eight (08) years commencing from 11th November, 2013 the date on which the Project Agreement was signed between the Project company and the Board of Investment of Sri Lanka (Project Agreement).



5. The Exemptions from the enactments specified in Schedule I to this Order shall be applicable to the Project Company from the date of the Project Agreement subject to the limitations mentioned therein.

6. The Project Company and M/s China Harbour Engineering Company Ltd (CHEC) being the Contractor for engineering, procurement and construction of the Project, are subsidiary companies of its mother company. Therefore the concessions morefully described in the Schedule II to this Order shall be applicable for a period of Eight (08) years commencing from the commencement of the Project which is the implementation period of the Project for profits to be generated through this Project by M/s China Harbour Engineering Company Ltd.

SCHEDULE I

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 Period").

The said Tax Exemption Period shall commence from the year in which the Project Company makes its taxable profits or six (06) years after commencement of construction of the Project, whichever occurs earlier.

Provided that after the expiry 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 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 payment of "Pay As You Earn Tax" (PAYE) subject to a restriction that this concession shall apply subject to a maximum number of thirty (30) employees at any given time. Subject to such ceiling, this exemption shall be applicable 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 shall be given this exemption for a period in excess of ten (10) years. Further, the Project Company is required to gradually replace expatriate staff with local staff, on a best-efforts basis.

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

All imports of project related goods and local purchases of project related goods or services required for the implementation of the project as approved by the Board of Investment of Sri Lanka, shall be exempted from the payment of Value Added Tax (VAT), during the project implementation period of Eight (08) years. Any contractor or a sub-contractor who supplies to such contractor, to the Project, will be entitled to the deferment as permitted in the VAT Act.

The Project Company shall be liable for the payment of VAT as provided in the VAT Act, No. 14 of 2002 from the commencement of commercial operations.

Provided however, transfer or lease of reclaimed lands to the Project Company or by the Project Company to the prospective buyers, shall be exempted from the payment of VAT.

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

The project company shall be exempted from the payment and charge of Ports and Airports Development Levy (PAL), on the project related goods as approved by the Board of Investment of Sri Lanka imported during the Project Implementation Period of Eight (08) years. This exemption shall be applicable on direct imports by the Project Company for the Project or on imports by a contractor or sub-contractor for the purposes of the Project, so long as the consignee of such goods is the Project Company, subject to the conditions referred to in item No 8 below.

4) Finance Act, No.5 of 2005

The Project Company/Contractors shall be exempted from Construction Industry Guarantee Fund Levy imposed under the Finance Act, No. 5 of 2005 in relation to the Project during the Project Implementation Period of Eight (08) years.

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 payment of Excise Duty during the project implementation period of Eight (08) years.

6) 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, the contractor and the sub contractors will be exempted from the Nation Building Tax during the Project Implementation Period of Eight (08) years.

Provided further, transfer or lease of reclaimed lands to the Project Company or by the Project Company to the prospective buyers, shall be exempted from the payment of NBT.

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 Project Company implementing the Project in relation to items so imported solely for the purpose of the Project whether directly imported by the Project Company or sourced through the contractors or sub-contractors to the contractors provided that the goods consigned in the name of the Project 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 also be exempted from the Customs Duty provided such items are either not wholly produced in Sri Lanka or are unavailable in sufficient quality, quantity and time lines for the completion of the Project.

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, for 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 exemption or concession in view of or consequent to such association.

SCHEDULE II

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 China Harbour Engineering Company Ltd (CHEC) on the profit and income generated from the activities from the Project shall not apply for a period of Eight (08) years.

The said tax exemption period of Eight (08) years shall commence from the year in which China Harbour Engineering Company Ltd (CHEC) commences the construction of the Project.

Provided that after the expiry of the aforesaid tax exemption period of Eight (08) years, income tax in respect of the profits and income of China Harbour Engineering Company Ltd (CHEC) shall be payable in terms of the provisions of the Inland Revenue Act for the time being in force.

LAKSHMAN YAPA ABEYWARDENA, MP
Minister of Investment Promotion.

Colombo,
13th November, 2014.