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Report of the Working Group on the Universal Periodic Review*

Sri Lanka

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translation services.

1. In the recommendations received, there is some divergence in terminology as to the “LLRC Recommendations”, on the one hand, and the “National Plan of Action to Implement the Recommendations of the LLRC”, on the other. The recommendations which clearly refer to the latter have been accepted. References to the former or analogous phrasing cannot be accepted, as there is a lack of clear identification of an actionable proposal committed to by the Government of Sri Lanka. Sri Lanka has undertaken to implement the latter by way of a decision of the Cabinet of Ministers and appropriate institutional monitoring and coordination arrangements made pursuant thereto. Requisite financial provision has also been made by budgetary allocation for 2013. Monitoring of implementation is ongoing and results are available to the public. Sri Lanka is able to favourably consider any recommendation that makes specific reference to the “National Plan of Action to Implement the Recommendations of the LLRC”. Recommendations from delegations that were able to modify their language to reflect this actuality are supported by Sri Lanka.

2. In addition to (1) above, the following may be noted as Sri Lanka’s clarifications on the recommendations not supported:

2.1. Recommended treaty-related actions with regard to the international human rights and other instruments referred to in recommendations 128.7, 128.8, 128.9, 128.10, 128.11, 128.12, 128.13, 128.15, 128.17 and 128.18, will be given due consideration. Further participation in the multilateral treaty framework by Sri Lanka, may be undertaken in due time, after thorough review, in keeping with national needs and priorities, in the exercise of its sovereign right to undertake international obligations. Sri Lanka’s current priority is to further advance implementation of the seven core human rights treaties and several protocols that it is State Party to;

2.2. With regard to the abolition of capital punishment referred to in recommendations 128.19 to 128.23, it may be noted that Sri Lanka is a de facto abolitionist state. The legal provisions governing the imposition of the death penalty are under review by a Committee appointed by the Ministry of Justice;

2.3. With regard to recommendations 128.16 and 128.28, a review of legislation with a view to ensuring conformity with CEDAW is envisaged under the NHRAP;

2.4. With reference to 128.25, the Bill on Witness and Victim Protection has been submitted for consideration by Cabinet. Parliament will be responsible for its enactment after the pre-enactment constitutional process is complete;

2.5. On the freedom of information referred to in 128.27 and 128.83, proposals are under review by Government under the ambit of the NHRAP and the National Plan of Action to Implement the Recommendations of the LLRC;

2.6. As to 128.29 to 128.37, and subject to paragraph (1), the Government of Sri Lanka has ensured that the National Plan of Action to Implement the Recommendations of the LLRC has adequate resources and an institutional mechanism to monitor implementation. The question of international assistance (adverted to in some recommendations) does not arise at this juncture as the Government has taken ownership and responsibility for implementation within a determined timeframe;

2.7. With reference to 128.40, reconciliation measures are already under way, military forces have withdrawn from civilian administration and provincial elections are envisaged to be held within the course of this year for the Northern Province in keeping with the Provincial Councils Elections Act and relevant judicial pronouncements interpreting the provisions of the law;

2.8. With reference to recommendations 128.40 and 128.85, in order for national development priorities to be implemented in an effective and coordinated manner, NGOs are required to provide information to the Government on activities that they intend to undertake in the country. This is not restricted to the North alone. In addition, it is also important for purposes of accountability for NGOs to provide information on their activities and funding sources. Sri Lanka continues to have a vibrant and active NGO community. The fact that the NGO secretariat has been brought under the purview of the Ministry of Defence has not been an impediment to their functioning;

2.9. With reference to the “old-IDPs” mentioned in 128.93, mechanisms are in place to count, consult and resettle these IDPs, especially those forcibly removed by the LTTE.

2.10. With regard to recommendations 128.39 and 128.82, required access has been granted to places of detention and specialized agencies have been coopted into family tracing and reunification programmes in keeping with national needs and priorities, as referred to in the National Report submitted for the Review. A Family Tracing and Reunification Unit (FTR) was established in collaboration with UNICEF primarily to trace missing children. The Unit recorded 2,564 untraceable persons out of which 676 were children while 1,888 were adults. 64% tracing requests were reported by parents as minors who were recruited by the LTTE. Tracing and reunification is ongoing;

2.11. As to the NHRI of Sri Lanka, the – Human Rights Commission of Sri Lanka – adverted to in 128.26, 128.38 and 128.41, is lawfully constituted, is independently exercising its mandate and is fully capable of soliciting external assistance, should it wish to do so. The Government is confident of the HRCSL being objectively reviewed as to its conformity with the Paris Principles;

2.12. With reference to 128.43 to 128.52, the Government of Sri Lanka continues a dialogue with the Office of the High Commissioner for Human Rights and stands ready to facilitate the visit of the High Commissioner to Sri Lanka in the first half of this year as envisaged, based on the invitation extended to her in 2011 in order to further engage;

2.13 With regard to alleged disappearance, referred to in 128.58, 128.64, 128.65 and 128.67, the GoSL has established an Inter-Ministerial Working Group to verify cases on alleged disappearances communicated by the WGEID. Any allegation of disappearance reported to the Police is duly investigated and information on such cases was provided in the National Report of Sri Lanka. The Government has taken measures to investigate all reported cases of alleged disappearances including those related to the last phase of the conflict. The Government of Sri Lanka continues with efforts to clear the backlog of cases brought to its attention by the WGEID and has provided responses to 159 cases in the last two years. Investigations are being conducted on remaining allegations. A Working Committee has been appointed headed by Deputy Inspector General to conduct ground verifications to ascertain facts. The Ministry of Defence and the ICRC have held discussions on the issue of the disappeared persons and continues to maintain a positive dialogue on possible areas of cooperation. The Ministry has also shared information with the ICRC and continues to work closely on cases of disappearances. Collaboration has included studying practical methodologies adopted by other countries in dealing with cases of alleged disappearances.

A centralized, comprehensive database of detainees has been established at the Terrorist Investigation Division of the Police. This mechanism, with units in

Colombo, Vavuniya and Boossa provides details of detainees and those who are released from detention to next of kin (NoK). This information is only provided to NoK. 3,073 NoK have accessed the above units and sought assistance;

2.14. Recommendations 128.60 to 128.63 and 128.76 refer to combating torture and other forms of ill-treatment. The NHRAP already contains provisions to combat torture and other ill-treatment. As referred to in the National Report, measures are already in place to combat torture and mistreatment. These will be enhanced in the future in keeping with the NHRAP;

2.15. On 128.59, 128.66, 128.68, 128.81 and 128.94, Sri Lanka does not maintain secret detention sites. The need to strictly adhere to the law on arrest or detention has been emphasized by the Supreme Court and any breach of such provisions could amount to an infringement of the Fundamental Right enshrined in Article 13 of the Constitution of Sri Lanka. Under the Prisons Ordinance and other written laws dealing with detention of persons, no place of detention can be maintained without duly publishing it in a Government Gazette that could be accessed by any member of the public. It is illegal to maintain places of detention without Gazetting such places and giving publicity to them. Prevention of Terrorism legislation is in place to safeguard national interests as well as to comply with relevant UN Security Council and GA resolutions;

2.16. With reference to 128.56, 128.57, 128.69, 128.70, 128.72, 128.73, 128.74, 128.75, 128.80 and 128.84, pursuant to the recommendations made by the LLRC and the National Plan of Action to Implement the Recommendations of the LLRC, mechanisms have been put in place to inquire into alleged violations of human rights and humanitarian law, in keeping with international practice. These measures were referred to in the National Report of Sri Lanka and elaborated upon during the session of the Working Group;

2.17. Human rights defenders and media personnel enjoy every protection of their rights – including the right to thought and conscience, the right to associate with one another, the freedom of expression and the freedom of physical safety and integrity in accordance with the law. The recommendations in 128.42, 128.86, 128.88, 128.89 and 128.90 are already catered for by the Constitution and ordinary penal law of the country;

2.18. The matters pertaining to alleged restricting of access/banning of websites is a matter under judicial review. The requirement of registration of national news sites is permissible under Sri Lankan law in the interests of safeguarding the rights and freedoms of others. The recommendation in 128.87 does not take into account the inherent limitations or the permissible derogations under Sri Lankan law;

2.19. With reference to 128.55, according to a determination of the Supreme Court in 2012 (in respect of election to local authorities), a mandatory 30% quota for nomination of women may not be prescribed by legislation as such a initiative would not be a meaningful step in the exercise of franchise. Further measures to encourage increased participation of women in representative bodies will be taken in line with MDG 3 and relevant national policies.

3. Upon reconsideration of the recommendations received, the following enjoy the support of Sri Lanka:

3.1 With regard to 128.54, given that Muslims are an integral part of the societal fabric, Government and cultural landscape of Sri Lanka and that their interests are fully taken into account in any national discourse, Sri Lanka is able to support this recommendation;

3.2 As to freedom of religion and belief, Sri Lanka's Constitution enshrines the freedom of thought, conscience and religion (entrenched and non-derogable right) in Article 10 and the freedom of religion or belief in Article 14 (1)(e). Additional measures, if necessary, will be taken to strengthen the enjoyment of these rights. Accordingly, the recommendation in 128.91 is supported;

3.3 As adverted to in the National Report, Sri Lanka is committed to maintaining and strengthening its initiatives to protect economically and socially vulnerable segments of the population. The recommendation on continued expansion of social security coverage in 128.92 is supported.

4. Voluntary Pledges in connection with the Universal Periodic Review of Sri Lanka:

4.1. National capacities to implement the Trilingual Policy (2012 to 2020) and the National Policy Framework for Social Integration will be enhanced to support the achievement of the specified targets including implementation of the official languages policy in 72 bilingual administrative divisions by 2015;

4.2. Financial and other resources required will be made available by the Government to the Ministries and agencies identified as implementing agencies of the NHRAP and the National Plan of Action to Implement the Recommendations of the Lessons Learnt and Reconciliation Commission, to support the implementation of these Plans;

4.3. The remaining demining activity in respect of conflict affected areas will be completed so as to facilitate return of the displaced in keeping with the national mine action programme;

4.4. Further to the resettlement of over 760,000 IDPs by 31 December 2012, efforts to resettle internally displaced persons including those residing with host families, who wish to return, and those in a situation of protracted displacement will be continued in consultation with the affected populations, so as to resolve the issue of internal displacement in a sustainable manner. Special focus will be paid to post-resettlement activity including provision of permanent shelters, sanitation and potable water;

4.5. As in the case of over 11,000 ex-combatants already rehabilitated and reintegrated into their communities, the remaining number of persons undergoing programmes for the rehabilitation of ex-combatants will be reintegrated with their communities upon completion of the rehabilitation process. Ancillary support services will be provided to ex-combatants to facilitate their reintegration;

4.6. The Government will continue initiatives directed at reconstruction and restoration of physical and social infrastructure in areas within and proximate to the former theatres of conflict;

4.7. Efforts will be made to further the recent achievements in clearing the backlog in reporting under the relevant human rights treaties to which Sri Lanka is a State Party, to ensure timely reporting and follow-up;

4.8. Prosecutions of cases involving allegations of child abuse and exploitation will be expedited through the modality of an inter-agency mechanism to identify deficiencies in the system, propose appropriate remedial measures and coordinate and monitor implementation of such measures;

4.9. Envisaged legislative and regulatory reforms with regard to prison reform to modernize custodial care in keeping with applicable international standards, will be continued;

4.10. Bilateral and other engagement to combat the phenomenon of human smuggling and trafficking in persons will be enhanced to curb these activities in keeping with applicable standards;

4.11. Women's and child development units will be established at the Divisional (sub-District) administrative level to ensure expeditious assistance to those in need with a special focus on the Northern and Eastern Provinces;

4.12. Gender focal points will be appointed to each line Ministry of Government;

4.13. Current initiatives to devise reforms to the legislative framework dealing with the protection of children –

- who come into conflict with the legal system; and
- who are in need of care and protection,

will be expedited, in line with recommendations made by Committee on the Rights of the Child, the UN Standard Minimum Rules for the Administration of Juvenile Justice and the Guidelines for the Prevention of Juvenile Delinquency;

4.14. The Government will engage with civil society organizations and representatives in connection with the implementation of the National Plan of Action for the Promotion and Protection of Human Rights (NHRAP – 2012 to 2016);

4.15. The measures taken for protection of the rights of the disabled will be further strengthened in keeping with international standards. Disabled ex-combatants will be provided with artificial limbs, monthly financial support and a self-employment grant to enable economic and social reintegration;

4.16. Accurate statistical information relating to socioeconomic conditions of the people will be gathered and collated to better enable identification of social and economic rights issues and their resolution;

4.17. Awareness raising on disaster prevention, enhancement of early warning systems, transparent and participatory disaster mitigation exercises, ensuring equitable relief measures with special attention paid to vulnerable groups and the preparation of a consistent methodology to determine compensation to affected people will be carried out;

4.18. Measures to aid students with mid-day meals, uniforms and learning materials will be continued and enhanced, child rights committees are being established in every school and further islandwide recruitment of Tamil medium teachers is ongoing. National competency standards for vocational education will be made available in all national languages;

4.19. Legislation and regulations to ensure occupational safety, health and welfare at work will be formulated to enable ratification of ILO Convention 155. Measures to ensure non-discrimination at work will be continued and initiatives against child labour – especially hazardous child labour – will be enhanced.
