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My No. } MCC/01/AG/2017

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10.10.2018

Mr. Jonathan G Nash,
Chief Operating officer,
Millennium Challenge Corporation.

Legal Status of proposed MCC Compact.

I refer to your communication dated 27th September, 2018 in respect of the above captioned matter. In this regard, I am made to understand that the delegation from the Government of Sri Lanka was able to have fruitful discussion with the Millennium Challenge Corporation Team in resolving some of the outstanding issues.

Having gleaned through the proposed Millennium Challenge Compact, the draft Program Implementation Agreement (PIA) as well as the Points of Discussion (without prejudice) between the negotiating parties which has been made available to me, I wish to at the very outset opine that no existing laws of Sri Lanka inhibits the Compact and the PIA being implemented in Sri Lanka. If I may elucidate further, the covenants of the Compact and the PIA does not infringe any existing domestic law or any previous undertakings given by the Government of Sri Lanka. It is acknowledged that the Compact imposes legal obligations on both parties to the Agreement

Further, consequent to the negotiations and discussions had between parties, it is proposed that the Government of Sri Lanka would seek the passage of a law in Parliament to establish the MCA- Sri Lanka as a non-profit Company limited by guarantee under the Companies Act No.07 of 2007 to implement the provisions of the Compact. It is envisaged that the proposed enactment would encompass the Compact and the PIA as Annexures, which would form an integral part of this enactment.

Thus, I am of the view that the passage of the said enactment by Parliament would result in the Compact and the PIA, having the parity of status of a domestic law in Sri Lanka.

In the Context of the above, it is requisite that Section 7.1 of Article 7 of the Compact referring to the provisions on Entry Into Force, would be revised with the deletion of the sentence pertaining to the Compact prevailing over the domestic laws of Sri Lanka.

However, in order to assuage any concerns with regard to the implementation of the Compact, by an unlikely event of a legislation in the future which may impinge or infringe the said compact, upon notification by the Ministry of Finance and Mass Media (the relevant Ministry) of this fact, a legal opinion would be tendered that the proposed legislation if proceeded with would violate the covenants of the Compact. This would enable the relevant Ministry to forward its observations to the

Cabinet of Ministers and Parliament, that the Attorney-General has opined that the proposed Bill if enacted would violate the Compact.

In the circumstances, I believe that the aforementioned matters would confirm the legal status of the Compact and its entry into force.



Sanjay Rajaratnam P.C
Senior Additional Solicitor General.

Sgd. Jayantha Jayasuriya P.C
Attorney-General.

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02. Mr. J. Charitha Ratwatte,
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